
In The
Supreme Court of the United States

CYNTHIA RAMOS, individually and as Parent and Natural Guardian of W.R., MADELINE GRULLON, individually and as Parent and Natural Guardian of C.B., MARIA HIDALGO, individually and as Parent and Natural Guardian of L.S., ADEJUMOKE OGUNLEYE, individually and as Parent and Natural Guardian of D.O., ROSA ELBA DE PAULINO, individually and as Parent and Natural Guardian of R.P., JENNIE LANDSMAN, individually and as Parent and Natural Guardian of J.L.,

Petitioners,

V.

KAMAR H. SAMUELS, as Chancellor of the New York City Department of Education, NEW YORK CITY DEPARTMENT OF EDUCATION

Respondents.

APPLICATION FOR EXTENSION OF TIME TO FILE
PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

**APPLICATION FOR EXTENSION OF TIME
TO FILE PETITION FOR WRIT OF CERTIORARI**

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To the Honorable Sonia Sotomayor, as Circuit Judge for the United States Court of Appeals for the Second Circuit:

The Petitioners, CYNTHIA RAMOS, Individually and as Parent and Natural Guardian of W.R.; MADELINE GRULLON, Individually and as Parent and Natural Guardian of C.B.; MARIA HIDALGO, Individually and as Parent and Natural Guardian of L.S.; ADEJUMOKE OGUNLEYE, Individually and as Parent and Natural Guardian of D.O.; ROSA ELBA DE PAULINO, Individually and as Parent and Natural Guardian of R.P.; and JENNIE LANDSMAN, Individually and as Parent and Natural Guardian of J.L.¹, under Supreme Court Rule 13(5), request a 60-day extension to petition for a writ of certiorari. This request, if granted, would extend the deadline from September 29, 2026, to November 30, 2026.

Petitioners will ask this Court to review a judgment of the United States Court of Appeals for the Second Circuit, issued on May 14, 2026 (attached hereto as **Exhibit 1**), which affirmed the dismissal of Petitioners' Complaint against KAMAR H. SAMUELS, as Chancellor of the New York City Department of Education, and the NEW YORK CITY DEPARTMENT OF EDUCATION (collectively "DOE"). The Second Circuit affirmed the dismissal of Petitioners' Complaint, relying upon its previous decision in *Mendez v. Banks*, 65 F.4th 56 (2d Cir. 2023). The Court held, *inter alia*, that Petitioners' claims for an injunction under the pendency provision of the Individuals with Disabilities Education Act ("IDEA") were moot because the

¹ The underlying appeal was heard together with the appeal in Case No. 25-1355, involving nine other similarly situated litigants.

school year had ended. The Second Circuit denied rehearing and rehearing en banc on July 1, 2026 (attached hereto as **Exhibit 2**).

The Court's decision overextends the holding in *Mendez* and, importantly, conflicts with this Court's decision in *Honig v. Doe*, 484 U.S. 305 (1988), governing mootness. Without intervention by this Court, DOE will defeat stay-put enforcement by delaying payment until the school year ends—thereby perpetuating the recurring evasion *Honig* forecloses.

The Petitioners request this extension of time for the following reasons:

1. This case presents substantial and essential questions of law, including the IDEA's protection of pendency placements for disabled students.
2. The Liberty & Freedom Legal Group ("LFLG") is a small nonprofit law firm based in New York City. Recently, the firm has suffered the loss of important personnel, causing added strain to an already substantial case load for the remaining staff. The Firm has a limited number of attorneys to work on the petition for writ of certiorari in this case.
3. If the Second Circuit's decision is not reviewed by this Court, courts throughout the Circuit will ignore this Court's decision in *Honig* and misapply other binding precedent. Other circuits may look to the Second Circuit for guidance on these important issues, causing the error to spread.
4. The importance of this Court's review of the Second Circuit's opinion thus is clear, but the undersigned will not have sufficient time to complete a petition for writ of certiorari by September 29, 2026.

For these reasons, the Petitioners request a 60-day extension of time to petition for a writ of certiorari to November 30, 2026.

Dated: September 18, 2026
New York, New York

Respectfully submitted,

/s/ Rory J. Bellantoni
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25-1321; 25-1355

Ramos v. Samuels; Bruckauf v. Samuels

**UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT**

SUMMARY ORDER

RULINGS BY SUMMARY ORDER DO NOT HAVE PRECEDENTIAL EFFECT. CITATION TO A SUMMARY ORDER FILED ON OR AFTER JANUARY 1, 2007, IS PERMITTED AND IS GOVERNED BY FEDERAL RULE OF APPELLATE PROCEDURE 32.1 AND THIS COURT’S LOCAL RULE 32.1.1. WHEN CITING A SUMMARY ORDER IN A DOCUMENT FILED WITH THIS COURT, A PARTY MUST CITE EITHER THE FEDERAL APPENDIX OR AN ELECTRONIC DATABASE (WITH THE NOTATION “SUMMARY ORDER”). A PARTY CITING A SUMMARY ORDER MUST SERVE A COPY OF IT ON ANY PARTY NOT REPRESENTED BY COUNSEL.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 14th day of May, two thousand twenty-six.

Present:

DEBRA ANN LIVINGSTON,
Chief Judge,
DENNIS JACOBS,
BARRINGTON D. PARKER,
Circuit Judges.

CYNTHIA RAMOS, INDIVIDUALLY AND AS PARENT
AND NATURAL GUARDIAN OF W.R., MADELINE
GRULLON, INDIVIDUALLY AND AS PARENT AND
NATURAL GUARDIAN OF C.B., MARIA HIDALGO,
INDIVIDUALLY AND AS PARENT AND NATURAL
GUARDIAN OF L.S., ADEJUMOKE OGUNLEYE,
INDIVIDUALLY AND AS PARENT AND NATURAL
GUARDIAN OF D.O., ROSA ELBA DE PAULINO,
INDIVIDUALLY AND AS PARENT AND NATURAL
GUARDIAN OF R.P., JENNIE LANDSMAN,
INDIVIDUALLY AND AS PARENT AND NATURAL
GUARDIAN OF J.L.,

Plaintiffs-Appellants,

v.

25-1321

KAMAR H. SAMUELS, AS CHANCELLOR OF THE NEW
YORK CITY DEPARTMENT OF EDUCATION, NEW
YORK CITY DEPARTMENT OF EDUCATION,

Defendants-Appellees,

OLIVER BRUCKAUF, AS PARENT AND NATURAL
 GUARDIAN OF E.B. AND INDIVIDUALLY, JANERIS
 RODRIGUEZ MEJIA, AS PARENT AND NATURAL
 GUARDIAN OF E.R. AND INDIVIDUALLY, MAYTINEE
 BIRD, AS PARENT AND NATURAL GUARDIAN OF H.C.
 AND INDIVIDUALLY, DONNA CORNETT, AS PARENT
 AND NATURAL GUARDIAN OF J.B. AND
 INDIVIDUALLY, LEONARDA BAUTISTA, AS PARENT
 AND NATURAL GUARDIAN OF J.B. AND
 INDIVIDUALLY, KAMOLPORN LUMMAYOS, AS PARENT
 AND NATURAL GUARDIAN OF R.L. AND
 INDIVIDUALLY, CLAUDIA RIVAS, AS PARENT AND
 NATURAL GUARDIAN OF S.C. AND INDIVIDUALLY,
 SANDRA LEE, AS PARENT AND NATURAL GUARDIAN
 OF V.G. AND INDIVIDUALLY, CRYSL CROSLEY, AS
 PARENT AND NATURAL GUARDIAN OF Z.C. AND
 INDIVIDUALLY,

Plaintiffs-Appellants,

v.

25-1355

KAMAR H. SAMUELS, AS CHANCELLOR OF THE NEW
 YORK CITY DEPARTMENT OF EDUCATION, NEW
 YORK CITY DEPARTMENT OF EDUCATION,

*Defendants-Appellees.*¹

For Plaintiff-Appellant:

RORY J. BELLANTONI (Nicole Lancia, Jeffrey A.
 Spinner, David Markese, *on the brief*), Liberty and
 Freedom Legal Group, Ltd., New York, NY.

For Defendants-Appellees:

DIANA LAWLESS (Richard Dearing, Deborah A.
 Brenner, *on the brief*), Of Counsel, for Muriel

¹ The Clerk of Court is respectfully directed to amend the official case captions as set forth above. Plaintiffs originally filed their complaints against Melissa Aviles-Ramos in her official capacity as Chancellor of the New York City Department of Education. Kamar H. Samuels is the current chancellor and is automatically substituted as a party under Federal Rule of Appellate Procedure 43(c)(2).

Goode-Trufant, Corporation Counsel of the City of
New York, New York, NY.

Appeal from a judgment of the United States District Court for the Southern District of
New York (Schofield, *J.*).

**UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED, AND
DECREED** that the judgment of the district court is **AFFIRMED**.²

Plaintiffs-Appellants appeal from a May 21, 2025 judgment of the United States District
Court for the Southern District of New York denying their requests for injunctive relief and
granting the motions to dismiss by the New York City Department of Education (“DOE”) in this
action pursuant to the Individuals with Disabilities Education Act (“IDEA”), 20 U.S.C. § 1400 *et*
*seq.*³

Plaintiffs-Appellants, the parents of children with disabilities who were enrolled at the
International Institute for the Brain (“iBrain”) for the 2024-2025 school year, first filed an
administrative complaint on behalf of their children on July 2, 2024, alleging that the DOE had
denied each student a free and appropriate public education (“FAPE”) for the 2024-2025 school
year and seeking funding for tuition and related services at iBrain for that year. Within a week
they filed these actions in federal court, seeking injunctive and declaratory relief concerning their
child’s placement for that school year, which ended in June 2025.

Plaintiffs-Appellants each sought (1) a declaratory judgment that the students’ pendency
placements were at iBrain throughout the administrative and judicial proceedings and that they
were entitled to full funding of tuition at iBrain; (2) an injunction implementing pendency funding

² Appellants’ motions for leave to file status update letters are denied.

³ These tandem appeals were dispensed with in a single decision and order of the United States District Court for the Southern District of New York. The arguments presented in each appeal are substantially the same. All references to the Appendix and Briefs refer to No. 25-1355, *Bruckauf v. Aviles Ramos*.

1 in the ordinary course of business without undue delay; and (3) an injunction requiring DOE to
 2 immediately implement and adhere to all final, unappealed administrative orders for funding. The
 3 district court dismissed most of the claims as either (1) moot because the DOE had already paid
 4 for the child’s tuition or (2) unripe because the DOE did yet not have a settled obligation to pay.
 5 For the remaining justiciable claims, the district court denied injunctive relief because the
 6 Plaintiffs-Appellants failed to state a claim under the IDEA.

7 On appeal, Plaintiffs-Appellants argue: (1) that the district court erred in determining that
 8 claims were moot; (2) that the district court erred in determining that other claims were unripe; (3)
 9 that the district court erred in rejecting justiciable claims for failure to state claim under the IDEA;
 10 and (4) that the district court erred in denying relief for one plaintiff, Z.C., as unripe because no
 11 pendency order had issued. For the reasons set forth herein, we disagree. We assume the parties’
 12 familiarity with the underlying facts, the procedural history of the case, and the issues on appeal,
 13 which we set forth in this summary order only as necessary to explain our decision to **DISMISS**
 14 in part as moot and otherwise **AFFIRM**.

15 * * *

16 The IDEA requires that states receiving federal special education funding provide children
 17 with disabilities with a FAPE. 20 U.S.C. § 1400(d)(1)(A). To ensure that qualifying children
 18 receive a FAPE, school districts must create an individualized education program (“IEP”) for
 19 qualifying children. States must then provide an administrative procedure for parents to challenge
 20 the adequacy of their children’s IEPs. *See Mendez v. Banks*, 65 F.4th 56, 59 (2d Cir. 2023).
 21 Challenges to a school district’s IEP are normally handled through these administrative
 22 procedures. *Id.* In New York this process has two steps. *Id.* First, parents can file a complaint
 23 and be heard by an impartial hearing officer (“IHO”). *Id.* Second, either side can appeal the IHO’s

1 order resolving the complaint to a state review officer (“SRO”). *Id.* Following the completion of
 2 the state administrative process, either party may seek review of the SRO’s decision in federal or
 3 state court. *Id.*

4 During the pendency of these administrative proceedings, the child is entitled to remain in
 5 their then-current educational placement at public expense under the IDEA’s “stay-put” or
 6 “pendency” provision. 20 U.S.C. §1415(j). This provision reflects “Congress’ policy choice that
 7 all [disabled] children, regardless of whether their case is meritorious or not, are to remain in their
 8 current educational placement until the dispute with regard to their placement is ultimately
 9 resolved.” *Mackey ex rel. Thomas M. v. Bd. of Educ. For Arlington Cent. Sch. Dist.*, 386 F.3d
 10 158, 160–61 (2d Cir. 2004) (emphasis removed and internal quotations omitted).

11 We have characterized the stay-put provision as “in effect, an automatic preliminary
 12 injunction.” *Zvi D. ex rel. Shirley D. v. Ambach*, 694 F.2d 904, 906 (2d Cir. 1982). When parents
 13 can show that the school district’s failure to pay for an educational placement jeopardizes that
 14 placement for the school year in question, they can bring unexhausted claims in federal court and
 15 seek injunctive relief. *Ventura de Paulino v. New York City Dep’t of Educ.*, 959 F.3d 519, 531 (2d
 16 Cir. 2020). This provision “substitutes an absolute rule in favor of the status quo—that is, the
 17 maintenance of a student’s then-current educational placement—for the standard preliminary
 18 injunction analysis involving irreparable harm, the likelihood of success on the merits, and the
 19 balance of hardships.” *Mendez*, 65 F.4th at 62 (internal quotations omitted).

20 In *Mendez*, we were confronted with an appeal substantially similar to that at issue here.
 21 After receiving pendency orders, the *Mendez* plaintiffs “sprinted to federal court” and moved for
 22 a preliminary injunction and an order requiring immediate payment from the DOE under the

1 pendency provision, the very same statutory provision invoked here.⁴ *Id.* at 60. Plaintiffs argued
 2 that the IDEA’s stay-put provision entitled them to immediate funding. *Id.* at 63. The district
 3 court rejected this argument and plaintiffs appealed. We agreed with the district court. The
 4 “IDEA’s stay-put provision does not create an entitlement to immediate payment or
 5 reimbursement. Parents or guardians may . . . be able to obtain such relief if they establish that a
 6 delay or failure to pay has jeopardized their child’s educational placement. But absent such a
 7 showing, the DOE is not obliged to circumvent its ordinary payment procedures.” *Id.*

8 Plaintiffs-Appellants here raise substantially the same argument as in *Mendez*, which the
 9 district court properly rejected. As pendency orders were issued, and payments were made by the
 10 DOE, the district court rightly concluded that some of the Plaintiffs-Appellants’ claims were moot.
 11 As to others, the district court correctly concluded that the claims were unripe, because Plaintiffs-
 12 Appellants had made no showing that a delay in payment jeopardized their child’s placement and
 13 ongoing pendency proceedings might yet determine what obligations the DOE owed to Plaintiffs-
 14 Appellants.⁵ To repeat our holding in *Mendez*, “the IDEA’s stay-put provision does not create an
 15 entitlement to immediate payment or reimbursement,” and “DOE must first withhold payments
 16 that have actually accrued before [p]laintiffs can seek those payments in court.” *Id.* at 61, 63. And
 17 Plaintiffs-Appellants before the district court did not even contend that “a delay or failure to pay
 18 [had] jeopardized their child’s educational placement,” *id.* at 63, apart from the generalized claim

⁴ To be sure, Plaintiffs-Appellants in this case did not even wait for pendency orders before filing their claims in federal court, although all children now have such orders.

⁵ On appeal, Plaintiffs-Appellants also argue that the district court erred in concluding that Z.C.’s claims were, in part, unripe. We disagree. At the time of the district court’s decision, Z.C. had not received a pendency order. Without a pendency order, and absent any showing of threatened placement, the DOE had no obligation immediately to fund Z.C.’s attendance at iBrain. And any future obligation to reimburse Z.C. for iBrain attendance was uncertain with nothing in the record to suggest that DOE would refuse payment should it become due. *See Mendez*, 65 F.4th at 61 (“Plaintiffs also argue that prophylactic relief is warranted because the DOE has a track record of making untimely payments and is predestined to do the same here. But even assuming such a track record could render these claims ripe, nothing in the record before us indicates that the DOE will shirk its obligations when they come due.”).

(not repeated on appeal) that delayed payments during pursuit of pendency might cause iBrain itself to close.⁶ *See, e.g.*, Plaintiffs’ Memorandum of Law in Support of Order to Show Cause at 14, *Ramos v. Aviles-Ramos*, No. 24-CV-05109 (S.D.N.Y. Oct. 18, 2024), ECF No. 64; Declaration of Arthur Mielnik, *Ramos v. Aviles-Ramos*, No. 24-CV-05109 (S.D.N.Y. Aug. 16, 2024), ECF No. 41.

Moreover, the school year at issue is now over for all Plaintiffs-Appellants, mooted their claim to an injunction under the stay-put provision to maintain placement for 2024-2025. In an apparent effort to avoid this conclusion, Plaintiffs-Appellants belatedly argue that they are entitled to contractual late fees and to some pendency amounts allegedly still due for the 2024-2025 school year. But the claim to late fees was not properly raised before the district court and this Court does not consider issues that are unpreserved. *Green v. Dep’t of Educ.*, 16 F.4th 1070, 1078 (2d Cir. 2021). Moreover, to the extent that Plaintiffs-Appellants seek late fees and disputed pendency amounts, the district court properly dismissed such claims. DOE must “first withhold payments that have actually accrued before Plaintiffs can seek those payments in court.” *Mendez*, 65 F.4th at 61. And absent a showing that “a delay or failure to pay has jeopardized [a] child’s educational placement . . . the DOE is not obliged to circumvent its ordinary payment procedures.” *Id.* at 63.

Plaintiffs-Appellants brought this lawsuit under the pendency provision, seeking prospective injunctive relief for the 2024-2025 school year. While nominally including other forms of relief, Plaintiffs-Appellants essentially sought to fast-track payment from the DOE. But under the IDEA’s stay-put provision, plaintiffs are only entitled to payment where “a delay or

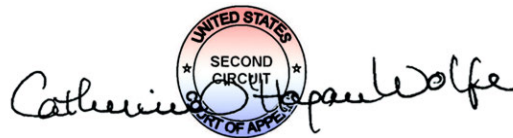
⁶ As to the assertion on appeal that the district court erred in applying the irreparable harm standard, the district court addressed irreparable harm only because Plaintiffs-Appellants themselves, in a companion claim they have since abandoned, argued that they were entitled to a traditional preliminary injunction. Motion for Preliminary Injunction, *Bruckauf v. Aviles-Ramos*, No. 24-CV-05136 (S.D.N.Y. Oct. 23, 2024) ECF No. 52, at 19.

1 failure to pay . . . threaten[s] their child’s placement.” *Id.* at 59. Because the 2024-2025 school
 2 year has ended, Plaintiffs-Appellants cannot now claim that any child’s placement at iBrain for
 3 that school year is at risk.⁷ We cannot issue an injunction to prevent a supposed future harm that
 4 has already failed to occur, and Plaintiffs-Appellants’ claim is moot. *Cf. Knaust v. City of*
 5 *Kingston*, 157 F.3d 86, 88 (2d Cir. 1998) (“Because this appeal thus seeks to enjoin the future
 6 occurrence of events that are already in the past, we lack appellate jurisdiction.”). To the extent
 7 Plaintiffs-Appellants press their entitlement to additional payments for the 2024-2025 school year,
 8 such claims were properly dismissed by the district court. For all the reasons previously discussed,
 9 those claims are either unpreserved or unripe for resolution.

10 * * *

11 We have considered Plaintiffs-Appellants’ remaining arguments and find them to be
 12 without merit. Accordingly, the judgment of the district court is **DISMISSED** in principal part as
 13 moot and otherwise **AFFIRMED**.

14 FOR THE COURT:
 15 Catherine O’Hagan Wolfe, Clerk
 16


 The image shows a handwritten signature in blue ink that reads "Catherine O'Hagan Wolfe". The signature is written over a circular official seal. The seal is blue and white, with the words "UNITED STATES" at the top, "SECOND CIRCUIT" in the center, and "COURT OF APPEALS" at the bottom. There are small stars on either side of the "SECOND CIRCUIT" text.

⁷ Moreover, Plaintiff-Appellants do not contend that any child lost their placement at iBrain for the 2024-2025 school year as a result of the DOE’s failure to honor the stay-put provision.

**UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT**

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 1st day of July, two thousand twenty-six.

Cynthia Ramos, individually and as Parent and Natural Guardian of W.R., Madeline Grullon, individually and as Parent and Natural Guardian of C.B., Maria Hidalgo, individually and as Parent and Natural Guardian of L.S., Adejumo Ogunleye, individually and as Parent and Natural Guardian of D.O., Rosa Elba de Paulino, individually and as Parent and Natural Guardian of R.P., Jennie Landsman, individually and as Parent and Natural Guardian of J.L.,

Plaintiff - Appellants,

v.

Kamar H. Samuels, as Chancellor of the New York City Department of Education, New York City Department of Education,

Defendants - Appellees.

ORDER

Docket No: 25-1321

Appellants filed two petitions for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the requests for panel rehearing, and the active members of the Court have considered the requests for rehearing *en banc*.

IT IS HEREBY ORDERED that the petitions are denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk


Catherine O'Hagan Wolfe

