NO. 24-812

IN THE
# Supreme Court of the United States

LA DELL GRIZZELL,
on Behalf of Her Minor Children,
*Petitioner*,

v.

SAN ELIJO ELEMENTARY SCHOOL, ET AL.,
*Respondents.*

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

## BRIEF OF TAMMY FOURNIER, GRETCHEN MELTON, AND CARMILLA TATEL AS AMICI CURIAE SUPPORTING PETITIONER


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## TABLE OF CONTENTS

## TABLE OF AUTHORITIES

**Cases**

**Statutes**

**Other Authorities**



**Rules**

## INTEREST OF AMICI CURIAE[1]

This case is about whether parents can vindicate their child's right to appear pro se in federal court. La Dell Grizzell tried to do just that. She sued San Elijo Elementary School in San Marcos, California, on behalf of her children, alleging racial discrimination and other civil-rights violations. But the lower courts held that Grizzell could not proceed without a lawyer—even though 28 U.S.C. 1654 gives all parties, adult and minor alike, the right to appear pro se.

This case matters to amici. They are three mothers who sued their children's school districts—and won. In one case, Tammy Fournier sued her 12-year-old daughter's school district when it disregarded her and her husband's express instruction to refer to their daughter only by her legal name and female pronouns. See *T.F.* v. *Kettle Moraine Sch. Dist.*, No. 2021CV1650, 2023 WL 6544917, at *1 (Wis. Cir. Ct. Oct. 3, 2023). The school district insisted on treating their daughter as a boy.

In the other, Gretchen Melton and Carmilla Tatel sued their children's school district for refusing to allow them to opt their first graders out of lessons on transgender issues. See *Tatel* v. *Mount Lebanon Sch. Dist.*, No. 22-837, 2024 WL 4362459, at *1 (W.D. Pa. Sept. 30, 2024). Even after Melton and Tatel made clear both their religious objections to the lessons and their desire to opt out, officials would not budge.

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[1] No counsel for a party authored this brief in whole or in part. No person other than amici and their counsel made any monetary contribution intended to fund the preparation or submission of this brief. And amici timely notified the parties' counsel of their intent to file this brief under Rule 37.2.

Like Grizzell's case, amici's cases hinged on the parent-child relationship. But unlike Grizell, amici secured counsel. Yet doing so was not guaranteed—just as it is not guaranteed for other parents forced to assert their or their children's rights against school overreach. Parents' ability to press those rights should not depend on their ability to pay a lawyer.

Amici's interest in this case is twofold. First, a decision here will likely implicate their constitutional right to act and speak for their children. In other words, whether Grizzell can proceed pro se for her children under Section 1654 implicates the history and tradition of parents acting and speaking for their children generally, no matter if the Court ultimately decides the merits of the constitutional question.

Second, amici wish to ensure that similarly situated parents can sue in federal court—even if they cannot secure counsel. Amici's cases are just the kind for which a parent might struggle to find or pay for representation. Without a substantial fee, would-be counsel has little incentive to bring a constitutional claim against a school. And because many parents cannot afford to be such a client, that leaves pro bono counsel as their only option. But pro bono help can be difficult to find, and parents who cannot find counsel are out of luck. They cannot vindicate their children's rights even if a school unilaterally treats a child as the opposite sex or forces him to participate in transgender ideology. That is, parents can't do so unless the Court steps in to correctly interpret 28 U.S.C. 1654. The petition should be granted.

## SUMMARY OF THE ARGUMENT

The Court should grant review and decide whether a parent can proceed pro se on behalf of his child. The courts of appeals are hopelessly divided over whether Section 1654 prohibits pro se parent representation. At least four circuits—the Third, Sixth, Ninth, and Eleventh—categorically prohibit non-attorney parents from representing their children. Three more—the Second, Seventh, and Tenth—allow pro so parents to represent their children in SSI matters. And the Fifth Circuit lets a parent proceed pro se for his child if state or federal law makes the child's case his own. But as Judge Oldham sees it, a child's right under Section 1654, combined with Federal Rule of Civil Procedure 17 and state law, allows a parent to proceed pro se.

Judge Oldham is spot on. His conclusion follows from the text of the statute. And it has the support of a history and tradition of parents acting and speaking for their children. In other words, if Section 1654 prohibited pro se parent representation, that would raise serious constitutional problems. And that all but confirms the proper reading of the statute. Plus, it confirms that the Court should grant review. There is a circuit split on how to interpret a major federal statute, which implicates serious constitutional questions for parents and children. A question of federal law hardly gets more important than that.

The importance of the question doesn't end there. If parents cannot proceed pro se on behalf of their children, many children may be unable to bring their claims at all. Those could well be claims like amici's—claims of a school treating a 12-year-old girl as a boy against her parent's instructions or refusing to allow

a first grader to opt out of lessons on transgender issues. Whether parents can proceed pro se has ramifications for those and countless other claims. The Court should grant review and say that they can.

## ARGUMENT

This case warrants review. See Sup. Ct. R. 10; *Camreta* v. *Greene*, 563 U.S. 692, 709 (2011). On the one hand, there is a circuit split on whether 28 U.S.C. 1654 prohibits pro se parent representation. On the other, that question could hardly be more important given the history and tradition of parents acting and speaking for their children. That history and tradition confirms the best reading of Section 1654. And the importance of that question sweeps beyond constitutional theory. At stake is whether American parents' ability to protect their children's rights depends on their ability to hire a lawyer.

### I. The circuit split on 28 U.S.C. 1654 calls for review.

The courts of appeals are split over whether parents can proceed pro se for their children. This Court should resolve that question.

#### A. The decision below falls on the wrong side of a three-way split.

When it comes to pro se parent representation and interpreting Section 1654, the courts of appeals fall into three camps.

In the first camp, along with the Ninth below, at least the Third, Sixth, and Eleventh Circuits categorically bar pro se parent representation. *E.g.*, *Osei-Afriyie* v. *Medical Coll. of Pa.*, 937 F.2d 876, 883 (3d Cir.

1991) ("Osei-Afriyie was not entitled, as a non-lawyer, to represent his children in place of an attorney in federal court."); *Shepherd* v. *Wellman*, 313 F.3d 963, 970 (6th Cir. 2002) ("parents cannot appear *pro se* on behalf of their minor children because a minor's cause of action is her own"); *Devine* v. *Indian River Cnty. Sch. Bd.*, 121 F.3d 576, 582 (11th Cir. 1997) ("parents who are not attorneys may not bring a *pro se* action on their child's behalf" so that "children rightfully entitled to legal relief are not deprived of their day in court by unskilled, if caring, parents"). They ground that bar in the prohibition against non-lawyer representation and in Section 1654.

In the second camp, the Second, Seventh, and Tenth Circuits provide a mixed bag. The Seventh and Tenth Circuits have sometimes stated the same categorical bar. *E.g.*, *Navin* v. *Park Ridge Sch. Dist. 64*, 270 F.3d 1147, 1149 (7th Cir. 2001) (per curiam); *Meeker* v. *Kercher*, 782 F.2d 153, 154 (10th Cir. 1986) (per curiam). But those circuits and the Second Circuit have also allowed exceptions for some proceedings, mainly appeals from denials of SSI benefits. *E.g.*, *Machadio* v. *Apfel*, 276 F.3d 103, 107 (2d Cir. 2002); *Elustra* v. *Mineo*, 595 F.3d 699, 705 (7th Cir. 2010); *Adams* v. *Astrue*, 659 F.3d 1297, 1301 (10th Cir. 2011).

In the third camp, the Fifth Circuit also makes an exception for SSI benefits. *Harris* v. *Apfel*, 209 F.3d 413, 417 (5th Cir. 2000). But it goes even further. In *Raskin* v. *Dallas Independent School District*, the Fifth Circuit held that Section 1654 does not impose an "absolute bar" on pro se parent representation. 69 F.4th 280, 282 (5th Cir. 2023). Instead, a parent can procced pro se for his child if federal or state law

makes the child's case "the parent's 'own.'" *Ibid.* (quoting 28 U.S.C. 1654).

In so holding, the Fifth Circuit focused on the parent's right. It reasoned that the statute allows a party to procced pro se when the case is the party's own. So if federal or state law make the child's case the parent's own, then the parent can proceed pro se. *Id.* at 283. The court held as much even while noting that other courts of appeals "have adopted an absolute bar." *Id.* at 285. But in the Fifth Circuit's view, those courts did not fully account for Section 1654's text.

The upshot is a recognized circuit split. The courts of appeals disagree about whether there is a total bar against pro se parent representation. And key here, they disagree about whether Section 1654 imposes that total bar. Some courts, like the Sixth Circuit, say that the phrase "their own" in the statute categorically means parents cannot proceed pro se for their children. *Shepherd*, 313 F.3d at 970. The Fifth Circuit says otherwise. It holds that there is no categorial bar. *Raskin*, 69 F.4th 282.

That circuit split warrants review. See *Winkelman* v. *Parma City Sch. Dist.*, 550 U.S. 516, 522 (2007) ("In light of the disagreement among the Courts of Appeals as to whether a nonlawyer parent of a child with a disability may prosecute IDEA actions *pro se* in federal court, we granted certiorari.").

### B. The Fifth Circuit's Judge Oldham reads Section 1654 differently.

In *Raskin*, Judge Oldham took a different approach. Rather than focusing on the parent's right under Section 1654, like the Fifth Circuit majority, he focused on the child's right. In his view, Congress was

clear that the statute grants minor children the right to proceed pro se. *Raskin*, 69 F.4th at 292 (Oldham, J., dissenting in part and concurring in judgment). Nothing in the statute's text limits its application to adults. So the question becomes whether children have the capacity to assert that right.

For that, Federal Rule of Civil Procedure 17(b)(3) and (c) direct courts to consider state law. *Id.* at 292–93. And Texas law gives parents the right to represent a child in a legal action. *Ibid.* So a parent can assert the child's right under Section 1654 to proceed pro se. The statutory pro se "right is the child's," but "the parent as legal guardian is authorized to exercise that right on her child's behalf." *Id.* at 293.

For Judge Oldham, that conclusion tracked the parent-child relationship and the history and tradition both of proceeding pro se and of parents making decisions for their children. *Id.* at 292–95. As he put it, the "parent-child relationship is a sacred, pre-political bond that preexists both the United States and Texas, and which is uniquely enshrined into state and federal law." *Id.* at 298. Plus, no case showed "that parents were prohibited from making legal decisions for their children at common law" (including Justice Scalia's opinion in *Winkelman*). *Id.* at 298–99.

### C. Judge Oldham's reading of Section 1654 is the best.

Judge Oldham's interpretation of Section 1654 is correct. Minors have a right to appear pro se under the statute the same as adults. Textually, that is hard to dispute. The word "parties" in the statute can apply to both adults and minors, and both are natural

persons who could "conduct their own cases personally."[2] 28 U.S.C. 1654. Minors just lack capacity to sue and assert that right on their own. But Rule 17(b) makes clear that state law determines whether an individual has capacity to sue. And Rule 17(c), while expressly allowing a general guardian to sue on a minor's behalf, is best read to still require consulting state law. *E.g.*, *Rideau* v. *Keller Indep. Sch. Dist.*, 819 F.3d 155, 163 (5th Cir. 2016) (explaining that courts read Rule 17(c) "in conjunction with Rule 17(b)"). Again, that is hard to dispute.

The result is that, if state law allows a parent to sue on behalf of his child, then the parent can assert the child's right to proceed pro se. And doing so necessarily entails the parent proceeding pro se on behalf of his child. Otherwise, the parent's assertion of the right does nothing. And that can't be right. Rather, in being able to sue on his child's behalf, a parent may speak and act for his child—no different than when he exercises his child's other litigation rights.

The bottom line is that state law determines whether a parent may exercise his child's right to proceed pro se under Section 1654.[3] The Court should

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[2] For what it's worth, the same does not hold for corporations or other artificial persons. See, *e.g.*, *Rowland* v. *California Men's Colony, Unit II Men's Advisory Council*, 506 U.S. 194, 201 (1993). And that is because a corporation necessarily cannot conduct its own case personally. So it has no right to appear pro se under Section 1654 that someone could exercise on its behalf.

[3] To be sure, like the Fifth Circuit held in *Raskin*, federal law could play a role if it made the child's case the parent's own. See 69 F.4th at 282. Then the parent would exercise his right under Section 1654 instead of his child's right. But the result would be the same: the parent can proceed pro se.

grant review to resolve the circuit split and hold exactly that.

Doing so decides no more than necessary. The Court can let the courts below apply California law on remand and decide the constitutional questions if California law somehow doesn't allow parents to sue for their children. Or the Court could simply add that California law is clear. It allows just that. See Cal. Fam. Code § 6601 ("A minor may enforce the minor's rights by civil action or other legal proceedings in the same manner as an adult, except that a guardian must conduct the action or proceedings."). Either way, the Court here should focus on resolving the circuit split on Section 1654.

## II. History and tradition make clear the court below misinterpreted 28 U.S.C. 1654.

Reading Section 1654 to allow pro se parent representation has support in this Nation's history and tradition of empowering parents to act and speak for their children as part of the parent-child relationship. Not only that, history and tradition recognize that parents get to do so in court. That fact—coupled with the history and tradition of pro se representation—makes it easy to conclude that parents have the right to proceed pro se for their children.

### A. The Court has recognized parents' rights to make decisions for their children.

Time and again, the Court has explained that parents get to make key decisions for their children. Parents act and speak on their children's behalf. For example, parents have "the right to make decisions about the education of [their] children." *Dobbs* v.

*Jackson Women's Health Org.*, 597 U.S. 215, 256 (2022). And the law empowers them to "make decisions concerning the care, custody, and control of their children." *Troxel* v. *Granville*, 530 U.S. 57, 66 (2000) (opinion of O'Connor, J.). The law presumes that "parents possess what a child lacks in maturity, experience, and capacity for judgment required for making life's difficult decisions." *Parham* v. *J.R.*, 442 U.S. 584, 602 (1979). And that has long been so, because "historically [the law] has recognized that natural bonds of affection lead parents to act in the best interests of their children." *Ibid.* (citing 1 William Blackstone, *Commentaries* *447; 2 James Kent, *Commentaries on American Law* *190). In short, "[f]or centuries it has been a canon of the common law that parents speak for their minor children." *Id.* at 621 (Stewart, J., concurring). The "common law historically has given recognition to the right of parents, not merely to be notified of their children's actions, but to speak and act on their behalf." *Hodgson* v. *Minnesota*, 497 U.S. 417, 483 (1990) (Kennedy, J., concurring in part).

That venerable parent right applies in court too. Because "children usually lack the capacity to make" litigation decisions, "their interest is ordinarily represented in litigation by parents or guardians." *Smith* v. *Organization of Foster Fams. for Equal. & Reform*, 431 U.S. 816, 841 n.44 (1977). Today, Rule 17 and state law help make that so. But it has long been true.

### B. At common law, parents had the right to speak for their children in court.

At common law, no one could sue an infant "but under the protection, and joining the name, of his guardian; for he is to defend him against all attacks as well by law as otherwise." 1 William Blackstone,

*Commentaries on the Laws of England* 464 (10th ed. 1787). And an infant could not sue but by "his guardian, or *prochein amy*, his next friend who is not his guardian." *Ibid.*; see also 2 James Kent, *Commentaries on American Law* 227 (10th ed. 1860) (explaining that under English common law the "son could not sue without his father's consent").

As Blackstone explains, the right of a parent to speak on behalf of his child in court flowed from the parent's duty to the child, just like other parental rights. "The *power* of parents over their children is derived from the former consideration, their duty: this authority being given them, partly to enable the parent more effectually to perform his duty, and partly as a recompense for his care and trouble in the faithful discharge of it." Blackstone 452. So the flipside of a parent's duty to protect his child was the right to sue on his behalf: "A parent may, by our laws, maintain and uphold his children in their law-suits, without being guilty of the legal crime of maintaining quarrels." *Id.* at 450.

Focus on that last clause. For others, it would be criminal to maintain or uphold someone else's lawsuit. But not so for parents. They could carry out their children's suits because the parent-child relationship gave them the right to do so. They could speak and act for their children in court.

Early cases show parents (or next friends filling in for parents) doing just that. Consider three. First, in *Thompson* v. *Maxwell Land-Grant & Railway, Co.*, a mother acted on behalf of her three minor children in a land dispute. 168 U.S. 451, 453, 464 (1897). The mother consented to a settlement, and the Court held that the settlement bound the children. *Id.* at 464–67.

The mother, having been appointed guardian ad litem, "fully understood the settlement, and assented to it." *Id.* at 464. So the settled rule that "infants are bound by a consent decree" applied. *Id.* at 462.

Second, in *In re Moore*, the Court held that a next friend could pick the court in which to sue on behalf of a minor.[4] 209 U.S. 490, 496 (1908), abrogated on other grounds by *Ex parte Harding*, 219 U.S. 363, 379 (1911). And it held that the minor was bound by that choice. *Ibid.*

On top of that, the Court made clear that the same rule applied in Missouri. Although a Missouri statute required a party "in his own person, and not by agent or attorney," to apply for a change of venue, the Missouri Supreme Court had held that a next friend could make the application. *Id.* at 499 (quoting *Raming* v. *Metropolitan St. Ry. Co.*, 57 S.W. 268, 275 (Mo. 1900)). That was because a "next friend is neither the agent nor attorney for his ward." *Ibid*. Rather, the next friend "is appointed to institute and conduct the suit" on behalf of the minor. *Ibid.* So "it follows that he has authority to do every act which the interest of the infant demands and the law authorizes." *Ibid.*

Third, in *Kingsbury* v. *Buckner*, the Court held that a minor was as much bound by an appeal taken by his next friend as he would be if appealing as an adult. 134 U.S. 650, 673–74 (1890). The law was settled on that: an "infant, when plaintiff, is as much bound and as little privileged as one of full age." *Id.*

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[4] That the case involved a next friend instead of a parent makes little difference. At common law, a next friend could sue the same as a parent. See Blackstone 464. So if a next friend's actions in court could bind a child, then so could a parent's.

at 674 (citation omitted). He had to stand by the legal actions done by his next friend.

In short, early cases confirm that parents—or next friends standing in for parents—had the right to act and speak for their children in court. And the parent's actions on their children's behalf were binding. If a parent picked a court to sue in, settled a case, or appealed a claim, the child was bound by that decision. Just like the common law allowed, parents carried out their children's lawsuits.

### C. The right to self-representation and case law suggest parents could speak for their children without a lawyer.

It is an added question whether parents could represent their children's interests without a lawyer. But given the right to self-representation, it would make little sense for parents to be unable to sue for their children without counsel.

The Court has already recognized that the "Founders believed that self-representation was a basic right of a free people." *Faretta* v. *California*, 422 U.S. 806, 830 n.39 (1975). That belief flowed both from a strong "antilawyer sentiment of the populace" and "the 'natural law' thinking that characterized the Revolution's spokesmen." *Ibid.* For example, Thomas Paine thought a person had "a natural right to plead his own case." *Ibid.* (citation omitted). It was only because a person might be unable to do so that there was also a right to hire counsel: "the civil right of pleading by proxy, that is, by a council, is an appendage to the natural right (of self-representation)." *Ibid.* (citation omitted). There is a history and tradition of proceeding pro se.

That means a parent, just like other individuals, has the right to proceed pro se. And as discussed, a parent has the right to speak for his child in court. By implication, a parent can do both at the same time.

True, there may have been a general prohibition on non-attorney representation at common law. See *Raskin*, 69 F.4th at 283. But the common law set parents and children apart from other relationships. It was ordinarily a crime to maintain or uphold another in a lawsuit—but not when it came to parents and their children. Blackstone 450. Besides, a parent does not represent his child like an attorney or non-attorney represents another adult. *Raskin*, 69 F.4th at 298 (Oldham, J., dissenting in part and concurring in judgment) ("[T]he parent-child relationship is far different from the relationship between an unlicensed non-attorney and a would-be client from the neighborhood or church."). Instead, the parent acts and speaks for the child. He stands in the child's place because the child cannot stand on his own. *Smith*, 431 U.S. at 841 n.44. And doing so includes making binding decisions that an attorney could not make without client consent—like where to sue, when to settle, and whether to appeal. *Thompson*, 168 U.S. at 464–67; *In re Moore*, 209 U.S. at 496; *Kingsbury*, 134 U.S. at 673–74. So it makes sense for a parent to exercise the rights in tandem. He can speak for his child in court, and he can appear pro se—at the same time.

The Court's decision in *Colt* v. *Colt*, 111 U.S. 566 (1884), suggests the same. It supports that early on, at least in some states, parents could proceed pro se. In *Colt*, three siblings challenged a prior Connecticut court decision about their father's estate. *Id.* at 570, 578. One ground they raised was that they were minors in the previous case, represented only by their

mother, a general guardian, and not by a guardian ad litem. *Id.* at 574. They alleged that their mother "neglected to employ counsel on their behalf to protect their interests," and the Connecticut courts did not appoint counsel as a guardian ad litem. *Ibid.*

But the Court did not decide whether that was error. Given that the prior case was not before it, the Court considered only grounds that would attack the Connecticut court's jurisdiction. And the Court explained, "even if erroneous," not appointing a guardian ad litem "at most" was "error merely, and d[id] not defeat the jurisdiction." *Id.* at 578. In fact, whether the minors needed a guardian ad litem or just a general guardian was "a question local to the law of the jurisdiction, and, in the proceeding under review, was passed on by the state court." *Ibid.* The state court found the minors "duly represented by their guardians"—which tracked Connecticut practice. *Ibid.* (citation omitted). That practice allowed "a general guardian to be made a party and to defend for his ward," making a guardian ad litem unnecessary. *Ibid.*

Unpack that. The Court did not decide whether a mother could litigate for her children without counsel. But it noted—shortly after the Fourteenth Amendment's ratification—a general state practice of parents doing just that. *Colt* provides affirmative evidence of a tradition of pro se parent representation. And there appears to be no contrary evidence.

### D. The canon of constitutional avoidance confirms the best reading.

To be sure, *Colt* and other cases are not definitive evidence of a constitutional right to pro se parent representation. But such evidence isn't necessary to

decide the question presented. The Court's focus now in deciding to grant review, and later in deciding the merits, should be on Section 1654. All the Court need resolve is whether the statute allows pro se parent representation when state law lets a parent sue on behalf of his child. That is where *Colt* and all the other supporting history-and-tradition evidence is relevant.

If the Court is unsure about the best reading of the statute, then the canon of constitutional avoidance puts Judge Oldham's reading over the top. See *United States* v. *Hansen*, 599 U.S. 762, 781 (2023). His reading is more than just "fairly possible." *Ibid.* (citation omitted). And the opposite reading—that the statute prohibits parents from proceeding pro se—"raises serious constitutional doubts" given all the history-and-tradition evidence. *Jennings* v. *Rodriquez*, 583 U.S. 281, 286 (2018). So the history and tradition supporting a right to pro se parent representation confirms not just the importance of the issue but also the best reading of Section 1654.

## III. The question presented is important to our Nation's parents.

The importance of the question presented goes beyond constitutional doctrine. If the Court allows the longstanding and entrenched circuit split to percolate more, then parents like amici may be unable to vindicate their children's rights if they cannot afford or otherwise find a lawyer. And that problem takes on added significance when parents seek to sue government officials, including representatives of their children's school systems.

For one thing, a lawyer taking up a case like amici's pro bono is unlikely to receive a big pay day.

When schools violate student's rights, declaratory judgments, injunctive relief, and nominal damages are the norm. See, *e.g.*, *Tinker* v. *Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 504 (1969); *Mahanoy Area Sch. Dist.* v. *B.L.*, 594 U.S. 180, 186 (2021). Perhaps attorney's fees are on the table too. But those depend on a successful claim and are no guarantee. Plus, even when granted, fee awards may be modest compared to the work put in. *E.g.*, *Riley* v. *Kurtz*, 361 F.3d 906, 916 (6th Cir. 2004) ("In this circuit, work on claims unrelated to the claims upon which the plaintiff prevailed should not be compensated."); *Montanez* v. *Simon*, 755 F.3d 547, 552 (7th Cir. 2014) (affirming award of half of requested fees). So beyond a client able to pay upfront, any would-be counsel has little incentive.

Perhaps some parents can easily afford counsel. But when the situation involves parents of school-age children in public schools, paying for an attorney is easier said than done. And for parents in that boat, if they cannot proceed pro se, then they are at the whim of a court appointing pro bono counsel or themselves finding such counsel. Both have their own hurdles. The former depends on availability and a court's view of the case. And sometimes both are stacked against a parent. *E.g.*, *Cheung* v. *Youth Orchestra Found. of Buffalo, Inc.*, 906 F.2d 59, 62 (2d Cir. 1990) (remanding case for parent "to retain counsel or to request the appointment of counsel" but noting its "view that the facts of this case hardly cry out for the appointment of counsel"). The bottom line is parents who cannot afford counsel may struggle to find pro bono help. And if they cannot proceed pro se, then they cannot bring their claims at all.

Such claims could well mirror amici's. A school could ignore a parent's express instructions to treat her 12-year-old daughter as a girl, as happened to Tammy Fournier. *T.F.*, 2023 WL 6544917, at *1. Or a school could refuse to allow parents to opt their first graders out of lessons on transgender issues, as happened to Gretchen Melton and Carmilla Tatel. *Tatel*, 2024 WL 4362459, at *1. And those claims are just scratching the surface. A school could do any number of similar things that overreach its authority and violate its students' rights. If parents cannot proceed pro se, they can neither protect their children nor vindicate their children's rights. And that's a problem: for the parents and especially for the children. The least among us deserve better.

* * *

The Court should analyze the question presented through the statutory lens of 28 U.S.C. 1654. The circuits are split on whether that statute prohibits pro se parent representation. And whether it does could hardly be more important. The question runs up against the history and tradition supporting parents' rights to speak for their children in court. Plus, if the Court defers, parents like amici could be unable to protect their children when a school violates the children's rights. Congress did not enact Section 1654 to stop parents from protecting their children. Parents can vindicate their child's right to appear pro se in federal court.

## CONCLUSION

The petition for a writ of certiorari should be granted.

Respectfully submitted,

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