United States Court of Appeals

for the

Third Circuit

Case No. 26-1966

D. M., individually and on behalf of D.G.M.;
H. M., individually and on behalf of D.G.M.,

Plaintiffs-Appellants,

– v. –

WATCHUNG HILLS REGIONAL HIGH SCHOOL BOARD OF EDUCATION,

Defendant-Appellee.

ON APPEAL FROM AN ORDER OF THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEW JERSEY IN NO. 3:22-CV-07500, HONORABLE GEORGETTE CASTNER

BRIEF FOR *AMICUS CURIAE* COUNCIL OF PARENT ATTORNEYS AND ADVOCATES, INC. IN SUPPORT OF PLAINTIFFS-APPELLANTS AND REVERSAL

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1. No amicus is a publicly held corporation or other publicly held entity;
2. No amicus has parent corporations; and
3. No amicus has 10% or more of stock owned by a corporation.

s/ Selene Almazan-Altobelli
Selene Almazan-Altobelli

Attorney for *Amicus Curiae*

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES iv

STATEMENT OF INTEREST OF AMICUS CURIAE 1

SUMMARY OF ARGUMENT 3

ARGUMENT 6

I. FOR A TRANSITION-AGE STUDENT, IDEA REQUIRES AN IEP WITH MEASURABLE GOALS DETERMINED BY THE STUDENT'S OWN POSTSECONDARY PLANS AND ASPIRATIONS 6

A. The Evolution of the Individuals with Disabilities Education Act Mandates a Results-Oriented, Data-Driven Approach to Transition Services Tailored to the Individual Student 6

B. Measurable Annual Goals Are the Link Between the Student's Postsecondary Goals and the Services the District Will Deliver 9

C. An IEP With No Goals for a Student's Transition Program Cannot Be Reasonably Calculated to Enable Appropriate Progress Toward that Student's Postsecondary Goals 10

II. MEANINGFUL PARENTAL PARTICIPATION REQUIRES AN IEP THAT TELLS PARENTS WHAT THEIR CHILD WILL BE TAUGHT AND TO WHAT END 14

A. Parental Participation is Central to IDEA's Design, and it is Participation in Decisionmaking, Not Mere Attendance 14

B. Parents Cannot Participate in Developing a Program That the IEP Does Not Describe 15

C. This Court Should Reject the District Court's Attendance-and-Voice Test 17

D. Parents Must Be Able to Rely Upon the IEP as Written When They Exercise Their Statutory Right to Seek Reimbursement 18

III. AMBITIOUS, INDIVIDUALIZED TRANSITION PLANNING CHANGES OUTCOMES FOR STUDENTS AND FEDERAL LAW IS BUILT UPON THAT PREMISE 19

A. Postsecondary Education Helps Close a Large Outcome Gap 19

B. Congress Has Built an Interlocking Federal Framework Around Individualized Transition to Postsecondary Education and Competitive Employment 20

CONCLUSION 22

TABLE OF AUTHORITIES

Page(s)

Cases:

A.J.T. v. Osseo Area School,
605 U.S. 335 (2025).....2

Amanda J. ex rel. Annette J. v. Clark Cnty. Sch. Dist.,
267 F.3d 877 (9th Cir. 2001).....15

Arlington Central School District Board of Education v. Murphy,
548 U.S. 291 (2006).....2

Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley,
458 U.S. 176 (1982)..... 13, 14

Board of Education v. Tom F.,
552 U.S. 1 (2007).....2

C.H. v. Cape Henlopen School District,
606 F.3d 59 (3d Cir. 2010).....18

Coleman v. Pottstown School District,
581 F. App'x 141 (3d Cir. 2014).....12

D.S. v. Bayonne Bd. of Educ.,
602 F.3d 553 (3d Cir. 2010)..... 9, 18

Endrew F. v. Douglas County School District. RE-1,
580 U.S. 386 (2017)..... *passim*

Forest Grove School District v. T.A.,
557 U.S. 230 (2009)..... 2, 18

Fry v. Napoleon Community School,
580 U.S. 154 (2017).....2

Fuhrmann v. E. Hanover Bd. of Educ.,
993 F.2d 1031 (3d Cir. 1993)..... 17, 18

High v. Exeter Township School District,
No. 09-2202, 2010 U.S. Dist. LEXIS 7965 (E.D. Pa. Feb. 1, 2010)..... 12, 13

L.G. v. Fair Lawn Bd. of Educ.,
No. 09-6456, 2011 WL 2559547 (D.N.J. June 27, 2011).....17

Montgomery County Intermediate Unit No. 23 v. A.F.,
506 F. Supp. 3d 293 (E.D. Pa. 2020).....16

Perez v. Sturgis Public Schools,
598 U.S. 142 (2023).....2

R.E. v. N.Y.C. Dep't of Educ.,
694 F.3d 167 (2d Cir. 2012).....18

Ridley Sch. Dist. v. M.R.,
680 F.3d 260 (3d Cir. 2012).....17

Rodrigues v. Fort Lee Bd. of Educ.,
458 F. App'x 124 (3d Cir. 2011).....16

Sch. Comm. of Burlington v. Dep't of Educ.,
471 U.S. 359 (1985).....18

Schaffer v. Weast,
546 U.S. 49 (2005)..... 2, 14

Sinan L. v. School District of Philadelphia,
293 F. App'x 912 (3d Cir. 2008).....12

Winkelman v. Parma City School District,
550 U.S. 516 (2007)..... 2, 14

Statutes & Other Authorities:

20 U.S.C. § 1140(1).....20

20 U.S.C. § 1140(2)(B).....21

20 U.S.C. § 1400.....1

20 U.S.C. § 1400(c)(1).....2

20 U.S.C. § 1400(c)(5)(B).....14

20 U.S.C. § 1400(c)(14).....6

20 U.S.C. § 1400(d)(1)(A)..... 4, 6, 13

20 U.S.C. § 1401(30).....7

20 U.S.C. § 1401(34).....4, 8

20 U.S.C. § 1401(a)(19).....7

20 U.S.C. § 1412(a)(10)(C)(ii)–(iii) 18
20 U.S.C. § 1414(d)(1)(A)(i)(III) 5, 16
20 U.S.C. § 1414(d)(1)(A)(i)(VIII).....4, 8
20 U.S.C. § 1414(d)(1)(B)(i) 14
20 U.S.C. § 1414(d)(3)(A)(ii).....15
20 U.S.C. § 1415(b)(1).....15
20 U.S.C. § 1415(c)(1).....15
20 U.S.C. § 1415(f)(3)(E)(ii)(I) 13
20 U.S.C. § 1415(f)(3)(E)(ii)(II)..... 5, 13, 15
20 U.S.C. § 1415(f)(3)(E)(ii)(III) 13
29 U.S.C. § 733(b)(3).....21
29 U.S.C. § 794.....1
42 U.S.C. § 1983.....1
42 U.S.C. § 12101 1
34 C.F.R. § 300.102(a)(3).....10
34 C.F.R. § 300.321(b)(1).....15
34 C.F.R. § 300.322 15
34 C.F.R. § 300.501(b) 15
34 C.F.R. § 300.503 15
Alberto Migliore & John Butterworth, *Postsecondary Education and Employment Outcomes for Youth with Intellectual Disabilities*, Data Note No. XXI (Inst. for Cmty. Inclusion, Univ. of Mass. Boston 2008).....19
Federal Rule of Appellate Procedure Rule 29(a)(4)(E).....1
Grigal, M., Hart, D., Smith, F. A., Domin, D., & Weir, C. (2016) 19
Education of the Handicapped Act Amendments of 1990, Pub. L. No. 101-476 § 101(d), 104 Stat. 1103 7

Education of the Handicapped Act Amendments of 1990, Pub. L. No. 101-476 § 101(d), 104 Stat. 1104 7

Individuals with Disabilities Education Act Amendments of 1997, Pub. L. No. 105-17 § 101, 111 Stat. 37, 47 7

Individuals with Disabilities Education Improvement Act of 2004, Pub. L. No. 108-446 § 602, 118 Stat. 2647 8

Individuals with Disabilities Education Improvement Act of 2004, Pub. L. No. 108-446 § 602, 118 Stat. 2657–58 8

Think College National Coordinating Center: Annual report on the transition and postsecondary programs for students with intellectual disabilities (2014–2015) 19

U.S. Dep't of Educ., Office of Special Education & Rehabilitation Services, *A Transition Guide to Postsecondary Education and Employment for Students and Youth with Disabilities* 10 (rev. Aug. 2020) 9

STATEMENT OF INTEREST OF *AMICUS CURIAE*[1]

Council of Parent Attorneys and Advocates (COPAA) is a national not-for-profit organization for parents of children with disabilities, their attorneys and advocates. COPAA believes effective educational programs for children with disabilities can only be developed and implemented with collaboration between parents and educators as equal parties.

COPAA's attorney members represent children in matters involving the Individuals with Disabilities Education Act, 20 U.S.C. § 1400, *et seq*. (IDEA or Act). COPAA also supports individuals with disabilities, their parents, and advocates, in seeking to safeguard the civil rights guaranteed to those individuals under federal laws, including the Civil Rights Act of 1871, ch. 22, 17 Stat. 13 (codified as amended at 42 U.S.C. § 1983) (Section 1983), Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 (Section 504), and the Americans with Disabilities Act, *et seq*., 42 U.S.C. 12101, *et seq*. (ADA).

COPAA's primary goal is to secure appropriate educational services for children with disabilities in accordance with national policy. COPAA provides

[1] Pursuant to Rule 29(a)(4)(E) of the Federal Rules of Appellate Procedure, Amicus states that: (A) there is no party, or counsel for a party in the pending appeal who authored the amicus brief in whole or in part; (B) there is no party or counsel for a party in the pending appeal who contributed money that was intended to fund preparing or submitting the brief; and (C) no person or entity contributed money that was intended to fund preparing or submitting the brief, other than *Amicus* and its members.

resources, training, and information for parents, advocates, and attorneys to assist them in obtaining the free appropriate public education (FAPE) such children are entitled to under IDEA.[2]

COPAA brings to the Court the unique perspective of parents, advocates, and attorneys for children with disabilities. COPAA has previously filed as *amicus curiae* in the United States Supreme Court in *A.J.T. v. Osseo Area School*, 605 U.S. 335 (2025); *Perez v. Sturgis Public Schools,* 598 U.S. 142 (2023); *Endrew F. v. Douglas County School District. RE-1*, 580 U.S. 386 (2017); *Fry v. Napoleon Community School,* 580 U.S. 154 (2017); *Forest Grove School District v. T.A.*, 557 U.S. 230 (2009)*; Board of Education v. Tom F.*, 552 U.S. 1 (2007)*; Winkelman v. Parma City School District,* 550 U.S. 516 (2007), and *Arlington Central School District Board of Education v. Murphy*, 548 U.S. 291 (2006)*; Schaffer v. Weast*, 546 U.S. 49 (2005)*,* and in numerous cases in the United States Courts of Appeal.

This appeal presents questions of recurring importance to COPAA's members: what IDEA requires of the individualized education program (IEP) of a student in the final, transition-focused years of eligibility, and whether parents

[2] "Improving educational results for children with disabilities is an essential element of [the U.S.] national policy of ensuring equality of opportunity, full participation, independent living, and economic self-sufficiency for individuals with disabilities." 20 U.S.C. § 1400(c)(1).

"participate" in developing that IEP when they attend a meeting but are never told what their child's program will teach or toward what end. COPAA's members represent and advise families of students aged sixteen through twenty-one every day, and many of those students—particularly students with intellectual disabilities—spend their last years of IDEA eligibility in post-senior-year programs like the one at issue here.

Both parties have provided consent for the filing of this amicus brief.

SUMMARY OF ARGUMENT

D.G.M. is a young man with a mild intellectual disability who, by his senior year of high school, had held two jobs he found and secured on his own, served as an elected officer of a youth leadership organization, managed his school's basketball team for three years, and set a goal of attending college and working in sports management, physical education, or coaching. JA109–JA134; JA690. For his post-senior year, the District proposed an IEP that placed him in two special classes—a Career Academics Class and a Structured Learning Experience of entry-level work sampling at local retailers—and that contained not a single goal for either one. JA464; JA472–473. The Administrative Law Judge (ALJ) acknowledged on remand that the IEP "should have included annual goals, including postsecondary goals," tied to D.G.M.'s interests, and that "[t]here were no goals at all related to the SLE, let alone related to D.G.M.'s particular individual needs or interests." JA73.

The District Court nonetheless held that this omission caused no substantive harm to D.G.M. and did not impede his parents' participation, because his parents attended the IEP meeting and voiced their concerns. JA16–JA22. COPAA writes in support of D.G.M. to address three critical points.

First, for a student in the last years of IDEA eligibility, transition is not a peripheral component of the IEP. Transition is the point of the document. Congress declared that IDEA exists to prepare children with disabilities "for further education, employment, and independent living," 20 U.S.C. § 1400(d)(1)(A), defined transition services as a "results-oriented process" built on "the individual child's needs, taking into account the child's strengths, preferences, and interests," *id.* § 1401(34), and required every IEP from age sixteen forward to contain "appropriate measurable postsecondary goals" and the transition services needed to reach them, *id.* § 1414(d)(1)(A)(i)(VIII). Measurable annual goals are the mechanism that connects those postsecondary goals to the services the district will actually deliver.

Where, as here, the transition program *is* the student's entire educational program, an IEP with no goals for it cannot be "reasonably calculated to enable [the] child to make progress appropriate in light of the child's circumstances," *Endrew F. ex rel. Joseph F. v. Douglas Cnty. Sch. Dist. RE-1*, 580 U.S. 386, 399 (2017), because there is no progress the IEP is calculated toward. The pre-*Endrew* authorities on which the District Court relied, which tolerated a missing goal here or

a "bare" transition plan there, do not answer that question, and this Court has never addressed it in a precedential opinion.

Second, IDEA's guarantee of parental participation is a guarantee of participation in "the decisionmaking process," 20 U.S.C. § 1415(f)(3)(E)(ii)(II), not merely of attendance at a meeting. Parents cannot meaningfully decide whether to accept, contest, or supplement a program whose aims and content the IEP does not disclose and that the district's own staff could not describe. Annual goals are also the vehicle for the periodic progress reports the statute guarantees parents. 20 U.S.C. § 1414(d)(1)(A)(i)(III). An IEP with no goals for the program leaves parents nothing to monitor for the entire year. This court should reject the test used below, that asks only whether parents were present and could speak. That test reduces participation to presence.

Third, the stakes are concrete. National longitudinal data show that young adults with intellectual disabilities enroll in postsecondary education and obtain employment at rates far below their peers, and that postsecondary education is associated with markedly better employment and earnings outcomes. Congress has responded by emphasizing ambitious, individualized transition planning for exactly these students. A rule that excuses an IEP with no goals for a student's transition year, so long as district witnesses later testify that the program would have provided

some benefit, would undercut that design and the *Endrew F.* standard alike. The judgment should be reversed.

ARGUMENT

I. FOR A TRANSITION-AGE STUDENT, IDEA REQUIRES AN IEP WITH MEASURABLE GOALS DETERMINED BY THE STUDENT'S OWN POSTSECONDARY PLANS AND ASPIRATIONS

A. The Evolution of the Individuals with Disabilities Education Act Mandates a Results-Oriented, Data-Driven Approach to Transition Services Tailored to the Individual Student.

IDEA's first stated purpose is "to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for further education, employment, and independent living." 20 U.S.C. § 1400(d)(1)(A). Congress found that "providing effective transition services to promote successful post-school employment or education is an important measure of accountability for children with disabilities." 20 U.S.C. § 1400(c)(14).

IDEA's statutory history reveals a clear, undeniable congressional trajectory. Postsecondary transition planning is no longer a matter of speculative, procedural checkbox planning, but a strict mandate for verifiable, results-oriented accountability. Congress has intentionally structured successive amendments to move away from general educational processes and toward highly individualized,

metric-driven mandates designed to secure measurable postsecondary independence.

Congress first recognized the critical need for postsecondary integration by enacting the Education of the Handicapped Act Amendments of 1990, Pub. L. No. 101-476, § 101(d), 104 Stat. 1103, 1104 (codified at 20 U.S.C. § 1401(a)(19) (1990)). This foundational amendment anchored "transition services" into federal law, establishing an "outcome-oriented process" to promote student movement into post-school activities. While the 1990 Act successfully laid the conceptual foundation, its standards remained largely procedural, requiring a simple statement of needed services by age sixteen.

Recognizing that general future planning was insufficient without direct academic intervention, Congress heightened the statutory standard through the Individuals with Disabilities Education Act Amendments of 1997, Pub. L. No. 105-17, § 101, 111 Stat. 37, 47 (codified as amended at 20 U.S.C. § 1401(30) (2000)). The 1997 reauthorization shifted compliance away from boilerplate administrative routines by mandating tailored courses of study based on a child's unique "strengths, preferences, and interests" starting at age fourteen. The 1997 Amendments forced schools to actively map a student's immediate curriculum to their postsecondary desires. This transformed transition planning into a proactive, individualized mechanism.

The legislative progression culminated with the Individuals with Disabilities Education Improvement Act of 2004, Pub. L. No. 108-446, § 602, 118 Stat. 2647, 2657–58 (codified as amended at 20 U.S.C. § 1401(34)), which replaced the soft target of an "outcome-oriented process" with an explicit mandate for a "results-oriented process." Crucially, the 2004 reauthorization stripped away any remaining ambiguity regarding compliance, demanding that an IEP include "appropriate measurable postsecondary goals" anchored directly to "age-appropriate transition assessments." Id. § 602, 118 Stat. at 2709 (codified as amended at 20 U.S.C. § 1414(d)(1)(A)(i)(VIII)).

Read in context, this statutory evolution establishes that a school district cannot satisfy its legal obligations through passive or generalized planning. Congress has steadily raised the statutory floor. Today, the law demands objective data, standardized assessments, and measurable, results-oriented benchmarks structurally engineered to transition an individual student into meaningful postsecondary life.

Two features of this design matter here. The postsecondary goals are grounded in assessment and in the *student's* own "strengths, preferences, and interests," not the district's default expectations for students with a given disability label. And the statute requires that they be *measurable*, so that the IEP team, the

parents, and ultimately a reviewing tribunal can tell whether the program is moving the student toward them.

The record here shows a student whose preferences and interests were unusually well developed and documented. JA109–JA134; JA675; JA690. The record also demonstrates that the transition planning did not take those preferences and interests into account.

B. Measurable Annual Goals Are the Link Between the Student's Postsecondary Goals and the Services the District Will Deliver

An IEP "consists of a specific statement of a student's present abilities, goals for improvement of the student's abilities, services designed to meet those goals, and a timetable for reaching the goals by way of the services." *See D.S. v. Bayonne Bd. of Educ.*, 602 F.3d 553, 557 (3d Cir. 2010). The annual goals translate long-range postsecondary goals into the year's instructional targets, the services are then selected to achieve those targets, and the progress measures tell everyone whether they are working.

The Department of Education has said the same thing in its guidance to schools: "It is also important for the student's other annual IEP goals (the student's academic and functional goals) to complement and address the student's transition service needs, as appropriate." U.S. Dep't of Educ., Office of Special Education & Rehabilitation Services, *A Transition Guide to Postsecondary Education and Employment for Students and Youth with Disabilities* 10 (rev. Aug. 2020) ("OSERS

Transition Guide"). Integration through the annual goals is precisely what was missing here.

For many secondary students, transition services are one strand among several in an IEP that also addresses reading, mathematics, and access to the general curriculum. But a student who has completed the core high-school curriculum and remains eligible for services through age twenty-one is differently situated. 34 C.F.R. § 300.102(a)(3); OSERS Transition Guide 2–3. For that student, the post-senior-year program typically *is* the transition program, and its whole justification is to move the student toward the postsecondary goals in the IEP. So it was here: the Career Academics Class and Structured Learning Experience comprised D.G.M.'s entire proposed program, totaling fifteen periods in each four-day cycle. JA464. The IEP carried forward essentially the prior year's goals and added none for either class. JA464; JA472–473; JA615–616.

C. An IEP With No Goals for a Student's Transition Program Cannot Be Reasonably Calculated to Enable Appropriate Progress Toward that Student's Postsecondary Goals

Endrew F. held that "a school must offer an IEP reasonably calculated to enable a child to make progress appropriate in light of the child's circumstances." 580 U.S. at 399. The Court explained that this is "markedly more demanding than the 'merely more than de minimis' test," 580 U.S. at 402. A child's "educational program must be appropriately ambitious in light of his circumstances" and "every

child should have the chance to meet challenging objectives," *id.* The Court tied that standard directly to the IEP's goals, noting that the statute requires "measurable annual goals, including academic and functional goals," and a description of how progress toward them will be gauged. *Id.* at 391.

Applied to a transition-age student, *Endrew F.* asks whether the IEP is reasonably calculated to enable progress toward *that student's* measurable postsecondary goals, in light of what that student can already do. That inquiry cannot be performed on an IEP that sets no goals for the program. There is no target against which to measure ambition, no baseline from which progress could be gauged, and no way to tell whether a program of resume-writing and stocking shelves at Walgreens, tasks D.G.M. had already performed in paid jobs he obtained on his own, JA121–JA124, was aimed at anything beyond what he had already achieved. *Endrew F.* rejected the notion that a program is adequate because it offers a student something. It specifically requires a program calibrated to the *individual student's* potential for growth. 580 U.S. at 400–402.

The District Court's analysis illustrates the problem. The court credited testimony that the program's "employment soft skills" are "important to succeeding within a college environment," that work sampling is "a nice situation where a student can learn job skills," and that skills learned at a hardware store or pharmacy "could be applied to" future jobs in sports management. JA20–JA21. Each statement

is true of nearly any vocational program for nearly any student. None identifies what D.G.M. would learn that he did not already know, how his progress would be measured, or how the program connected to his stated goals. Testimony of that kind establishes, at most, that the program would confer *de minimis* benefit, the very inquiry *Endrew F.* displaced.

Further, a reviewing court "may fairly expect [school] authorities to be able to offer a cogent and responsive explanation for their decisions that shows the IEP is reasonably calculated to enable the child to make progress appropriate in light of his circumstances." 580 U.S. at 404. That explanation must be found in the IEP and the process that produced it, not supplied by generalized testimony at a hearing about what the program might have done.

The authorities on which the District Court relied do not support a contrary rule. *Coleman v. Pottstown School District*, 581 F. App'x 141, 147 (3d Cir. 2014), held only that a district need not write "distinct measurable goals for each recognized need" where the IEP otherwise addressed the student's needs through specialized instruction in each core subject. *High v. Exeter Township School District*, No. 09-2202, 2010 U.S. Dist. LEXIS 7965 (E.D. Pa. Feb. 1, 2010), and the affirmance it described, *Sinan L. v. School District of Philadelphia*, 293 F. App'x 912 (3d Cir. 2008), concerned a thin transition plan that was one component of a broader IEP. All three predate *Endrew F.*, two are non-precedential, and none involved an IEP

whose *entire* program lacked goals. Indeed, *High* itself observed that this Court "has not defined what amount of transition planning is required in an IEP to ensure FAPE." 2010 U.S. Dist. LEXIS 7965, at *17. That remains true. *Amicus* respectfully urges the Court to supply that guidance in a precedential opinion and to hold that, where a transition-age student's program consists of transition services, an IEP that contains no measurable annual goals directed at the student's postsecondary goals is not reasonably calculated to provide a FAPE.

Nor does labeling the omission "procedural" change the result. The content requirements of § 1414(d)(1)(A) are not paperwork; they are the means by which the statute ensures substantive adequacy. *Bd. of Educ. of Hendrick Hudson Cent. Sch. Dist. v. Rowley*, 458 U.S. 176, 206 (1982) ("adequate compliance with the procedures prescribed would in most cases assure much if not all of what Congress wished in the way of substantive content in an IEP"). Even treated as procedural, an omission that leaves a student's whole program without measurable aims "impeded the child's right to a free appropriate public education" and "caused a deprivation of educational benefits." 20 U.S.C. § 1415(f)(3)(E)(ii)(I), (III). And, as shown next, it independently "significantly impeded the parents' opportunity to participate in the decisionmaking process." *Id.* § 1415(f)(3)(E)(ii)(II).

II. MEANINGFUL PARENTAL PARTICIPATION REQUIRES AN IEP THAT TELLS PARENTS WHAT THEIR CHILD WILL BE TAUGHT AND TO WHAT END.

A. Parental Participation is Central to IDEA's Design, and it is Participation in Decisionmaking, Not Mere Attendance.

The Supreme Court has repeatedly emphasized that "Congress placed every bit as much emphasis upon compliance with procedures giving parents and guardians a large measure of participation at every stage of the administrative process . . . as it did upon the measurement of the resulting IEP against a substantive standard." *Rowley*, 458 U.S. at 205–206. Parents "play 'a significant role' in the development of each child's IEP," *Winkelman ex rel. Winkelman v. Parma City Sch. Dist.*, 550 U.S. 516, 524 (2007) (quoting *Schaffer ex rel. Schaffer v. Weast*, 546 U.S. 49, 53 (2005)), and IDEA grants them "independent, enforceable rights" that "encompass the entitlement to a free appropriate public education for the parents' child," *id.* at 533. *Endrew F.* reaffirmed that crafting an IEP is a "fact-intensive exercise" to be "informed not only by the expertise of school officials, but also by the input of the child's parents or guardians." 580 U.S. at 399.

The statute implements that role at every turn. Congress found that education of children with disabilities is made more effective by "strengthening the role and responsibility of parents and ensuring that families of such children have meaningful opportunities to participate." 20 U.S.C. § 1400(c)(5)(B). Parents are members of the IEP team, *id.* § 1414(d)(1)(B)(i); the team must consider "the concerns of the parents

for enhancing the education of their child," *id.* § 1414(d)(3)(A)(ii); parents must have the opportunity "to participate in meetings with respect to . . . the provision of a free appropriate public education," *id.* § 1415(b)(1); and they must receive written notice describing the action the district proposes and why, *id.* § 1415(c)(1). *See also* 34 C.F.R. §§ 300.322, 300.501(b), 300.503. When an IEP is developed for a transition-age student, the district must also invite the student, 34 C.F.R. § 300.321(b)(1). This is an acknowledgment that the student's own preferences and interests are essential inputs.

Critically, Congress defined the participation injury not by reference to attendance, but by reference to the "opportunity to participate in the decisionmaking process regarding the provision of a free appropriate public education." 20 U.S.C. § 1415(f)(3)(E)(ii)(II). The question is whether parents could take part in *deciding* what their child's program would be. As the Ninth Circuit has put it, "[p]rocedural violations that interfere with parental participation in the IEP formulation process undermine the very essence of the IDEA." *Amanda J. ex rel. Annette J. v. Clark Cnty. Sch. Dist.*, 267 F.3d 877, 892 (9th Cir. 2001).

B. Parents Cannot Participate in Developing a Program That the IEP Does Not Describe

Decisionmaking requires information. Parents cannot evaluate whether a program is appropriately ambitious for their child, propose changes to it, or decide whether to accept it, without knowing what it is designed to accomplish and how

success will be measured. The IEP's goals supply exactly that information. They are also the basis for the periodic progress reports the statute guarantees parents throughout the year. 20 U.S.C. § 1414(d)(1)(A)(i)(III). An IEP with no goals for the student's program therefore impairs participation twice over: at the moment of decision, because the parents do not know what is being offered, and for the life of the IEP, because there is nothing against which progress will be reported.

Courts within this Circuit have recognized as much. In *Montgomery County Intermediate Unit No. 23 v. A.F.*, 506 F. Supp. 3d 293 (E.D. Pa. 2020), the court explained that "the lack of content in an IEP as it relates to the notice parents receive about their child's proposed education" implicates IDEA's procedural protections, *id.* at 306 and held that parents were significantly impeded from meaningful participation where the IEP did not explain how the program would be individualized for the child, *id.* at 312; *see also Rodrigues v. Fort Lee Bd. of Educ.*, 458 F. App'x 124, 128 (3d Cir. 2011) (failure to describe adequately the transition services a student would receive constitutes a procedural violation).

Over more than a year, D.G.M.'s mother asked his case manager what the post-graduate program would involve and whether it could be tailored to a son who already held a job. She received only a "skeletal description" and the advice to "give it time and see what happens." JA135–JA142. No one who taught in either class attended the IEP meeting. The IEP described neither class and set no goals for either.

JA464. The ALJ found that the parents would have obtained "more detailed and specific information" at some later meeting. JA73–JA75. But this merely establishes that the information needed to participate was not provided in the process that produced the IEP the District asked the parents to accept.

C. This Court Should Reject the District Court's Attendance-and-Voice Test.

The District Court held that the parents' participation rights were not seriously impaired because they attended the IEP meetings, raised their concerns, and were told the program "would be modified as needed," describing their involvement as "meaningful, albeit unsuccessful." JA22 (quoting *L.G. v. Fair Lawn Bd. of Educ.*, No. 09-6456, 2011 WL 2559547, at *4 (D.N.J. June 27, 2011)). *Amicus* agrees that parents need not prevail to have participated. But the cases on which the District Court relied involved parents who knew what was proposed and disagreed with it. *See Fuhrmann v. E. Hanover Bd. of Educ.*, 993 F.2d 1031, 1036 (3d Cir. 1993) (parents presented with draft IEP made suggestions, some incorporated); *Ridley Sch. Dist. v. M.R.*, 680 F.3d 260, 275 (3d Cir. 2012) (parents "do not contend that they were unaware of the services [their child] was scheduled to receive"). Participation that is "unsuccessful" presupposes a defined proposal to succeed or fail against. Where the district itself cannot say what its program will teach a particular student or toward what end, the parents' ability to voice concern is not participation in decisionmaking. It is participation in a conversation about an undefined offer.

This matters beyond this case. A rule that measures participation by attendance and the opportunity to speak would be satisfied in virtually every case in which a meeting is held. It would give districts no incentive to put the substance of a transition program in the IEP, and it would leave parents of transition-age students, whose children have, at most, a few years of eligibility remaining, to discover the program's content only by enrolling their child and waiting.

D. Parents Must Be Able to Rely Upon the IEP as Written When They Exercise Their Statutory Right to Seek Reimbursement.

The participation right also protects the parents' ability to make the choice IDEA expressly gives them: to accept the district's offer, or to reject it, give notice, place their child, and seek reimbursement. 20 U.S.C. § 1412(a)(10)(C)(ii)–(iii); *Sch. Comm. of Burlington v. Dep't of Educ.*, 471 U.S. 359, 369–70 (1985); *Forest Grove Sch. Dist. v. T.A.*, 557 U.S. 230, 238–39 (2009). That choice can be made only on the IEP as written. As the Second Circuit has explained, "[a]t the time the parents must choose whether to accept the school district recommendation or to place the child elsewhere, they have only the IEP to rely on," and "[a] school district cannot rehabilitate a deficient IEP after the fact." *R.E. v. N.Y.C. Dep't of Educ.*, 694 F.3d 167, 186 (2d Cir. 2012). This Court likewise evaluates an IEP as of the time it was offered. *D.S.*, 602 F.3d at 564–65; *Fuhrmann*, 993 F.2d at 1040.

Appellants address why the "short-circuited process" rationale of *C.H. v. Cape Henlopen School District*, 606 F.3d 59 (3d Cir. 2010), does not apply to a

finalized annual IEP, followed by statutory notice that the District rejected without reconvening the team. Appellants' Br. 14–19. *Amicus* adds only this: a rule allowing a district to defend an IEP without goals by pointing to a meeting that might have occurred later would penalize parents for using the very notice procedure Congress created, and would make the statutory right to reimbursement turn on information the district withheld. That cannot be squared with IDEA's design.

III. AMBITIOUS, INDIVIDUALIZED TRANSITION PLANNING CHANGES OUTCOMES FOR STUDENTS AND FEDERAL LAW IS BUILT UPON THAT PREMISE

A. Postsecondary Education Helps Close a Large Outcome Gap

Research shows that postsecondary education is associated with better outcomes for these young adults. An analysis of federal vocational rehabilitation data found that youth with intellectual disabilities who had participated in postsecondary education were more likely to exit the program with employment (48 percent versus 32 percent) and earned higher weekly wages ($316 versus $195) than comparable youth who had not. Alberto Migliore & John Butterworth, *Postsecondary Education and Employment Outcomes for Youth with Intellectual Disabilities*, Data Note No. XXI (Inst. for Cmty. Inclusion, Univ. of Mass. Boston 2008); *see also* Grigal, M., Hart, D., Smith, F. A., Domin, D., & Weir, C. (2016). Think College National Coordinating Center: Annual report on the transition and postsecondary programs for students with intellectual disabilities (2014–2015).

Boston, MA: University of Massachusetts Boston, Institute for Community Inclusion.

These figures are averages. They do not mean that every student with an intellectual disability should attend college, and *amicus* does not suggest that. They mean that low expectations are costly, and that the difference between a transition program aimed at a particular student's demonstrated abilities and one that defaults to generic, entry-level work sampling can be the difference between a career and a job the student already had. That is why the statute requires postsecondary goals based on the individual student's assessments, strengths, preferences, and interests, and why *Endrew F.* insists that each child have "the chance to meet challenging objectives." 580 U.S. at 402.

B. Congress Has Built an Interlocking Federal Framework Around Individualized Transition to Postsecondary Education and Competitive Employment

IDEA's transition provisions do not stand alone. In the Higher Education Opportunity Act of 2008, Congress authorized "comprehensive transition and postsecondary program[s] for students with intellectual disabilities" at institutions of higher education—programs designed to support students "seeking to continue academic, career and technical, and independent living instruction" to prepare for gainful employment, with integration alongside nondisabled students. 20 U.S.C. § 1140(1). Congress defined the students these programs serve by reference to IDEA:

a student with an intellectual disability "who is currently, or was formerly, eligible for a free appropriate public education under the [IDEA]." 20 U.S.C. § 1140(2)(B). The program to which D.G.M. was admitted is one such federally recognized program. JA137–JA138.

In the Workforce Innovation and Opportunity Act of 2014, Congress required state vocational rehabilitation agencies to provide "pre-employment transition services" to students with disabilities, including "counseling on opportunities for enrollment in comprehensive transition or postsecondary educational programs at institutions of higher education." 29 U.S.C. § 733(b)(3). And the Department of Education has advised that where state law treats postsecondary coursework as secondary education, such services "can be designated as transition services on a student's IEP and paid for with IDEA Part B funds consistent with the student's entitlement to FAPE." OSERS Transition Guide 3. The same guidance underscores that "[p]arents are an essential source of information in IEP development and play an important role in the IEP Team to establish the student's IEP goals." *Id.* at 9.

This framework presupposes that IEP teams will do what IDEA requires – identify each student's postsecondary goals, set measurable annual goals that move the student toward them, and develop that plan with the student's parents. An IEP that sets no goals for a student's final program cannot connect the student to the opportunities Congress created. A standard of review that excuses such an IEP

because witnesses later describe general benefits would leave the framework without any foundation.

CONCLUSION

The Court should reverse the judgment of the District Court and hold that (1) where a transition-age student's educational program consists of transition services, an IEP that contains no measurable annual goals directed at the student's postsecondary goals is not reasonably calculated to enable the student to make progress appropriate in light of his circumstances; and (2) parents' opportunity to participate in the decisionmaking process is significantly impeded when the IEP offered to them does not describe what the student's program is designed to accomplish, regardless of whether they attended the meeting and voiced their concerns.

Respectfully submitted,

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CERTIFICATION OF COMPLIANCE PURSUANT TO FED. R. APP. 32(a)(7)(C)

I certify that, pursuant to Fed. R. App. P. 32(a)(7)(C) and Third Circuit Rule 32-1, the attached *amicus* brief is proportionately spaced, has a typeface of 14 points, as measured by Word 2010, and contains 4899 words.

Dated: October 13, 2026

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CERTIFICATE OF SERVICE

I certify that on October 13, 2026 the foregoing document was served on all parties or their counsel of record through the CM/ECF .

/s/Selene Almazan-Altobelli
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VIRUS CERTIFICATION & IDENTICAL COMPLIANCE OF BRIEF

I, Selene Almazan-Altobelli, hereby certify that:

The electronic version of this brief is identical to the text version in the paper copies filed with the court. This document was scanned using Microsoft Defender AntiVirus (with updated virus definition file as of October 13, 2026) and no viruses were detected.

Dated: October 13, 2026

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CERTIFICATE OF BAR MEMBERSHIP

I hereby certify that I am a member of the Bar of the United States Court of Appeals for the Third Circuit.

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