No. 24-249

IN THE

Supreme Court of the United States

A.J.T., BY AND THROUGH HER PARENTS, A.T. AND G.T.,
Petitioner,

v.

OSSEO AREA SCHOOLS, INDEPENDENT SCHOOL DISTRICT NO. 279; OSSEO SCHOOL BOARD,
Respondents.

On Writ of Certiorari to the United States Court of Appeals for the Eighth Circuit

BRIEF OF REPRESENTATIVE TONY COELHO AND THE COELHO CENTER FOR DISABILITY LAW, POLICY AND INNOVATION AS *AMICI CURIAE* IN SUPPORT OF PETITIONER

DAVID A. STRAUSS
SARAH M. KONSKY
Counsel of Record
JENNER & BLOCK
SUPREME COURT AND APPELLATE CLINIC AT THE UNIVERSITY OF CHICAGO LAW SCHOOL
1111 E. 60th Street
Chicago, IL 60637
konsky@uchicago.edu
(773) 834-3190

MATTHEW S. HELLMAN
JENNER & BLOCK LLP
1099 New York Avenue NW
Suite 900
Washington, DC 20001

SIMON A. DE CARVALHO
JENNER & BLOCK LLP
353 N. Clark Street
Chicago, IL 60654

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INTEREST OF *AMICI CURIAE*[1]

Amicus Representative Tony Coelho is a former Member of Congress who has been a key advocate for the rights of individuals with disabilities throughout his career. As a recognized leader in education and disability rights legislation, Representative Coelho has helped shape the body of disability rights legislation in the United States.

Representative Coelho was instrumental to the passage of the Americans with Disabilities Act of 1990 (ADA) and other congressional efforts to champion the rights of people with disabilities. He was also involved in the 1985 effort to amend and reauthorize the Individuals with Disabilities Education Act (IDEA) that resulted in the enactment of one of the central provisions at issue in this case, 20 U.S.C. § 1415(*l*). Representative Coelho has been recognized as a leader in disability law by President George H.W. Bush and Governor Edmund G. Brown, Jr. *See Founder*, Loyola Law School: The Coelho Center, https://perma.cc/JPC5-REYE. Representative Coelho has also held leadership positions at the American Association for People with Disabilities, the Epilepsy Foundation, and the Partnership to Improve Patient Care. And he has previously offered his views on the proper interpretation of disability laws by filing amicus briefs in this Court. *See, e.g.,* Brief of Senator Tom Harkin, Representative Tony Coelho, and Representative George Miller as *Amici Curiae* in

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[1] Pursuant to this Court's Rule 37.6, counsel for *amici curiae* certify that this brief was not authored in whole or in part by counsel for any party and that no person or entity other than *amici curiae* or their counsel made a monetary contribution to preparation or submission of this brief.

Support of Petitioner, *Perez v. Sturgis Pub. Schs.*, 598 U.S. 142 (2023) (No. 21-887) 2022 WL 17095052.

Amicus Coelho Center for Disability Law, Policy and Innovation is a disability rights advocacy group at Loyola Marymount University. The Coelho Center was founded by Representative Coelho in 2018. Among other work, the Coelho Center builds a scholarly community dedicated to studying disability-related issues, fosters students and practitioners interested in working with the disability community, and actively supports legislation that advances the rights of people with disabilities at the local, state, and federal levels.

Congress enacted the IDEA, the ADA, and the Rehabilitation Act to ensure that individuals with disabilities have the right to full and equal participation in all aspects of society, including in the classroom. As prominent figures in the disability rights movement, *amici* have an interest in ensuring that individuals with disabilities retain the ability to enforce all of the rights guaranteed to them under the law. Moreover, given his involvement with the passage of 20 U.S.C. § 1415(*l*), *amicus* Representative Coelho has an interest in ensuring that this provision is interpreted in accordance with its text and purpose. Accordingly, *amici* urge this Court to recognize that, consistent with its text and purpose, the IDEA does not "restrict or limit" children with disabilities' access to relief under either the ADA or the Rehabilitation Act. 20 U.S.C. § 1415(*l*).

INTRODUCTION AND SUMMARY OF ARGUMENT

The plain language of 20 U.S.C. § 1415(*l*) resolves this case in petitioner's favor. The ADA and

Section 504 of the Rehabilitation Act of 1973 "aim to root out disability-based discrimination" from public institutions nationwide, offering relief to "people with disabilities of all ages, … both inside and outside schools." *Fry v. Napoleon Cmty. Schs.*, 580 U.S. 154, 170-71 (2017). As relevant here, Section 1415(*l*) of the IDEA provides that "[n]othing in [the IDEA] shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, the [ADA], title V of the Rehabilitation Act of 1973, or other Federal laws protecting the rights of children with disabilities." 20 U.S.C. § 1415(*l*). By holding students with disabilities seeking ADA or Rehabilitation Act relief against their schools to a higher standard of proof than other individuals with disabilities, the Court of Appeals read the IDEA to "limit" their "rights" under those laws—precisely what the plain text of Section 1415(*l*) forbids.

Amici submit this brief to explain that the relevant legislative history confirms that Congress meant what it said. That history makes two points plain.

First, Congress enacted the IDEA to *supplement*—not to limit—the rights already available to children with disabilities under the Rehabilitation Act, the Constitution, and other laws like 42 U.S.C. § 1983, and the law was understood that way at the time. The Eighth Circuit's decision in *Monahan v. Nebraska*, 687 F.2d 1164 (8th Cir. 1982), from which the Court of Appeals here drew the heightened "bad faith or gross misjudgment" standard it applied to petitioner's ADA and Rehabilitation Act claims, justified that atextual standard only by "speculat[ing] that Congress intended the IDEA's predecessor"—the Education for All Handicapped Children Act of 1975 (EHA)—"to limit [the Rehabilitation Act's]

protections." Pet. App. 3a, 4a-5a & n.2. But *Monahan* got Congress's intent exactly backwards.

Second, the legislative history of Section 1415(*l*) of the IDEA confirms that conclusion. That history demonstrates that Congress enacted Section 1415(*l*) to abrogate this Court's decision in *Smith v. Robinson*, 468 U.S. 992 (1984), *superseded by statute as stated in Fry v. Napoleon Cmty. Schs*, 580 U.S. 154 (2017), which held that the IDEA—then known as the EHA—provided the exclusive remedy for children with disabilities seeking accommodations in schools, thus precluding such children from seeking the same relief under the Rehabilitation Act. *See id.* at 1011-13, 1019-21. By repudiating *Smith*, Congress necessarily repudiated *Monahan*, too, since both cases proceeded from the same mistaken premise that Congress meant the IDEA to limit, rather than to build upon, the rights children with disabilities enjoyed under other laws. Section 1415(*l*) accordingly restored the pre-*Smith*, pre-*Monahan* status quo, under which children with disabilities and their parents could avail themselves of all "the same rights, no more, no less, that are provided to all other groups under the other Civil Rights Acts of the United States"—including the right to seek relief under Section 504 of the Rehabilitation Act and the ADA. 131 Cong. Rec. 31,377 (1986) (statement of Rep. Pat Williams).

Because the Court of Appeals's decision conflicts with the plain text of the ADA, the Rehabilitation Act, and Section 1415(*l*), and with the relevant legislative history, this Court should reverse.

ARGUMENT

Congress recognized that the IDEA's rights and remedies, although important, are not the only legal protections that children with disabilities enjoy at school. Accordingly, Congress elected to empower children with disabilities and their families to take advantage of the full panoply of remedies available to them under federal disability laws. That was Congress's choice, and this Court should respect it.

I. Congress Enacted The IDEA To Supplement The Rights Already Available To Children With Disabilities Under The Rehabilitation Act.

The text and history of the Rehabilitation Act demonstrate that Congress understood it to provide students with disabilities a means of seeking accommodations in schools. Congress intended the IDEA, as initially enacted in 1975, to supplement those existing protections under the Rehabilitation Act and other laws—not to restrict them. *Monahan*, which proceeded on the assumption that Congress had precisely the opposite intent in enacting the IDEA, is wrong.

A. Section 504 of the Rehabilitation Act of 1973 provides that "[n]o otherwise qualified individual with a disability in the United States, as defined in [29 U.S.C. § 705(20)], shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance." 29 U.S.C. § 794(a). As this Court has made clear, this provision applies regardless of age "and … both inside and outside schools." *Fry*, 580 U.S. at 170; *see* 29 U.S.C.

§ 794(b)(2)(B) (indicating that the nondiscrimination provision applies to "local educational agenc[ies]" and "other school system[s]").

Contemporaneous legislative history indicates that Congress intended Section 504 to authorize students with disabilities to bring suit to obtain accommodations in schools receiving federal funds. In 1974, Congress amended the Rehabilitation Act to remove language that might have been read to suggest that the statute was "narrowly limited to employment." H.R. Rep No. 93-1457, at 25 (1974). As the Conference Report accompanying that amendment explained, "Section 504 was enacted to prevent discrimination against *all* handicapped individuals," including in "education[al]" settings. *Id.* (emphasis added). Indeed, the Report identified students with disabilities as its very first example of a class of people who "may have been unintentionally excluded from the protection of section 504" under its original wording but who were always meant to be, and now clearly were, protected by the law. *Id*.

B. By 1975, when Congress first enacted the IDEA (then called the EHA), Congress was aware "that an increasing number of court decisions throughout the Nation [we]re establishing"—under a host of existing legal mechanisms—"the principle that all children are entitled to a free public education appropriate to their needs." H.R. Rep. No. 94-332, at 7 (1975); *see* S. Rep. No. 94-168, at 7 (1975), *as reprinted in* 1975 U.S.C.C.A.N. 1425, 1431 ("In recent years decisions in more than 36 court cases in the States have recognized the rights of handicapped children to an appropriate education."); *see* 121 Cong. Rec. 19,486-92 (1975) (statement of Sen. Harrison Williams) (receiving unanimous consent to print in the record a

table describing, among other things, pending and completed litigation across the states).

The IDEA sought to facilitate enforcement of those existing rights possessed by students with disabilities, not to displace or limit them. *See, e.g.*, 121 Cong. Rec. 19,492 (statement of Sen. Harrison Williams) (stating that the IDEA's "primary intent is to *bolster* the rights of handicapped children and their parents to assure that the right to education is firmly established" and to "*reinforce* the right to education for handicapped children") (emphases added); 121 Cong. Rec. 19,483 (statement of Sen. Robert T. Stafford) (The IDEA seeks "to bring to all the handicapped children of our Nation what has *always been their right*—a free appropriate public education.") (emphasis added). Senator Paul Simon, who sponsored the original IDEA legislation in 1975, would later characterize that Act as a "specific response" to the unique challenges faced by children with disabilities in schooling—a response that "*added* to the protections assumed under the Constitution and such laws as the Rehabilitation Act." 131 Cong. Rec. 21,392 (emphasis added). By granting children with disabilities these additional protections through the IDEA, Congress did not mean to simultaneously withdraw or restrict, *sub silentio*, the protections they enjoyed under the Rehabilitation Act. Just the opposite: "When Congress passed [the IDEA], [its] clear intent was to enhance existing laws governing the rights of disabled citizens, including the Rehabilitation Act." 132 Cong. Rec. 16,824 (1986) (statement of Sen. John F. Kerry).

Consistent with Congress's intent, in 1980 the Department of Education promulgated regulations "to effectuate Section 504 of the Rehabilitation Act" requiring any "preschool, elementary [school], [or]

secondary [school] … that receive[s] or benefit[s] from Federal financial assistance" to "provide a free appropriate public education to each qualified handicapped person who is in the recipient's jurisdiction." 34 C.F.R. §§ 104.1, 104.31, 104.33(a) (1980) (45 Fed. Reg. at 30937, 30941). The regulations specified that "[i]mplementation of an individualized education program developed in accordance with the [IDEA] is *one means* of meeting" that requirement. *Id.* § 104.33(b)(2) (1980) (45 Fed. Reg. at 30941) (emphasis added). These regulations demonstrate that the Rehabilitation Act was understood to provide disabled students with a means of suing to obtain an equal education independent of the IDEA.

C. The Eighth Circuit's 1982 decision in *Monahan* noted that "[t]he Rehabilitation Act and [the IDEA] are entirely different statutes," 687 F.2d at 1170, but drew from that observation the wrong conclusions. Rather than allow these statutes to operate in their distinct but overlapping spheres, the court in *Monahan* fashioned from whole cloth a new requirement "that either bad faith or gross misjudgment should be shown before a [Section] 504 violation can be made out … in the context of education of handicapped children." *Id.* at 1171. That requirement is without support in either the text or the legislative history of Section 504.

The practical effect of *Monahan*'s new requirement was to make it more difficult for children with disabilities—and *only* children with disabilities—to obtain relief from their schools under the Rehabilitation Act and, later, the ADA. That result is inconsistent with the text of the Rehabilitation Act, which applies equally to "people with disabilities of all ages, … both inside and outside schools," *Fry*, 580 U.S.

at 170, and which "does not make an exception for handicapped children seeking an appropriate education," 131 Cong. Rec. 21,389 (statement of Sen. Lowell Weicker). It is inconsistent with the text and purpose of the ADA, which likewise contains no carveout for students with disabilities, *see* 42 U.S.C. § 12132, and which was meant to apply equally to "[e]very American" with disabilities, *Americans With Disabilities Act of 1988: Joint Hearing on S. 2345 Before the Subcomm. on the Handicapped of the S. Comm. on Labor & Hum. Res. & the Subcomm. on Select Educ. of the H. Comm. on Educ. & Labor*, 100th Cong. 11 (1988) (statement of Rep. Tony Coelho). And it is inconsistent, too, with Congress's purpose in enacting the IDEA: "to bring to all the handicapped children of our Nation what has *always been their right*—a free appropriate public education." 121 Cong. Rec. 19,483 (statement of Sen. Robert T. Stafford) (emphasis added).

II. Congress Adopted Section 1415(*l*) Of The IDEA To Abrogate This Court's Decision In *Smith* And Restore To Children With Disabilities The Full Panoply Of Rights Under The Disability Laws.

In *Smith v. Robinson,* this Court held that the IDEA provided the "exclusive avenue" for children with disabilities to bring discrimination claims related to their education. 468 U.S. 992, 1009 (1984). *Smith* apparently came as something of a shock to Congress, since (as discussed in Part I, *supra*) both Congress and the executive branch had long understood that the IDEA and Section 504 "were intended to be free standing, complementary—but not identical—legislative acts." 130 Cong. Rec. 20,597 (1984) (statement of Sen. Lowell Weicker). *Smith*

accordingly misapprehended Congress's intent in enacting the IDEA, *see, e.g.*, 132 Cong. Rec. 16,825 (statement of Sen. Paul Simon) (calling *Smith*'s analysis of the interplay between Congress's disability laws "particularly faulty"), and "Congress was quick to respond," *Fry*, 580 U.S. at 160-61.

Congress's response took the form of what is now Section 1415(*l*) of the IDEA, enacted as part of the Handicapped Children's Protection Act of 1986 ("HCPA"), Pub. L. No. 99-372, § 3, 100 Stat. 796, 797. In its original form, that provision, titled "Effect of [the IDEA] on Other Laws," *id.* (capitalization altered), directed that nothing in the IDEA "shall be construed to restrict or limit the rights, procedures, and remedies available under the Constitution, title V of the Rehabilitation Act of 1973, or other Federal statutes protecting the rights of handicapped children and youth." *Id.* In its current form, the provision also applies to the "rights, procedures, and remedies available under … the Americans with Disabilities Act of 1990." 20 U.S.C. § 1415(*l*). Thus, as this Court recognized in *Fry*, Section 1415(*l*) "'reaffirm[s] the viability' of federal statutes like the ADA or Rehabilitation Act 'as separate vehicles,' no less integral than the IDEA, 'for ensuring the rights of handicapped children.'" 580 U.S. at 161 (quoting H.R. Rep. No. 99-296, at 4 (1985)).

From inception to enactment, the legislative record of Section 1415(*l*) and the HCPA evinces Congress's intent to restore to children with disabilities the full panoply of rights and remedies previously available to them under the Rehabilitation Act and other federal laws. *See, e.g.*, 130 Cong. Rec. 20,761 (statement of Rep. Austin J. Murphy, Jr.) (Section 1415(*l*) "signal[led] [Congress's] intention that the [IDEA] is

intended to complement and not preempt other Federal statutes that affect handicapped children."); 131 Cong. Rec. 31,377 (statement of Rep. Pat Williams) ("Handicapped children and their parents deserve no less than those protections which are provided to all of our other citizens."); 130 Cong. Rec. 20,623 (statement of Sen. Robert T. Stafford) (explaining that Congress "never envisioned" the IDEA "as limiting or restricting the civil rights of handicapped children" under other laws); 131 Cong. Rec. 21,391 (statement of Sen. Edward M. Kennedy) (stating that Section 1415(*l*) "clearly" provides that "the educational rights of handicapped children are protected from discrimination under section 504 of the Rehabilitation Act and other civil rights statutes"); 132 Cong. Rec. 17,609 (statement of Rep. Steve Bartlett) (stating that *Smith* rested on an "erroneous interpretation of congressional intent" that "wrongly cut off access to our judicial system by parents seeking to enforce their handicapped child's rights").

If Congress wanted to limit existing federal rights or remedies available to children with disabilities when it enacted the IDEA (or the HCPA), it would have done so. "When there is intent to modify, limit, or supersede existing law, Congress does not hesitate to do so explicitly." 132 Cong. Rec. 9,279 (statement of Sen. Paul Simon). But it has instead taken exactly the opposite approach: "As legislative approaches to protecting the rights of handicapped persons grow, and [Congress] adopt[s] new laws, [it is] building upon the existing laws, with the full knowledge of those laws and with the assumption that their provisions remain in effect as the context for new legislation." *Id.* It thus follows that "[j]ust as Congress['s] enactment of title VII of the Civil Rights Act of 1964 did not deprive women and minorities of existing provisions

against discrimination, the enactment of [the IDEA] in no way deprived handicapped children of existing constitutional and statutory provisions protecting their rights." *Id.* Section 1415(*l*) was Congress's effort to correct the record on that score after this Court's decision in *Smith*—and to reaffirm "the principle that parents or legal representatives of handicapped children must be able to access the full range of available remedies in order to protect their handicapped children's educational rights." S. Rep. No. 99-112, at 17 (1985), *as reprinted in* 1986 U.S.C.C.A.N. 1798, 1806.

By repudiating *Smith* and thereby "reestablish[ing] the relationships between the [IDEA] … and other statutes protecting the rights of handicapped children that existed prior to [that] decision," 131 Cong. Rec. 21,392 (statement of Sen. Paul Simon), Congress necessarily repudiated the Eighth Circuit's decision in *Monahan*, too. As one commentator has observed, both *Smith* and *Monahan* "sought to harmonize [the] IDEA and section 504 by saying that a section 504 claim could not proceed unless it alleged something more than the denial of free, appropriate public education." Mark C. Weber, *Accidentally on Purpose: Intent in Disability Discrimination Law*, 56 B.C. L. Rev. 1417, 1458 (2015). In doing so, both decisions directly contravened the text of the Rehabilitation Act and the IDEA and Congress's purpose in enacting those statutes. Accordingly, when Congress passed Section 1415(*l*) to correct *Smith*'s "erroneous interpretation of congressional intent," 132 Cong. Rec. 17,609 (statement of Rep. Steve Bartlett), *Monahan* should have gone with it.

For decades, however, *Monahan* has endured—to disastrous effect. Congress designed the IDEA "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C. § 12101(b)(1). But as this case illustrates, children with disabilities may have available remedies under the ADA, the Rehabilitation Act, and other related laws that exceed the remedies available under the IDEA. Congress could not have meant, and did not mean, for the IDEA to leave children with disabilities *worse* off by preempting their rights and remedies under these other statutes, or by imposing procedural obstacles that would not otherwise apply. Yet that is precisely how *Monahan* interprets the IDEA—as a self-defeating statute that frustrates its own purpose by making it *harder* for families of students with FAPE claims to obtain all the remedies available to them under other federal statutes. *See* 131 Cong. Rec. 5,064 (statement of Rep. Pat Williams) ("This Congress did not then and does not now intend to see handicapped children and their parents suffer unwarranted burdens."). Congress intended exactly the opposite, and it passed Section 1415(*l*) to make clear that children with disabilities and their parents "have available to them the full range of remedies to protect and defend their rights to a free, appropriate education." 131 Cong. Rec. 21,391 (Statement of Sen. Edward M. Kennedy).

By enacting Section 1415(*l*), Congress returned the status quo to what it was before *Monahan* and *Smith*: Children with disabilities are entitled to "the same rights, no more, no less, that are provided to all other groups under the other Civil Rights Acts of the United States." 131 Cong. Rec. 31,377 (statement of Rep. Pat Williams). And that means that children

with disabilities bringing claims against their schools under Section 504 of the Rehabilitation Act or the ADA may do so on the same terms as everyone else. This Court should reject *Monahan*'s contrary holding and reaffirm what the plain text of the relevant statutes and their legislative histories demand—that "handicapped children [be] protected against discrimination in the same manner as are other vulnerable groups." 132 Cong. Rec. 16,823 (statement of Sen. Lowell Weicker).

CONCLUSION

For the foregoing reasons, this Court should reverse the judgment below.

Respectfully submitted,

DAVID A. STRAUSS
SARAH M. KONSKY
Counsel of Record
JENNER & BLOCK
SUPREME COURT AND APPELLATE CLINIC AT THE UNIVERSITY OF CHICAGO LAW SCHOOL
1111 E. 60th Street
Chicago, IL 60637
konsky@uchicago.edu
(773) 834-3190

MATTHEW S. HELLMAN
JENNER & BLOCK LLP
1099 New York Avenue NW
Suite 900
Washington, DC 20001

SIMON A. DE CARVALHO
JENNER & BLOCK LLP
353 N. Clark Street
Chicago, IL 60654