

No. 26-171

IN THE
Supreme Court of the United States

GALESBURG COMMUNITY UNIT SCHOOL DISTRICT
No. 205,

Petitioner,

v.

N.T. AND P.T., INDIVIDUALLY AND AS PARENTS AND
NEXT FRIENDS OF C.T.,

Respondents.

**On Petition for a Writ of Certiorari to the
United States Court of Appeals
for the Seventh Circuit**

**BRIEF OF THE NATIONAL SCHOOL
ATTORNEYS ASSOCIATION, AASA, THE
SCHOOL SUPERINTENDENTS ASSOCIATION,
THE ASSOCIATION OF SCHOOL BUSINESS
OFFICIALS INTERNATIONAL, AND THE
COUNCIL OF ADMINISTRATORS OF SPECIAL
EDUCATION AS *AMICI CURIAE*
IN SUPPORT OF PETITIONER**

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INTEREST OF AMICI CURIAE¹

The National School Attorneys Association (“NSAA”) is a national association of attorneys who represent public school districts, boards of education, and educational agencies across the United States. NSAA’s members advise school officials every day on how to design, implement, and defend individualized education programs (“IEPs”) under the Individuals with Disabilities Education Act (“IDEA” or “the Act”), 20 U.S.C. § 1400 *et seq.* They counsel IEP teams at the planning table, represent districts in mediations, resolution sessions, and impartial due process hearings, and litigate the civil actions that follow under 20 U.S.C. § 1415(i)(2)(A).

AASA, The School Superintendents Association (“AASA”) represents 10,000 school district leaders across the United States. AASA advocates for equitable access for all students to the highest quality public education and develops and supports school system leaders. AASA members help shape federal, state and local policy, oversee its implementation and set the pace for academic achievement in their districts.

The Association of School Business Officials International (“ASBO”) is a nonprofit education association dedicated to advancing the school business profession. ASBO International serves more than 12,000 members and reaches more than 20,000 additional school business leaders through its affiliates. ASBO International equips members to strengthen their school systems and effectively allocate educational

¹ No counsel for any party authored this brief in whole or in part, and no person or entity other than amici, their members, or their counsel made a monetary contribution intended to fund the preparation or submission of this brief. Counsel of record for all parties received timely notice of amici’s intent to file this brief.

resources to support student success. School business officials (SBOs) are the financial decision makers in school systems who manage budgeting, purchasing, facility operations and maintenance, human resources, technology, transportation, food service, healthcare, and other areas that affect the business and operations aspects of education.

The Council of Administrators of Special Education (“CASE”) is an international nonprofit professional organization representing approximately 6,500 members committed to advancing special education, strengthening leadership, and shaping the future of the field. Guided by its core values of visionary leadership, inclusive practices, engagement, and integrity, CASE provides leadership, professional learning, advocacy, and support to special education leaders. Its diverse membership includes local school district special education administrators, postsecondary educators, state education agency personnel, and other educational leaders dedicated to improving outcomes for students with disabilities.

Because *Amici’s* members lead school districts and practice school law in every federal circuit, they experience directly the consequences of the inconsistent standards that federal courts apply when reviewing state administrative decisions under the IDEA. *Amici* submit this brief not to relitigate the educational merits of C.T.’s placement, as that question belongs in the first instance to his IEP team and the State’s hearing officer, but to explain to the Court the systemic consequences of the Seventh Circuit’s rule for the administration of special education nationwide. Those consequences reach far beyond Galesburg, Illinois. They affect how school districts and families resolve disputes, how quickly

children receive changes to their programming, how public resources are allocated between classrooms and courtrooms, and whether the governing legal standard depends on the happenstance of geography.

Amici have a strong institutional interest in a review standard that honors the cooperative structure Congress designed: one in which qualified educators and impartial state hearing officers make educational judgments, parents participate as full members of the IEP team, disputes are resolved expeditiously, and federal courts serve as a meaningful but bounded check. The decision below departs from that design and exacerbates a circuit split; *Amici* respectfully urge the Court to grant the petition.

INTRODUCTION AND SUMMARY OF ARGUMENT

The IDEA establishes a carefully sequenced system for resolving disagreements about a child’s education: collaborative IEP development with parents at the table, optional mediation, a mandatory resolution session, an impartial due process hearing that must ordinarily conclude within 45 days, and then judicial review in which the court “shall receive the records of the administrative proceedings” and “shall hear additional evidence at the request of a party.” 20 U.S.C. §§ 1414(d)(1)(B), 1415(e), (f)(1)(B)(i), (i)(2)(C); 34 C.F.R. § 300.515(a). This Court has long held that the reviewing court must give “due weight” to the administrative proceedings and may not “substitute [its] own notions of sound educational policy for those of the school authorities which [it] review[s].” *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 206 (1982). What the Court has not done is describe how to measure that weight in the setting that now recurs most often in circuits that permit it: a

district court that supplements the record extensively with evidence of events that postdate the hearing officer's ruling. *See* Pet. 9.

The Seventh Circuit measures “due weight” with a “sliding scale”: the more significant the new evidence a district court receives, the less deference it owes the hearing officer, until “the district court effectively acts as the factfinder.” *Alex R. ex rel. Beth R. v. Forrestville Valley Cmty. Unit Sch. Dist. No. 221*, 375 F.3d 603, 612 (7th Cir. 2004). Applied here to post-hearing developments, that rule allowed a one-day bench trial to displace a three-day administrative hearing and a record exceeding 1,600 pages. This atextual approach carries five systemic consequences that warrant this Court's review.

First, the rule rewards litigation over resolution. Because deference shrinks as new evidence grows, a party dissatisfied with the hearing officer's ruling gains a structural advantage by filing suit and generating a fresh record of post-hearing events, so that judicial review operates as a second hearing on better terms. *See* Pet. 7. That drives more disputes into federal court, prolongs them, and diverts the finite resources of school districts and families alike.

Second, the rule moves final authority over a child's services and placement from trained educators, including the IEP team and a state-credentialed hearing officer, to a generalist federal judge. That inversion contradicts the IDEA's text and structure, which assign educational judgments to States and local educators.

Third, the IDEA already provides the right mechanism for responding to a child's changing needs: the IEP team, including the parents, must review the

IEP at least annually and revise it to reflect new information. 20 U.S.C. § 1414(d)(4)(A). Litigation that asks a court to decide, in hindsight, what a past IEP should have contained delays real-world adjustments that the IEP process would make prospectively and collaboratively.

Fourth, the stay-put provision, 20 U.S.C. § 1415(j), freezes the child's placement while litigation is pending. A rule that encourages resort to federal court therefore lengthens the period in which a child may remain in a placement that educators and a hearing officer have found inappropriate. Here, the dispute has kept C.T. in the same classroom from first grade into third grade.

Fifth, the courts of appeals are divided on what "due weight" requires. Some leave deference to the trial court's discretion; others, like the Seventh Circuit, diminish it in proportion to new evidence; still others require district courts to treat administrative findings as *prima facie* correct, to explain any departure, and to accept credibility determinations absent compelling reasons. Families and school districts in different States thus face materially different federal review of identical administrative decisions. Only this Court can supply a uniform national standard.

ARGUMENT

I. THE SEVENTH CIRCUIT'S SLIDING-SCALE DEFERENCE REWARDS LITIGATION OVER RESOLUTION, CONTRARY TO THE IDEA'S STRUCTURE AND PURPOSE.

A. Congress designed the IDEA to resolve disputes early, collaboratively, and at the administrative level.

The IDEA's dispute-resolution provisions reflect a deliberate congressional preference for resolving disagreements close to the child and early in the process. From *Amici's* vantage point, each step is an opportunity their members use daily to resolve disagreements before they harden. The statute begins by seating parents at the IEP table alongside educators. 20 U.S.C. § 1414(d)(1)(B). It then offers voluntary mediation, which parties may pursue even before a complaint exists. *Id.* § 1415(e). Once a complaint is filed, the district and the parents must meet in a resolution session before any hearing goes forward, *id.* § 1415(f)(1)(B)(i), and the regulations require a hearing decision, in the ordinary course, no later than 45 days after the resolution period closes. 34 C.F.R. § 300.515(a). The hearing itself is presided over by an impartial officer, 20 U.S.C. § 1415(f)(1)(A), and States set the qualifications for that position. Illinois, for one, conditions eligibility on demonstrated educational background and familiarity with the IDEA. 105 ILCS 5/14-8.02c; *see* Pet. 11. Congress made these procedures a prerequisite to suit, requiring exhaustion before a party may seek relief in court. 20 U.S.C. § 1415(l); *see Perez v. Sturgis Pub. Schs.*, 598 U.S. 142, 146–48 (2023); Pet. 28-29.

Judicial review completes that structure; it does not replace it. A reviewing court “shall receive the records of the administrative proceedings,” 20 U.S.C. § 1415(i)(2)(C)(i), and this Court read that directive to carry with it an implied “requirement that due weight shall be given to these proceedings.” *Rowley*, 458 U.S. at 206. As *Rowley* explained, “[t]he very importance which Congress has attached to compliance with certain procedures in the preparation of an IEP would be frustrated if a court were permitted to set state decisions at naught.” *Id.* The administrative hearing is meant to be the principal forum for resolving the dispute, not a dress rehearsal for a federal trial.

B. A deference standard that declines as new evidence accumulates invites the losing party to relitigate.

Under the Seventh Circuit’s approach, when the district court receives additional evidence, “due weight” is evaluated on a “sliding scale,” and “[j]udicial review is more searching the greater the amount (weighted by significance) of the evidence that the court has but the agency did not have.” *Alex R.*, 375 F.3d at 612 (quoting *Sch. Dist. of Wis. Dells v. Z.S.*, 295 F.3d 671, 675 (7th Cir. 2002)). At the far end of that scale, “the administrative decision is relatively less important and the district court effectively acts as the factfinder.” *Id.* The panel below applied that rule to hold that, because the new evidence was “a significant part of the total record” and “very important” to the district court’s decision, the hearing officer’s findings were “entitled to less deference.” *N.T. v. Galesburg Cmty. Unit Sch. Dist. No. 205*, No. 25-1013, slip op. 14–15 (7th Cir. May 6, 2026) (quoting *Alex R.*, 375 F.3d at 614).

Whatever its merits as an abstract description of how factfinders weigh evidence, that rule creates a predictable incentive in practice. The party who loses before the hearing officer controls whether to seek review, and the statute provides that the court “shall hear additional evidence at the request of a party.” 20 U.S.C. § 1415(i)(2)(C)(ii). Under a sliding scale, the volume and significance of that additional evidence determine how much the administrative decision matters. The rational litigation strategy is therefore to file suit and to assemble as much new evidence as possible: new experts, new observations, and, most powerfully, new developments in the child’s life during the months the case has been pending. This case bears that out: the panel acknowledged that the district court’s ruling “relied heavily on post-hearing developments and new expert testimony not reviewed by the hearing officer.” Slip op. 14–15. Part of that evidence came from an occupational therapist whom the parents engaged only after the hearing and whose opinions rested on one visit to C.T.’s classroom. *See id.* at 8, 23; Pet. 27.

The point is not that parents act improperly in pursuing the review Congress authorized. They do not. The point is that the review standard itself determines what rational parties will do. A rule under which the losing party can reduce, and potentially eliminate, deference to the decision it challenges by building a larger post-hearing record transforms the hearing officer’s decision from a presumptively sound judgment into a provisional one. That is precisely the result *Rowley* warned against when it cautioned that courts may not “set state decisions at naught.” 458 U.S. at 206.

C. The resulting litigation burdens families and school districts alike and diverts resources from children.

The costs of this incentive structure fall on everyone the IDEA is meant to serve. Federal civil actions are slower and more expensive than administrative hearings. They require counsel, expert witnesses, transcripts, and post-trial briefing. The underlying record reveals that in this case, the parties litigated through a bench trial, post-trial memoranda and cross-responses, an appeal, and now a petition to this Court. *See* D. Ct. Op. 1 (Dkt. 42); slip op. 7–9. The dispute over a single first-grade IEP developed in December 2023 has now extended for nearly three years. Slip op. 4 & n.1, 5–6.

For school districts, every dollar spent on litigation is a dollar unavailable for teachers, paraprofessionals, behavior specialists, and related services. *Amici's* members see the effect across the country: when federal review is unpredictable and deference is contingent, school districts must prepare every IEP dispute as though it will be tried anew in federal court, and they must weigh the cost of defending sound educational decisions against the cost of acceding to demands that run counter to what years of education, professional training, and experience lead them to believe are in the child's interest. Families bear parallel burdens, including the expense and emotional toll of extended litigation and the uncertainty of not knowing where their child will be educated. A review standard that multiplies these costs, without improving the soundness of educational decisions, cannot be reconciled with a statute that prizes collaboration and expedition.

II. THE DECISION BELOW SHIFTS FINAL EDUCATIONAL JUDGMENT FROM PROFESSIONAL EDUCATORS TO GENERALIST COURTS, CONTRARY TO THE IDEA'S TEXT AND STRUCTURE.

A. The IDEA assigns primary responsibility for educational judgments to States and local educators.

The IDEA is a model of “cooperative federalism.” *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 52 (2005). Under that model, States take the lead in designing and delivering special education, and the federal statute supplies the conditions they must honor in doing so. *Id.* That allocation reflects both constitutional tradition and congressional intent, and it is the premise on which *amicus* NSAA’s members advise every IEP team: the educational choice belongs, in the first instance, to the State and its local educators. The petition rightly invokes this Court’s and Congress’s statements to that effect, Pet. 3, 20, and *Amici* emphasize them because they describe the allocation school districts actually rely on when they staff, fund, and defend placement decisions. See *Epperson v. Arkansas*, 393 U.S. 97, 104 (1968) (“By and large, public education in our Nation is committed to the control of state and local authorities.”); 121 Cong. Rec. 19498 (1975) (remarks of Sen. Dole) (“Historically, the States have had the primary responsibility for the education of children at the elementary and secondary level.”).

This Court’s IDEA decisions consistently respect that allocation. *Rowley* reiterated that “courts lack the ‘specialized knowledge and experience’ necessary to resolve ‘persistent and difficult questions of educational policy,’” and that “[O]nce a court determines that the [procedural] requirements of the Act have been

met, questions of methodology are for resolution by the States.” 458 U.S. at 208 (quoting *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 42 (1973)). *Endrew F.* reaffirmed that the Act vests school officials “with responsibility for decisions of critical importance to the life of a disabled child,” and that deference rests on “the application of expertise and the exercise of judgment by school authorities.” *Endrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 404 (2017). The lower federal courts have likewise recognized their “lack [of] specialized knowledge and experience necessary to resolve persistent and difficult questions of educational policy.” *Heather S. v. Wisconsin*, 125 F.3d 1045, 1054 (7th Cir. 1997) (citation and internal quotation marks omitted). The Sixth Circuit put the point in terms that resonate with school practitioners, describing the State’s administrative process as the source of the expertise that generalist judges lack. *See Crocker v. Tenn. Secondary Sch. Athletic Ass’n*, 873 F.2d 933, 935 (6th Cir. 1989) (“Federal courts – generalists with no expertise in the educational needs of handicapped students – are given the benefit of expert factfinding by a state agency devoted to this very purpose.”); *See also* Pet. 22-23.

B. The sliding scale makes the federal judge, not the educator, the final decisionmaker on placement and services.

The questions at the heart of this case of whether a six-year-old with significant behavioral needs required a therapeutic day school, and whether a dedicated one-on-one aide would help or hinder his development of self-regulation, are quintessential questions of educational methodology. The IEP team judged that assigning C.T. a dedicated aide would undercut his

ability to learn to seek adult help on his own, and that his needs called for a therapeutic setting. Slip op. 5–6. After a three-day hearing, the hearing officer found the school district’s testimony on that point “overwhelming, credible, persuasive, and uncontroverted.” *Id.* at 6. The district court reached the opposite conclusion on each of those questions, and the court of appeals affirmed under clear-error review. *Id.* at 8–9, 22–24.

Amici do not ask the Court to decide which educational judgment was correct. The systemic concern is the mechanism by which the judgment changed hands. Under the Seventh Circuit’s framework, the more evidence a district court hears, the less it defers to the hearing officer, and the more the district court acts as factfinder, the more deferential appellate review becomes, because that court is “closer to the evidence.” Slip op. 11. The two halves of the framework compound one another. Deference flows away from the educators and the State’s expert adjudicator, and toward a single district judge. Then on appeal, that flow of deference is extended to the trial judge’s findings rather than the educators’. *See id.* at 9–12 (relying on *U.S. Bank N.A. v. Vill. at Lakeridge, LLC*, 583 U.S. 387, 395–96 (2018)). The practical result is that final authority over a child’s eligibility, services, and placement rests with the forum that has the least specialized expertise.

That inversion is not a product of the statute’s text. Section 1415(i)(2)(C) tells a court what to consider (the administrative record, and any additional evidence a party requests) and what standard of proof to apply. Nowhere does it suggest that the hearing officer’s findings lose force as the supplemental record grows. Several circuits have taken a different and, in *Amici*’s experience, more workable path, tying deference to the

kind of question under review rather than to how much evidence was added. *See* Pet. 22. For school attorneys and educators, that approach has practical virtue: it tells IEP teams in advance that a procedurally sound placement decision grounded in educational expertise will be respected. The Sixth Circuit, for instance, holds that the weight due “will vary, depending on whether the court is reviewing procedural or substantive matters and whether educational expertise is essential to the administrative findings.” *Burilovich v. Bd. of Educ. of the Lincoln Consol. Schs.*, 208 F.3d 560, 566 (6th Cir. 2000). And where procedural requirements are met, “greater deference is to be afforded to the [school] district’s placement decision.” *Dong v. Bd. of Educ. of Rochester Cmty. Schs.*, 197 F.3d 793, 800 (6th Cir. 1999). The Seventh Circuit’s approach draws no such distinction, leaving districts unable to predict how much their educators’ judgment will count.

C. A rule that effectively requires exhaustion of every intervention before a change in placement compounds the displacement.

The decision below also shifts educational judgment in a subtler way. The district court faulted the district for recommending a new placement only three weeks after C.T. entered the self-contained classroom and before a one-on-one aide had been tried. Slip op. 24. The Seventh Circuit acknowledged the school district’s concern that such reasoning would prevent schools from appropriately placing students in more restrictive settings “unless, and until, they exhaust every possible measure,” but responded that “each case, like each student, is different.” *Id.* The IDEA sets no checklist of interventions that must be tried, and no

minimum number of them, before an IEP team may propose a more restrictive setting. *See* 20 U.S.C. § 1412(a)(5)(A); Pet. 34. Once a reviewing court decides after the fact which intervention should have come first, the (inherently professional) judgment about sequencing and timing passes from the IEP team to the court. *See* Pet. 36. *Amici's* members lead and advise IEP teams that must make these judgments in real time, often for children whose behavior presents safety concerns for themselves, their classmates, and staff. A legal standard that second-guesses those judgments on the basis of later events will predictably chill educators from recommending the placements they believe a child needs.

III. THE IDEA'S ANNUAL, PARENT-INCLUSIVE IEP REVIEW IS THE PROPER VEHICLE FOR REASSESSING A CHILD'S PROGRAM, NOT LITIGATION.

A. Congress built a recurring, collaborative mechanism for responding to new information about a child.

No IEP is meant to be permanent. Congress directed the IEP team to revisit each child's program at least once a year and to update it in response to what the team has learned, including whether the child is meeting expected progress, what any reevaluation shows, what the parents report or are told, and what the child is likely to need going forward. *See* 20 U.S.C. § 1414(d)(4)(A); Pet. 37. That review is conducted by the same group that wrote the IEP: the child's parents working alongside teachers, and other qualified school professionals. 20 U.S.C. § 1414(d)(1)(B). It is, by design, the forum in which new information such as improved test scores, a successful medication adjustment, new friendships, or escalating behaviors, is

evaluated and translated into changes to the child's program.

That process has decisive advantages over litigation as a means of reassessment. It is prospective, asking what the child needs now and next. It is expert-driven, drawing on the professionals who work with the child daily. It is collaborative, preserving the family-school relationship that the child depends on for years to come. And it recurs, so that no single decision is permanent. The courts of appeals have long recognized the corresponding limit on judicial review, a line of authority the petition collects, Pet. 24-25, and that *amicus* NSAA's members rely on when they counsel IEP teams to document the information available at the time of each decision. Those decisions confirm that an IEP is "a snapshot, not a retrospective," *Roland M. v. Concord Sch. Comm.*, 910 F.2d 983, 992 (1st Cir. 1990), whose adequacy is examined "at the time the plans were drafted," *Adams v. State of Oregon*, 195 F.3d 1141, 1149 (9th Cir. 1999). *See also R.E. v. N.Y.C. Dep't of Educ.*, 694 F.3d 167, 186–87 (2d Cir. 2012) (describing the prospective approach as the majority view); *Carlisle Area Sch. v. Scott P.*, 62 F.3d 520, 530 (3d Cir. 1995). The snapshot rule matters to practitioners because it is what makes the annual review meaningful: an IEP team can act on new information without fear that its earlier decision will be judged by facts it could not have known. This Court's standard is likewise forward-looking: an IEP must be "reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." *Endrew F.*, 580 U.S. at 399.

B. Post-hearing litigation substitutes a retrospective judicial verdict for real-world adjustments to the child's program.

The Seventh Circuit candidly described the least-restrictive-environment inquiry it applied as “retrospective and, in some cases, prospective”: it looks back at the education the child has been receiving and, if that education was unsatisfactory, asks whether it “could be made satisfactory with additional reasonable measures.” Slip op. 21 n.4. When the evidence of what the child “has been receiving” includes months of post-hearing developments, the court is no longer reviewing the IEP team’s December 2023 decision. It is conducting, through litigation, the reassessment that the statute assigns to the IEP team’s annual review.

That substitution is a disservice to children. The district court here received evidence that, after the hearing, C.T. had experienced medication changes, a new paraprofessional familiar to him had joined his classroom, two students had left the district, and his test scores had improved, alongside evidence that his behavior had intensified after summer break and that his teacher believed his IEP was not designed for the classroom in which the stay-put provision had kept him. D. Ct. Op. 6–8 (Dkt. 42); slip op. 7–8. Each of those developments is exactly the kind of information an IEP team, including C.T.’s parents, should evaluate promptly and act upon. Instead, that information became trial evidence in a contest over what a past IEP should have contained, with the remedy of an order to “create an appropriate” IEP at the original school being issued a year after the IEP was written. D. Ct. Op. 14–15; slip op. 9. As the petition notes, had C.T. been progressing in his recommended placement,

that data would have been considered in his annual review, and the IEP team could have decided whether a return to his home school was warranted. Pet. 37. The goal of mainstreaming the child to the maximum extent appropriate is served best by a process that can adjust in months, not one that adjudicates in years.

A deference standard keyed to the circumstances as they existed when the administrative decision was made would restore this division of labor. Courts would remain free to hear additional evidence bearing on whether the IEP team and hearing officer erred on the record before them. But evidence about how the child has fared since would be channeled, as Congress intended, to the IEP team's ongoing review where parents and educators can act on it for the child's benefit.

IV. THE STAY-PUT PROVISION MAGNIFIES THE HARM OF PROLONGED LITIGATION TO THE VERY CHILD THE ACT IS DESIGNED TO PROTECT.

During the pendency of administrative and judicial proceedings, "the child shall remain in the then-current educational placement." 20 U.S.C. § 1415(j); see 34 C.F.R. § 300.518(a); *Honig v. Doe*, 484 U.S. 305 (1988). The Seventh Circuit treats the provision as "an automatic statutory injunction" against changing the child's placement. *Casey K. v. St. Anne Cmty. High Sch. Dist. No. 302*, 400 F.3d 508, 511 (7th Cir. 2005). Stay-put serves an important protective function: it prevents unilateral changes while a dispute is resolved. But its protective logic presupposes that resolution will come reasonably quickly. When review is prolonged, stay-put freezes the child in a placement that the IEP team, and frequently an impartial hearing officer, have found inadequate.

This case shows how long that freeze can last. The school district proposed C.T.'s therapeutic placement in December 2023, when he was a six-year-old first grader. Slip op. 4–5. The hearing officer upheld that placement in April 2024. D. Ct. Op. 14. Yet the parents' complaint "automatically triggered a statutory 'stay put' injunction, which has kept C.T. at Silas Willard throughout this dispute." Slip op. 7. By the time the Seventh Circuit ruled, C.T. was nine years old and in third grade. *Id.* at 4 n.1. For more than two years, spanning more than one annual IEP cycle, the child remained in a classroom that his educators and the State's hearing officer had concluded could not meet his behavioral and academic needs, and in which his own teacher testified that his IEP was not tailored to help him succeed. *Id.* at 7–8.

Amici recognize that the courts below ultimately concluded that the self-contained classroom was appropriate with additional supports. The systemic point does not depend on who was right in this case. In every case in which the administrative decision is correct, a review standard that encourages and prolongs litigation keeps the child, by operation of law, in a placement that the State's process has determined is not in the child's best interest. And because a sliding-scale standard makes the evidence generated during the stay-put period itself a basis for overturning the administrative decision, the stay-put placement becomes self-validating: the longer the child remains, the more post-hearing evidence accumulates about that placement, and the less weight the original decision receives. Children with the most significant needs, and whose educators recommend more intensive settings, are the most exposed to that harm. A statute enacted to secure a meaningful

education for those children should not be read to delay it.

V. THE CIRCUITS ARE DIVIDED ON WHAT “DUE WEIGHT” REQUIRES, AND ONLY THIS COURT CAN RESTORE A UNIFORM NATIONAL STANDARD.

A. The courts of appeals apply materially different deference regimes.

Rowley announced the due-weight requirement but left its measure undefined, and the Court has not returned to the question in the four decades since, including for the common case in which the district court takes new evidence. *See* Pet. 9, 18, 21; Daniel W. Morton-Bentley, *The Rowley Enigma: How Much Weight is Due to IDEA State Administrative Proceedings in Federal Court?*, 36 Nat’l Ass’n Admin. L. Judiciary 428 (2016). The courts of appeals have filled that gap in divergent ways. The petition surveys those approaches, Pet. 21-24. *Amici* highlight them here because their members, who litigate and educate in every circuit, must advise and proceed differently depending on which of these regimes governs.

At one end of the spectrum are circuits that leave the matter largely to the trial judge. The Second Circuit has stated that the weight due an administrative decision “often will hinge on the kinds of considerations that normally determine whether any particular judgment is persuasive.” *Reyes ex rel. R.P. v. N.Y.C. Dep’t of Educ.*, 760 F.3d 211, 218 (2d Cir. 2014) (citation and internal quotation marks omitted). Earlier, the First Circuit concluded that deference to administrative factfinding “must be left to the discretion of the trial court.” *Town of Burlington v. Dep’t of Educ.*, 655 F.2d 428 (1st Cir. 1981). For a

school attorney, a discretionary standard offers little basis for predicting whether a well-supported hearing decision will hold.

The Seventh Circuit occupies a distinct position. It directs district courts to give hearing officers no deference on questions of law. On questions of fact, it directs district courts to give substantial deference when the record is unchanged but steadily less as the district court adds evidence, until the district court “effectively acts as the factfinder.” *Alex R.*, 375 F.3d at 611–12; *Z.S.*, 295 F.3d at 674–75. The decision below extends that rule to evidence of events postdating the administrative decision. Slip op. 14–15. In *amicus* NSAA’s experience, that is the feature that most directly encourages parties to build a new record after the hearing.

The Sixth Circuit varies deference according to whether “educational expertise is essential to the administrative findings,” *Burilovich*, 208 F.3d at 566, and affords greater deference to placement decisions where procedures were followed, *Dong*, 197 F.3d at 800.

Still other circuits protect the hearing officer’s findings more firmly, and they give school districts and families the most predictable review. The Fourth Circuit treats a hearing officer’s regularly made findings as “prima facie correct” and requires a district court that declines to follow them to “explain why it does not.” *Doyle v. Arlington Cnty. Sch. Bd.*, 953 F.2d 100, 105 (4th Cir. 1991). The D.C. Circuit has reversed a district court for its “unexplained preference for the conclusions of those who opposed the hearing officer’s view.” *Kerkam v. McKenzie*, 862 F.2d 884, 888–89 (D.C. Cir. 1988). The Third Circuit gives “special weight” to a hearing officer’s credibility determinations, which a district court “must accept . . . unless the non-

testimonial, extrinsic evidence in the record would justify a contrary conclusion.” *Shore Reg’l High Sch. Bd. of Educ. v. P.S.*, 381 F.3d 194, 199 (3d Cir. 2004); accord *D.S. v. Bayonne Bd. of Educ.*, 602 F.3d 553, 564 (3d Cir. 2010). In those circuits, school attorneys can tell an IEP team with confidence that a careful hearing record will carry real weight on review; in the Seventh Circuit, they cannot.

B. The division produces geographic disparities in the rights and obligations of families and school districts.

These are not differences of verbal formulation. They determine whether, in practice, a losing party can obtain a fresh evidentiary determination of the dispute. In a circuit that treats the hearing officer’s findings as *prima facie* correct and protects credibility findings absent extrinsic contrary evidence, the decision below, in which the district court credited new private witnesses over the testimony the hearing officer had found “overwhelming, credible, persuasive, and uncontroverted,” (slip op. 6, 23–24), would at a minimum have required a far more demanding justification. In the Seventh Circuit, the volume and importance of the new evidence sufficed. Slip op. 14–15. The same IEP, the same hearing record, and the same post-hearing evidence can therefore produce qualitatively different federal review depending solely on where the child lives.

The disparity extends to the substantive standard as well. The panel below recognized that this Court “has yet to interpret the LRE provision,” and it catalogued the competing frameworks the circuits have devised in the meantime. Slip op. 18–19 & n.3 (discussing *Roncker v. Walter*, 700 F.2d 1058 (6th Cir. 1983); *Daniel R.R. v. State Bd. of Educ.*, 874 F.2d 1036

(5th Cir. 1989); and *Sacramento City Unified Sch. Dist. v. Rachel H.*, 14 F.3d 1398 (9th Cir. 1994)); see Pet. 17, 32-34. The Eleventh Circuit has taken the most categorical position, concluding that the least-restrictive-environment provision has no application when the parties dispute which of two special-education settings is appropriate. *C.B. ex rel. K.B. v. Henry Cnty. Sch. Dist.*, 167 F.4th 1134, 1141 (11th Cir. 2026). That is the very kind of dispute presented here. Slip op. 21–22; see Pet. 33 n.6. Scholarship confirms that a student’s location, rather than the student’s needs, increasingly drives the result in LRE cases. See Alexis Cherry, *A Good “IDEA” With No Clear Plan: The Lack of Uniformity in Evaluating Compliance with the IDEA’s Least Restrictive Environment Provision Has Led to Arbitrary Segregation of Children with Disabilities Across the United States*, 35 UC Law SF Gender & Just. L.J. (2024); Pet. 8. When the deference question and the substantive standard both vary by circuit, the variance compounds.

C. A predictable national standard is essential to a federal spending program administered in every State.

The IDEA is a federal funding statute under which every participating State accepts the same conditions. See *Arlington Cent. Sch. Dist. Bd. of Educ. v. Murphy*, 548 U.S. 291, 295 (2006). School districts, hearing officers, and families in every State are entitled to know what weight an impartial due process decision will carry when it reaches federal court. Without that clarity, hearing officers cannot know whether their findings will be meaningfully reviewed or effectively superseded; school attorneys cannot reliably advise IEP teams on the litigation consequences of their recommendations; and families cannot assess whether

pursuing federal review is likely to produce a different result. As the petition notes, this Court has repeatedly granted review to resolve recurring questions about the IDEA's administration. Pet. 37-38; *see, e.g., Perez*, 598 U.S. 142; *Endrew F.*, 580 U.S. 386; *Murphy*, 548 U.S. 291; *Schaffer*, 546 U.S. 49; *Honig*, 484 U.S. 305. The deference question left open since *Rowley* is at least as consequential, because it governs the relationship between the administrative process and the courts in every IDEA case that proceeds to judicial review. This case, with a fully developed administrative record, a supplemental trial record consisting substantially of post-hearing evidence, and a published appellate decision squarely applying the sliding scale, is an appropriate vehicle to resolve it.

CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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