IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CRYSTAL ROBERTSON, on behalf of herself and her minor child D.R.;

ELIZABETH DAGGETT, on behalf of herself and her minor child H.D.;

JOANN MCCRAY, on behalf of herself and her minor child J.C.;

VERONICA GUERRERO, on behalf of herself and her minor child A.F.;

MARCIA CANNON-CLARK AND DAVID CLARK, on behalf of themselves and their minor child B.R.C; and

THE ARC OF THE UNITED STATES,

Plaintiffs,

v.

DISTRICT OF COLUMBIA,

Defendant.

Case No. 1:24-cv-00656 (PLF)

REPLY BRIEF IN SUPPORT OF
PLAINTIFFS' MOTION FOR A PRELIMINARY INJUNCTION

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INTRODUCTION

The District's ongoing transportation failures deny students with disabilities equal access to educational opportunities, deprive them of a free appropriate public education (FAPE), and unnecessarily segregate them from non-disabled students. Because of these demonstrated irreparable harms to the Plaintiffs, Plaintiffs meet their burden of showing why preliminary relief from this Court is necessary.

The District's opposition is notable for what it does not say: nowhere does the District assert that it is meeting its obligations under state and federal law by providing safe, reliable, appropriate transportation to school for the Individual Plaintiffs, members of The Arc, or the putative class. That is because it is simply unable to do so: Plaintiffs' and the District's evidence alike demonstrates a failing transportation system with significant and persistent delays and cancellations causing students with disabilities to miss critical instruction time and entire school days. To the extent that the District touts improvements, a close look shows them to be nothing more than smoke and mirrors, unsupported by even the District's own evidence. Defendant's argument that no injunction should be issued because of their efforts is unpersuasive; their promises of future compliance with IDEA and anti-discrimination laws do not negate the need for effective injunctive relief. That the District has been here before and regressed into non-compliance with state and federal disability rights laws shortly after the court monitoring in *Petties* concluded is further evidence of the necessity of a preliminary injunction in this matter. *See Petties v. District of Columbia*, No. 95-0148 (PLF), 2012 WL 6696928, at *1 (D.D.C. Dec. 19, 2012) (ECF No. 2061). Plaintiffs' requested relief is necessary to remedy these extraordinary failures causing students to miss critical instructional and social interaction time that they cannot get back. Accordingly, Plaintiffs respectfully request that this Court grant their Motion for Preliminary Injunction.

ARGUMENT

I. Plaintiffs are Likely to Succeed on the Merits of their Claims

In their opening brief, ECF No. 4-1 at 19-34, Plaintiffs demonstrated they will succeed in showing that the District has failed to provide safe, reliable, and appropriate transportation in violation of the Americans with Disabilities Act ("ADA"), Section 504 of the Rehabilitation Act ("Section 504"), and the DC Human Rights Act ("DCHRA"). The District fails to show that its efforts have resulted in compliance with the law. Plaintiffs' IDEA claims are properly before the Court because Individual Plaintiffs are plainly aggrieved by the dismissal of their claims and The Arc could not exhaust as an organization, but had individual members who properly exhausted. Further, Plaintiffs have properly pled and demonstrated a likelihood of success on their ADA, Section 504, and DCHRA claims.

a. The District's Failure to Provide Safe, Reliable, and Appropriate Transportation to Students with Disabilities is Ongoing

The District does not dispute that its transportation services are deficient and cause students to miss critical instructional time, among other harms. Rather, the District argues that injunctive relief is unwarranted because it is "working to overcome those obstacles." ECF No. 31 ("Opposition") at 1. This argument is legally and factually insufficient.

As a legal matter, the District's alleged attempts to remedy its failures do not foreclose injunctive relief. It is well settled that "[n]either the voluntary discontinuance of the unlawful activity, *nor a declaration of intention to comply with the law in the future* will preclude an injunction." *Sec. & Exch. Comm'n v. Natl. Stud. Mktg.*, 402 F. Supp. 641, 651 (D.D.C. 1975) (emphasis added); *see also Natural Law Party of U.S. v. Federal Elec. Com'n*, 111 F. Supp. 2d 33, 40-41 (D.D.C. 2000). It is therefore the "duty of the courts to beware of efforts to defeat injunctive relief by protestations of repentance and reform, especially when [reform] seems timed

to anticipate suit, and there is a probability of resumption." *DL v. District of Columbia*, 187 F. Supp. 3d 1, 11 (D.D.C. 2016) (quoting *United States v. W.T. Grant Co.*, 345 U.S. 629, 632 n.5 (1953)); *see also Chaffin v. Kan. State Fair Bd.*, 348 F.3d 850, 865 (10th Cir. 2001).

As a factual matter, the District's transportation failures are ongoing. Plaintiff and witness declarations,[1] Hearing Officer Determinations,[2] and the District's own data demonstrate continuous transportation failures. ECF No. 4-1 at 6-10. Plaintiffs submit an additional ten declarations from parents and Advocates for Justice and Education, the District's federally designated Parent Training and Information Center for parents of students with disabilities, detailing the breadth of ongoing transportation failures. *See* Exs. 2-6, 8-13. In just over two months since Plaintiffs filed their Motion, the District's buses have continued to be late, or failed to arrive at all. *See generally* OSSE Daily DOT Updates, available at https://osse.dc.gov/page/daily-dot-updates (tracking daily delays); Ex. 1, Second Decl. of Elizabeth Daggett, Ex. A. Indeed, on the very day the District filed its Opposition, OSSE's daily tracker posted 25 late routes with no additional information on the length of the delay. Daggett Second Decl., Ex. A. Just two days prior, on May 13, 2024, 70 buses were delayed per the tracker. *Id.* The District submitted no credible evidence refuting that these issues are ongoing, describing only its *efforts* to make improvements and not demonstrating any *results*. Opp'n at 7-10. The District provides no evidence that it actually transported more students to school on time during the 2023-2024 school year compared to the District's admittedly disastrous 2022-2023 school year, or that it is meeting its obligations to

[1] *See* Pls. Mem. Mot. Prelim. Inj., ECF No. 4-1; Daggett Decl. ¶ 38; Guerrero Decl. ¶ 30; Clark Decl. ¶ 34; McCray Decl. ¶ 29; Robertson Decl. ¶ 41. *See also* ECF No. 4-30, Decl. of Melinda Woods; ECF No. 4-33, Decl. of Elizabeth C. Mitchell; ECF No. 4-35, Decl. of Stephanie Maltz; ECF No. 4-38, Decl. of Jamie Davis Smith; ECF No. 4-41, Decl. of Miryam Koumba.

[2] Guerrero HOD, ECF No. 24-1; McCray HOD, ECF No. 4-20; Dagget HOD, ECF No. 4-6; Robertson HOD, ECF No. 4-24; Clark HOD, ECF No. 24-2.

provide students with safe and reliable transportation that allows them to access their education.[3] In fact, the District does not even purport to track on time pick up or drop off to or from home or school. The only improvement cited by the District is in buses leaving the terminal on time, but this is no indication that students actually arrived at school on time. Second Decl. of Alexandra Robinson at ¶¶ 5-13. Nor does this metric consider the routes the buses took, whether the buses were double or triple routing, or if they were even scheduled to arrive at school on time.[4] *See Testimony of Dr. Christina Grant*- Committee of the Whole, Performance Oversight Hearing, COUNCIL DIST. OF COLUMBIA (Mar. 1, 2024), https://dc.granicus.com/MediaPlayer.php?view_id=2&clip_id=8753, at 4:35 (conceding the lack of data for when buses leave or arrive to school). The District should not be permitted to functionally moot Plaintiffs' Motion with vague assurances it will do better. An injunction is warranted.

b. Plaintiffs' IDEA Claims are Properly Before the Court

Given the District's continued systemic failures, the Individual Plaintiffs are "aggrieved" within the meaning of the IDEA and are entitled to bring their claims to federal court pursuant to 20 U.S.C. § 1415(i)(2). The Arc of the United States is not required to exhaust administrative remedies and has demonstrated its standing to bring suit on behalf of its members.

[3] The District points to its "subsidy" program, which provides a $400 parent reimbursement to self-transport their children to school. *See* Opp'n at 10. This program does not remedy the District's transportation failures, but merely inappropriately shifts the District's responsibility to parents. *See* Ex. 2, Blaeuer Decl. ¶ 22-35; Ex. 3, Lewis Decl. ¶ 12; Ex. 4, Lassiter Decl. ¶ 13; Ex. 5, McKinley Decl. ¶ 14; Ex. 6, Floyd Decl. ¶ 14.

[4] Indeed, this "metric" is markedly different from the on-time performance data that the District tracked under the court order in *Petties* and in the years following. Under *Petties,* the District was required to have (and therefore track) a 94% *on-time arrival rate* at school. *Petties* ECF No. 1643-3 at 11-12.

i. Individual Plaintiffs Exhausted Their IDEA Claims and Are Aggrieved by the Hearing Officer Determinations.

A party can bring a civil suit to enforce IDEA rights after an administrative due process hearing when the party is "aggrieved by the findings and decision" of a Hearing Officer. 20 U.S.C. § 1415(i)(2). Here, each Individual Plaintiff sought both individual and systemic relief at the administrative level pursuant to the IDEA, 20 U.S.C. § 1415(f)(1)(A). *See* ECF No. 4-1. at 5-6. The systemic relief sought structural reform of OSSE's policies and procedures, requesting an order requiring, among other things, OSSE to "develop and implement adequate and effective policies and procedures to provide J.C. and other students with disabilities . . .with consistent, reliable, and safe transportation to and from school." *See, e.g.*, McCray Compl. ¶ 47.[5] The District moved to dismiss these claims, arguing that they were beyond the reach of the Hearing Officer's jurisdiction. *See* ECF No. 4-1 at 5-6. Plaintiffs opposed those dismissals, but nevertheless, each of the Hearing Officers dismissed—with prejudice—Plaintiffs' systemic claims. *See* Guerrero HOD, ECF No. 24-1 at 3; McCray HOD, ECF No. 4-20, at 2; Dagget HOD, ECF No. 4-6, at 1–2; Robertson HOD, ECF No. 4-24, at 1–2; Clark HOD, ECF No. 24-2 at 1-2. These dismissals aggrieved Plaintiffs, who, because OSSE was not ordered to change its policies and procedures, continue to experience a denial of FAPE. *See* ECF No. 4-22, Robertson Decl. ¶ 43; ECF No. 4-3, Daggett Decl. ¶¶ 55-56; ECF No. 4-18, McCray Decl. ¶¶ 43-44; ECF No. 4-9, Guerrero Decl. ¶ 44; ECF No. 4-14, Clark Decl. ¶ 35.

Plaintiffs are not deprived of standing because the Hearing Officer granted part of their requested relief. This Court has found that claims are properly brought to the District Court by Plaintiffs as aggrieved parties in situations where a Hearing Officer lacks the authority to issue all

[5] Plaintiffs also sought relief under Section 504, the ADA, and the DCHRA in their due process complaints, and those claims were dismissed by the hearing officers for lack of jurisdiction.

requested relief. *See, e.g., Diatta v. District of Columbia*, 319 F. Supp. 2d 57, 65 (D.D.C. 2004) (holding plaintiff was aggrieved under IDEA where hearing officer dismissed part of the request for relief because they "lack[ed] authority . . . to implement the plan requested by the plaintiffs."). Indeed, this Court recognized the risk of foreclosing judicial review:

> If parents and children were divested of the ability to seek judicial review of a hearing officer's determination in cases where the hearing officer made some findings in favor of the plaintiffs that were rendered nullities by other improper findings or inaction, then the grant of broad procedural rights conferred by § 1415(f) would be hollow and the judicial remedy offered by § 1415(i) would be a dead letter in cases where there was a continuing dispute over the provision of FAPE to a child in need.

Id. at 65; *see also Nieves-Marquez v. Puerto Rico*, 353 F.3d 108, 115 (1st Cir. 2003).

Nor are Plaintiffs' requests for systemic relief as the District suggests, "functionally indistinguishable" from their requests for individualized relief. Opp'n at 15. The Court need look no further than the District's ongoing failures, described in greater detail in Section I.a, to assure itself that Plaintiffs were aggrieved by Hearing Officer Determinations that left the District's deficient transportation practices intact. As in *Diatta*, the District's "position in practice would allow the hearing officer to" find that the District denied Plaintiffs FAPE "yet do nothing to remedy the situation, and then leave [Plaintiffs] without judicial recourse." *Diatta*, 319 F. Supp. 2d at 65; *see also Diamond v. McKenzie*, 602 F. Supp. 632, 635 (D.D.C. 1985) (finding that plaintiffs were aggrieved under the IDEA despite receiving a favorable ruling because the Hearing Officer concluded that part of plaintiffs' requested relief was beyond the hearing officer's power to grant). To support its exhaustion argument, the District relies on a number of out-of-circuit, decades-old cases that are plainly inapposite.[6]

[6] For example, in *Doe By and Through Brockhuis v. Arizona Dept. of Educ.*, 111 F.3d 678 (9th Cir. 1997) the issue was not whether the plaintiff was "aggrieved" under IDEA, but whether the plaintiff was even required to exhaust in the first place—indeed, the plaintiff never even filed a

Even assuming, *arguendo,* that Plaintiffs were not aggrieved by the Hearing Officer Determinations, Plaintiffs were not required to exhaust administrative remedies because they seek systemic relief from this Court. *See Douglass v. District of Columbia*, 750 F. Supp. 2d 54, 61 (D.D.C. 2010) (a plaintiff's failure to exhaust remedies is excused in three general circumstances: "(1) resort to the administrative process would be futile; (2) it is improbable that adequate relief could be obtained through administrative channels; or (3) the agency has adopted a policy or pursued a practice of general applicability that is contrary to the law") (cleaned up). Resort to administrative channels has proven futile. *See supra* at Section I.a. Plaintiffs here are also challenging a policy or practice of general applicability that is contrary to the law. *See DL v. District of Columbia*, 450 F. Supp. 2d 11, 18 (D.D.C. 2006) (plaintiffs were not required to exhaust their IDEA remedies because they challenged the District's "policy, pattern, and practice of failing to provide hundreds of pre-school children in the District of Columbia with a FAPE because of their systemic failure to comply with the federal and local Child Find requirements.").

It cannot be that a Hearing Officer's dismissal of a parent's systemic claim for lack of jurisdiction is unappealable *and* that bringing that same systemic claims directly in federal court would be dismissed for failure to exhaust. The District's argument, if accepted by this Court, would short-circuit Plaintiffs' ability to challenge the District's policies and procedures concerning special education transportation, foreclosing any meaningful relief under the IDEA.

ii. The Arc Need Not Exhaust its IDEA Claim.

An association has standing to bring suit on behalf of its members when: (1) "its members would otherwise have standing to sue in their own right," (2) "the interests at stake are germane to

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due process complaint. Here, not only did Plaintiffs initially seek relief at the administrative level, but they were also expressly told by the hearing officer that the administrative process was *not* capable of correcting the District's systemic failures.

the organization's purpose," (3) and "neither the claim asserted nor the relief requested requires the participation of individual members in the lawsuit." *Friends of the Earth, Inc. v Laidlaw Envtl. Servs. (TOC) Inc.,* 528 U.S. 167, 181 (2000) (*citing Hunt v. Washington State Apple Advertising Comm'n,* 432 U.S. 333, 343 (1977)). As described in Plaintiffs' Motion, The Arc has met its burden to establish standing under all three prongs of this test.

Courts have routinely held that The Arc and similar organizations have associational standing to bring IDEA claims, and none have applied the exhaustion provision to these organizations' IDEA claims. *See, e.g., G.T. v. Kanawha Cnty. Schs.*, No. 2:20-CV-00057, 2020 WL 4018285, at *7 (S.D.W. Va. July 16, 2020); *Arc of Iowa v. Reynolds*, 638 F. Supp.3d 1006, 1019-20 (S.D. Ia. 2022), *vacated and remanded on other grounds*, 94 F.4th 707 (8th Cir. 2024); *Council of Parent Attorneys & Advocates, Inc. v. DeVos*, 365 F. Supp. 3d 28, 47 (D.D.C. 2019), appeal dismissed, No. 19-5137, 2019 WL 4565514 (D.C. Cir. Sept. 18, 2019).

While The Arc, as an organization, does not have an obligation to exhaust, and indeed cannot exhaust, it is representing the interests of its members, and some of its members have exhausted, as described above. *See* ECF No. 4-46, Decl. of Katherine Neas ¶¶ 8, 15. Because the Individual Plaintiffs demonstrate that they are either currently being denied FAPE or are at a substantial risk of being denied FAPE and because those plaintiffs are among The Arc's members, it is clear that members of The Arc have suffered or will suffer harm from the District's IDEA violations. Thus, The Arc sufficiently demonstrates standing. Defendant's position conflicts with this long-settled principle, and would mean that no systemic or class actions involving organizational plaintiffs could arise under the IDEA or other disability rights laws.

Further, under the doctrine of vicarious exhaustion, only one named plaintiff needs to exhaust his or her administrative remedy in order to bring a class action. *See Albemarle Paper Co.*

v. Moody, 422 U.S. 405, 414 n.8 (1975) (relief "may be awarded on a class basis under Title VII without exhaustion of administrative procedures by the unnamed class members"). Federal courts have regularly held that unnamed class members in IDEA and ADA class actions need not exhaust administratively, so long as the named plaintiff(s) have done so. *See, e.g., Handberry v. Thompson*, 446 F.3d 335, 344 (2d Cir. 2006).[7]

Here, the Individual Plaintiffs' due process hearings raised the issues asserted by the putative class and placed the District on notice of the alleged systemic failures. Requiring The Arc (or other plaintiffs) to exhaust claims after the named plaintiffs have vicariously exhausted those claims on their behalf "would only result in the overburdening of the administrative process with unnecessarily duplicative claims of a nature that the process is demonstrably ill-suited to handle." *Jarboe v. Md. Dep't of Pub. Safety & Corr. Servs*., 2013 WL 1010357, at *15 (D. Md. Mar. 13, 2013); *see also Foster v. Gueory*, 665 F.2d 1319, 1322 (D.C. Cir. 1981) (quoting *Oatis v. Crown Zellerbach Corp*., 398 F.2d 496, 498 (5th Cir. 1968)) (finding "[i]t would be wasteful, if not vain, for numerous employees, all with the same grievance, to have to process many identical complaints with EEOC") (applying vicarious exhaustion to class action Title VII lawsuit); *Pappas v. District of Columbia*, 513 F. Supp.3d 64, 78-9 (D.D.C. 2021) (applying vicarious exhaustion to ADA/Section 504 employment claims).

[7] *See also Ass'n for Cmty. Living in Colo. v. Romer*, 992 F.2d 1040, 1045 (10th Cir. 1993); *Hoeft v. Tucson Unified Sch. Dist*., 967 F.2d 1298, 1309 (9th Cir. 1992); *Adam v. North Carolina*, No. 5:96-CV-554-BR, 1997 U.S. Dist. LEXIS 17166, at *13 n.4 (E.D.N.C. Sept. 19, 1997); *T.R. v. Sch. Dist. Of Phila*., 223 F. Supp. 3d 321, 330 n.7 (E.D. Pa. 2016); *L.M.P. ex rel. E.P. v. Sch. Bd. of Broward Cty., Fla*., 516 F. Supp. 2d 1294, 1304-05 (S.D. Fla. 2007).

c. The District's Failure to Provide an Equal Education Opportunity and Segregation of Students with Disabilities Violates the ADA, Section 504, and the DCHRA.

i. Plaintiffs' Challenge their Unequal Access to The District's Education Program, Not Its Transportation Services.

Defendant mischaracterizes Plaintiffs' claims under Title II of the ADA, Section 504, and the DCHRA, as well as the applicable law under these statutes.[8] Plaintiffs challenge Defendant's failure to provide equal access to the District's *education* program available to disabled and non-disabled students alike, *not* the transportation program in and of itself. ECF No. 1 ¶¶ 233-38; ECF No. 4-1 at 28-29. Likewise, to the extent that Defendant's failure to reasonably accommodate students prevents them from using transportation, Plaintiffs allege that this prevents them from "safely getting to school to access their education." ECF No. 4-1 at 29.[9] Defendant's transportation system is the vehicle by which the underlying disability discrimination in education occurs, with the District's failures causing Plaintiffs to miss instruction time or entire school days.

Further, the District argues that its nondiscrimination obligation only extends to those programs that include both disabled and non-disabled students and, therefore, its busing program which is allegedly only available to disabled students is not governed by the ADA. Opp'n. at 24. First, this argument is irrelevant because both the District's education and transportation programs serve disabled and non-disabled students, and the District is providing unequal access to students

[8] As noted in Plaintiffs' motion, the standards for proving a violation of the ADA, Section 504, or the DCHRA are virtually the same. ECF No. 4-1 at 26. As such, references to Plaintiffs' ADA claims should be read to incorporate their Section 504 and DCHRA claims.

[9] Defendant attempts to distinguish other cases cited to by Plaintiffs that dealt with ADA claims related to the busing of students with disabilities. Opp'n. at 24. Plaintiffs cited to these cases for the general proposition that school districts violate the ADA when they fail to accommodate and integrate students with disabilities. ECF No. 4-1 at 30. While the cases were specifically about access to bus transportation to and from school, Plaintiffs did not use them to frame their ADA claims, and Defendant's attempt to narrow those claims by implication should be rejected. *See* ECF No. 4-1 at 28-29.

with disabilities.[10] The District's argument is also at odds with the plain text of Title II and its implementing regulations. Title II of the ADA provides that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132 (emphasis added). Title II prohibits discrimination by public entities against people with disabilities by reason of their disabilities and does not delineate between public entity actions that only serve people with disabilities and those that serve the general public. 42 U.S.C. § 12132. Likewise, the relevant Title II implementing regulations mandate equal opportunities for people with disabilities as those afforded to or provided to "others" not "others without disabilities." 28 C.F.R. §§ 35.130(b)(1)(iii)--(iv). *See Olmstead v. L.C. ex rel. Zimring,* 527 U.S. 581, 598 (1999) (holding that proving disability discrimination does not require identifying a "comparison class . . . of similarly situated individuals given preferential treatment" because "Congress had a more comprehensive view of the concept of discrimination advanced in the ADA"); *see also Henrietta D. v. Bloomberg,* 331 F.3d 261, 291 (2d Cir. 2003) ("…we must determine whether the 'concept of discrimination' embraced by the ADA demands that plaintiffs identify a 'comparison class' of 'similarly situated individuals given preferential treatment.' We follow our fellow circuits, and the suggestions of the *Olmstead* plurality, in concluding that it does not . . . the statute itself does not literally require a showing of 'discrimination.' A plaintiff can prevail either by showing 'discrimination' or by showing 'deni[al

[10] The District provides transportation services to students without disabilities: free access to public transportation, District Dept. of Transportation, Kids Ride Free Program, https://ddot.dc.gov/page/kids-ride-free-program (last visited May 20, 2024), and limited bus service to non-disabled students through its DC SchoolConnect Program. DC SchoolConnect, https://www.dcschoolconnect.com/ (last visited May 20, 2024). To the extent that the District's transportation system is not as effective as those other transportation services, that too would fall under Title II's ambit. See 28 C.F.R. §§ 35.130(b)(1)(iii)--(iv).

of] the benefits' of public services") (quoting *Olmstead,* 527 U.S. at 598; 42 U.S.C. 12132); *see also Amundson ex rel. Amundson v. Wisconsin Dep't. of Health Servs*., 721 F.3d 871, 874 (7th Cir. 2013).[11]

Plaintiffs' evidence demonstrates that they are likely to succeed on their ADA claims. Plaintiffs are qualified individuals with disabilities, and Defendant is subject to the ADA. ECF No. 4-1 at 27. Defendant's failure to provide Plaintiffs with safe, reliable, and appropriate transportation has caused them to miss critical instruction time, entire school days, and has isolated them from their peers, all by reason of their disability. *Id.* at 10-13, 30. Defendant is discriminating against them by reason of their disabilities.

ii. Plaintiffs' Anti-Discrimination Claims are Not Subject to a Heightened Intent Requirement

Defendant's argument, Opp'n at 25-26, that Plaintiffs cannot succeed because they have not established bad faith or gross mismanagement fails. As an initial matter, imposing an additional intent requirement on ADA and Section 504 claims is inconsistent with the language of these statutes and the language of the IDEA as well as recent Supreme Court precedent. The IDEA expressly contemplates that aggrieved parties may invoke other statutes—including the ADA and Section 504—to secure relief for a violation of those statutes. 20 U.S.C. 1415(l) ("Nothing in this chapter shall be construed to restrict or limit the rights, procedures, and remedies available under [the ADA, Section 504] or other Federal laws protecting the rights of children with disabilities.") In *Knox Cnty. v. M.Q.*, 62 F.4th 978 (6th Cir. 2023), the Sixth Circuit recognized that "outside of the education context, the ADA unequivocally *does not* limit its protections to instances of

[11] Even the leading case cited by the District here concedes that a comparator class is not required in cases involving the integration mandate, *Disability Rts. New Jersey, Inc. v. Comm'r, New Jersey Dep't of Hum. Servs*., 796 F.3d 293, 305 n. 4 (3d Cir. 2015). Plaintiffs' ADA claims include integration mandate claims in addition to denial of equal opportunity claims.

intentional discrimination, but instead extends to cases involving decision making that unintentionally results in exclusion as well." *Id.* at 1002 (citing *Ability Ctr. Of Greater Toledo v. City of Sandusky*, 385 F.3d 901, 904-13 (6th Cir. 2004)). It is "hard to square a standard requiring bad faith or gross misjudgment, in all cases involving students' educational rights, with statutory protection that reaches even the unintentional denial of services." *Id*. Indeed, "much of the conduct that Congress sought to alter in passing the Rehabilitation Act would be difficult if not impossible to reach were the law construed to proscribe only conduct fueled by a discriminatory intent." *Alexander v. Choate*, 469 U.S. 287, 296 (1985).

The D.C. Circuit has yet to squarely address the use of this standard. Opp'n at 27. To the extent the precedent of district courts in this Circuit supports imposition of any intent standard merely because the case involves students protected by IDEA, the Supreme Court's decisions in *Perez* and *Fry* have superseded it. As the Court noted in *Fry*, the addition of 20 U.S.C. § 1415(l) shows that the IDEA is a "separate vehicle []" no less integral than Section 504 and Title II for "ensuring the rights" of children with disabilities. *Fry v. Napoleon Community Schs.*, 580 U.S. 154, 161 (2017). It is wholly inconsistent with §1415(*l*), as interpreted by *Perez*, to impose an atextual intent requirement found nowhere in either Section 504 or the ADA restricting the rights, procedures, and remedies available to IDEA-eligible students to seek relief under other federal statutes. *See Perez v. Sturgis Pub. Schs.*, 598 U.S. 142, 146 (2023) (noting that Section 1415(l) does not restrict "the ability of individuals to seek remedies under the ADA.").

Alternatively, courts that apply this heightened intent requirement only do so to establish liability in cases that present "garden variety" IDEA violations wherein the ADA claim is simply tacked on to challenge denial of FAPE, not when the ADA claims present separate and distinct causes of action. *Alston v. District of Columbia*, 770 F. Supp.2d 289, 300 (D.D.C. 2011). Here,

Plaintiffs' ADA claims are not related to the failure to provide a specific service required in students' IEPs and the resulting denial of FAPE. Rather, Plaintiffs' ADA claims more broadly challenge the District's discriminatory failure to provide students with disabilities equal access to education and the District's unnecessary segregation of these students them from their peers. ECF No. 4-1 at 6-18, 28-29. This is exactly the type of "programmatic failure[]" that the ADA and related nondiscrimination statutes were meant to cover and addresses discrimination that is beyond the scope of the IDEA. *Torrence v. District of Columbia*, 229 F. Supp.2d 68,72 (D.D.C. 2009); *accord Douglass v. District of Columbia*, 605 F. Supp. 2d 156, 168 (D.D.C. 2009) (permitting a 504 claim to proceed when "plaintiff's Complaint asserts more than a mere failure to implement the Plaintiff's IEP, as is at issue in Count I. Rather, Count II alleges that the District discriminated against Plaintiff solely based on his disability.")

Plaintiffs here have demonstrated that Defendant's discriminatory conduct violates both laws independently. Plaintiffs' ADA claims address the District's denial of equal access to its education program and unnecessary segregation of students with disabilities because these students cannot receive instruction if they cannot access their schools and are missing critical instruction time due to Defendant's failures. ECF No. 4-1 at 19-28. These claims are separate and distinct from the IDEA claims, and the ADA claims go beyond the scope of what the IDEA provides. Crucially, Plaintiffs have alleged that Defendant's mishandling of the transportation system violates the ADA not *because* of the concurrent IDEA violation, but in addition to and separately from it.

And, even if this Court applied the bad faith/gross misjudgment standard, Plaintiffs satisfy it here. *Cf. Alston v. District of Columbia*, 561 F. Supp. 2d 29, 39 (D.D.C. 2008) ("The plaintiff is not required to use the magic words 'bad faith' in her pleading."). A defendant acts with gross

misjudgment when they "depart grossly from accepted standards among educational professionals." *Walker*, 157 F. Supp. 2d at 35. Supporting affidavits from Plaintiffs' expert witnesses show that Defendant's transportation system does not align with widely accepted professional standards for student transportation. ECF No. 4-1 at 41-42. Defendant's failure to correct the transportation failures adjudged by the Hearing Officers also separately supports a finding that it acted with gross misjudgment. *See DL v. District of Columbia*, 450 F. Supp. 2d 21, 23 (D.D.C. 2006) (the District "departed grossly" from professional standards when it failed to bring itself into compliance after plaintiffs obtained favorable hearing officer determinations). Defendant's reversion back to the same conduct that was previously held to violate federal law is further evidence of bad faith and gross misjudgment. *See DL v. District of Columbia*, 194 F. Supp. 3d 30, 95 (D.D.C. 2016) (District displayed gross misjudgment when it "knew that [its] actions were legally insufficient yet failed to bring [itself] into compliance with [its] legal obligations" under the IDEA).

iii. Defendant has Unjustly Segregated Plaintiffs.

Defendant's misstatement of Plaintiffs' ADA claims also extends to its analysis of its obligations under the ADA's integration mandate, as embodied in the Supreme Court's landmark decision in *Olmstead v. L.C.* Contrary to Defendant's assertions, Plaintiffs ADA claims are about *access* to education, not the adequacy of the educational benefit they receive once they arrive at school. ECF No. 4-1 at 28-31. Under this framework, Plaintiffs easily demonstrate how the District's actions unjustifiably segregate them because of their disabilities.

Plaintiffs allege that Defendant's handling of the bus system effectively excludes them from accessing their education and unjustifiably segregates them from their peers through late arrivals, shortened school days, and entire missed days of school. ECF No. 4-1 at 28-29. Put another way, Defendant's failure to consistently transport Plaintiffs to and from school effectively

confines Plaintiffs away from their non-disabled peers, either at home or on the bus. Defendant's arguments asking the Court to focus on where services should be provided, not whether or how, are inapposite and an attempt to distract the Court from the stark and egregious reality Plaintiffs are facing. Plaintiffs cannot even address the quality of their education while at school, because they are prevented from receiving this education in the first place due to Defendant's failures. And the failure to provide services that leads to unjustified segregation is itself a form of discrimination under the ADA. *See M.J. v. District of Columbia*, 401 F.Supp.3d 1, 11-13 (D.D.C. 2019) (applying *Olmstead* in holding that unjustified segregation is form of discrimination under the ADA). It is difficult to imagine a more straightforward case of unjustified segregation than keeping disabled students out of school entirely, harkening back to the days when students with disabilities did not have the right to a public education and were confined to their homes, away from their peers.

Because Plaintiffs have demonstrated that they are disabled, that Defendant is subject to Title II, and that Plaintiffs are unjustly segregated from their peers, ECF No. 4-1 at 26-31, Defendant's argument should be rejected.

II. Plaintiffs Will Suffer Irreparable Injury in the Absence of Injunctive Relief.

The parties agree that the denial of FAPE constitutes irreparable harm. *See* Opp'n at 33; *Lofton v. District of Columbia*, 7 F. Supp. 3d 117, 124 (D.D.C. 2013) (finding that the failure to provide FAPE constitutes irreparable injury). The District merely disputes whether Plaintiffs have proffered sufficient evidence of future harm. They have.

As set forth more fully in Plaintiffs' Motion, Plaintiffs will suffer myriad concrete, irreparable harms in the absence of injunctive relief. The District's failure to provide safe, reliable, and appropriate transportation causes students to miss school and related services such as therapies and behavior supports, denies Plaintiffs equal access to education and unnecessarily segregates them, endangers students' physical and emotional health, and leaves parents with the untenable

choice to self-transport their children, often at great personal expense, or miss school altogether. *See* ECF No. 4-1 at 36-39. Dr. Livelli explains that when a bus transports a student to school late, they miss critical instruction, related services, and social time with their peers. Livelli Decl., ECF No. 4-26 ¶¶ 29-34. These losses are exacerbated by Plaintiffs' disabilities, which pose a heightened risk of dysregulation, isolation, and stigmatization. *Id.* ¶¶ 36-41; McCray Decl. ¶¶ 34–35; Robertson Decl. ¶ 34; Clark Decl. ¶ 27; Daggett Decl. ¶ 39; Guerrero Decl. ¶¶ 24, 32.

The District's protestations that all Plaintiffs show is past harm ignore Plaintiffs' evidence. First, the District does not dispute that problems with its transportation services are ongoing; while it touts efforts, it presents no credible evidence of improvements. *See* Opp'n at 1, 7-10; 7 (OSSE's duty to provide transportation poses "immense obstacles, including caring for and transporting medically fragile or otherwise high-needs students."). Nor could it. Each of Plaintiff's declarations demonstrates that OSSE's deficient practices fail to provide them adequate transportation and access to their education. *See* Daggett Decl. ¶ 38; Guerrero Decl. ¶ 30; Clark Decl. ¶ 34; McCray Decl. ¶ 29; Robertson Decl. ¶ 41. Plaintiffs further present evidence, including the new declarations of putative class members and members of The Arc, that demonstrates a pattern of failure to provide them with safe, reliable, and appropriate transportation, and how the District has failed to correct that pattern.[12] While Plaintiffs cannot predict with exact certainty when OSSE's buses will arrive late (or not at all), Plaintiffs can—and have—established that (i) OSSE's deficient policies and practices remain and failures are ongoing; and (ii) they suffer concrete, substantial harms as a result of OSSE's failures. Plaintiffs need only demonstrate that irreparable harm "is

[12] *See* Ex. 8, Decl. of Lashone Watts ¶¶ 6-13; Ex. 9, Decl. of Tonya Gregory ¶ 5; Ex. 3, Decl. of Pettrice Lewis ¶¶ 5-9; Ex. 10, Decl. of Kiara Coleman ¶ 4; Ex. 11, Decl. of Charlisa Neal ¶¶ 6-11; Ex. 12, Decl. of Renica Robinson ¶¶ 8-13; Ex. 4, Decl. of Sheneice Lassiter ¶¶ 4-8; Ex. 5, Decl. of Andy McKinley ¶¶ 7-10; Ex. 6, Decl. of Nikki Floyd ¶ 8; Ex. 13, Decl. of Rita Whatley ¶¶ 7, 9, 10.

likely in the absence of an injunction." W*inter v. Nat. Res. Def. Council*, 555 U.S. 7, 22 (2008) (emphasis added). A harm need not be inevitable or have already happened for it to be irreparable; rather, imminent harm is also cognizable harm that merits an injunction. *See Helling v. McKinney*, 509 U.S. 25, 33 (1993).

The irreparable harm to The Arc's members stems from the same pattern and practice of transportation failures. Members of The Arc, including Individual Plaintiffs, testified in their declarations about these ongoing harms *See, e.g.*, Decl. of Elizabeth C. Mitchell ¶¶ 10-11, 13; Decl. of Miryam Koumba ¶¶ 7, 9-10; Decl. of Jamie Davis Smith ¶ 6, 8.

Plaintiffs here show—with testimony, expert evidence, and the District's own data—that their injury is "certain and great . . . actual and not theoretical." *Chaplaincy of Full Gospel Churches v. England*, 454 F.3d 290, 297 (D.C. Cir. 2006); *see also Massey v. District of Columbia*, 400 F. Supp. 2d 66, 75 (D.D.C. 2005) (irreparable harm existed where harms were ongoing).

III. A Preliminary Injunction Serves the Public Interest and the Balance of Equities Favors Granting a Preliminary Injunction.

Plaintiffs demonstrate that a preliminary injunction serves the public interest and that the balance of equities favors granting a preliminary injunction. The District responds that these factors "favor the status quo" and that granting a preliminary injunction would be "triply extraordinary;" that there is "no evidence" that implementing "every best practice in the book would ensure that each Plaintiff is dropped off on time each day;" and that requiring the District to comply with the proposed order would curtail the "public . . . interest in debating [OSSE transportation issues] through the political process." Opp'n at 34–37. These arguments are off-point and unpersuasive.

First, granting a preliminary injunction here would not be "triply extraordinary." Of course, preliminary injunctive relief is by its nature an "extraordinary" request, but Plaintiffs request

nothing that rises to the extreme level of Defendant's contrived heightened "triply extraordinary" standard. The District's one example that the requested relief is so outrageous is that the proposed order would require the District to "maintain a bench of drivers, attendants, nurses and OSSE terminal staff to serve the plaintiff class." Prop. Order at 2. Rather, the proposed order is a basic, "comply with the law" request that is tied to the specific harms suffered by Plaintiffs. It would simply require the District to maintain enough staff to fulfil their IDEA and ADA requirements. Further, there is nothing extraordinary about requiring the District to "implement[] policies and procedures for training staff" or "maintain[] a fleet of adequate size in a sufficient state of repair. . . to ensure safe transport of all students." These are basic tenants of school transportation that the District is failing to adhere to. *See generally* ECF No. 4-44 (Declaration of Alexandra Robinson); ECF No. 4-28 (Declaration of Dr. Linda Fran Bluth). Here, Plaintiffs request that the District comply with its legal obligations, which Defendant already claims to be doing and which by definition cannot harm the District. *See Banks v. Booth*, 468 F. Supp. 3d 101, 124 (D.D.C. 2020) (Since "[d]eclarations by DOC officials claim that Defendants are already complying with much of the requested relief…[t]he Court's Order simply ensures that the precautions are being taken consistently and effectively"); *DL v. District of Columbia*, 194 F. Supp. 3d 30, 98 (D.D.C. 2016), aff'd, 860 F.3d 713 (D.C. Cir. 2017) ("An injunction requiring the District to do nothing more than comply with its legal obligations cannot, by definition, harm it.").

Second, Defendant's assertion that it should not be required to implement best practices because there is "no evidence" that adherence to best practices would get every child to school sets up a straw man. Plaintiffs are not seeking that the District guarantee that every child arrive to school on time every day. Such a guarantee is of course impossible to make. However, if the preliminary injunction were granted and the District were forced to adhere to industry standards

and best practices, significantly *more* students would be transported to school on time. Ex. 7, Robinson Second Decl. at ¶ 21. *See infra* Section IV(a) (adhering to these practices did improve transportation under *Petties*).

Third, the public's interest in debating policy issues would not be limited by a preliminary injunction. The District writes as if its bureaucratic decisions on how to track students and route buses were subject to a public referendum. In reality, parents have pushed the District to change its policies through the political process and the District has failed to respond. *See e.g.*, ECF No. 4-5, Elizabeth Daggett Testimony. Several of these same parents whose interest the District asserts to be protecting are Individual Plaintiffs or putative class members who have submitted declarations supporting the relief requested. The District itself points out that one Plaintiff was a member of its own parent advisory board. Opp'n at 10. Yet, even that parent could not get reliable transportation.

Here, "the public interest will be served in compelling the District to provide special education and related services . . . in accordance with applicable law." *DL v. D.C.*, 194 F. Supp. 3d 30, 98 (D.D.C. 2016), *aff'd,* 860 F.3d 713 (D.C. Cir. 2017).

IV. The Relief Sought is Necessary and Complies with Rule 65.

The District argues that the relief sought by Plaintiffs is "overbroad" and "vague." Opp'n at 37-43. Not so. True, Plaintiffs seek affirmative relief that will alter, rather than preserve, the status quo. But such relief is necessary to address the District's failures and rectify their ongoing infringement on the rights of students with disabilities.

a. The Requested Relief is Narrowly Tailored to the Needs of the Case.

District courts enjoy broad discretion in awarding injunctive relief. *National Min. Ass'n v. U.S. Army Corps of Engineers*, 145 F.3d 1399, 1408 (D.C. Cir. 1998). And, under the IDEA, ADA, and other antidiscrimination laws, courts have the authority to grant broad injunctive relief to

correct systemic violations. *See, e.g. DL,* 194 F. Supp. 3d 30, 97-99; *Equal Rts Ctr. V. Washington Area Metro. Transit Auth.*, 573 F. Supp. 2d 205, 208-211 (D.D.C. 2008) (approving broad-based systemic relief under the ADA); *M.F. by and through Ferrer v. New York City Dept. of Educ.*, 671 F. Supp. 3d 221, 226-28 (E.D.N.Y 2023) (approving broad injunctive relief for ADA claims brought by diabetic students).

An injunction need only have the requisite specificity so that "those enjoined will know what the Court has prohibited." *U.S. v. Philip Morris USA, Inc.*, 477 F. Supp. 2d 191, 195 (D.D.C. 2007). An injunction is therefore not too vague if it "relates the enjoined violations to the context of the case." *U.S. v. Philip Morris USA Inc.*, 566 F.3d 1095, 1137 (D.C. Cir. 2009). Notably, the D.C. Circuit has also held that injunctions may be particularly broad to prevent further violations of the law when, as is the case here, a "proclivity for unlawful conduct has been shown." *Id.*

Here, Plaintiffs' requested relief connects to the specific harms outlined in the Motion for Preliminary Injunction. *Compare* ECF No. 4-2 at 2-3 *with* ECF No. 4-1 at 6-16, 28. Plaintiffs request that the District implement best practices to safely transport students to and from school so no child is at risk of harm, *see* Daggett Decl. ¶ 42, Clark Decl. ¶ 19, Davis Smith Decl. ¶¶ 6, 8; maintain adequate staffing, sufficient fleets, and accurate data to allow for on-time pick-up and drop off, *see* Clark Decl. ¶ 16, McCray Decl. ¶ 34-34; implement modern technology to allow parents to accurately track their children, *see* Daggett Decl. ¶ 14; McCray Decl. ¶ 40, Robertson Decl. ¶ 17; implement policies and procedures to train staff in best practices for serving students with disabilities, *see* Guerrero Decl. ¶¶ 37-40; and develop a communication system with real-time updates on delays, cancellations, or other changes in a language parents can understand, *see id.* at 42; Daggett Decl. ¶ 12. The District incredulously refuses to acknowledge that the provisions of the proposed order would bring it into compliance with the law. Opp'n at 42-43. But their argument

is devoid of facts, and unsupported by any evidence. The only evidence on-point is from Plaintiffs, who submit declarations from highly-regarded experts in the field of student transportation. ECF No. 4-44 & Ex. 7 (Declarations of Alexandra Robinson); ECF No. 4-28 (Declaration of Dr. Linda Fran Bluth). Those experts thoroughly convey the commonsense proposition that the District refuses to acknowledge: following student transportation best practices will get more students to school on time and remedy the other harms.

Indeed, these injunctive practices mirror measures the District took in the *Petties* litigation to improve its transportation services and ensure its compliance with federal law. *See Petties v. District of Columbia*, No. 95-CV-0148 (PLF), Def. Reply to Mot. to Vacate, ECF No. 1643-3. When students with disabilities sued the District in 1995, buses arrived late to pick-ups and drop-offs, or they didn't arrive at all. *Petties v. District of Columbia*, No. 95-CV-0148 (PLF), slip op. at 2 (D.D.C. July 8, 1997), ECF No. 380. Some students regularly waited an hour and a half at school before boarding the bus home, *see Petties*, Pls. Mot. for Entry, ECF No. 202 at 14, while others regularly faced ride times of 2-3 hours, *Petties*, slip op. at 2. The District lacked adequate staffing and bus drivers and resorted to double and triple-routing buses. *Id.*; Pls. Mot. for Entry, ECF No. 202 at 14. Bus drivers were not properly trained to accommodate students, Pls. Mot. for Entry, ECF No. 202 at 13, and buses were unequipped to serve the needs of many students, ECF No. 380. There was no centralized means to track buses' on-time performance or notify parents when buses would be late; there was no coordination between the officials responsible for developing IEPs and transportation officials; and there were long delays between when a student was identified as needing special education transportation and when they received it. Pls. Mot. for Entry, ECF No. 202 at 14.

It was only after years of District inaction and the eventual appointment of a special master and then a transportation administrator that the District finally began to improve. In 2009, the Transportation Administrator established standards for the provision of transportation that complied with the law, including a 94% on-time arrival rate at school, a 94% attendance rate for staff, 100% of routes planned within ride time standards, and all drivers properly trained and certified. Def. Reply to Mot. to Vacate, ECF No. 1643-3 at 11-12. The District met these standards (lifting the consent decree in 2012) by adopting the same policies Plaintiffs request now, for example: installing GPS to track and use data to drive routing decisions, improving its systems management, and communicating with parents. Def. Monthly Report, ECF No. 1968-1.

The District has reverted to its pre-*Petties* ways. Even though the District had GPS on every bus in 2011, Def. Monthly Report, ECF No. 1975-1 at 3, Defendants now claim GPS is unnecessary. Opp'n at 42. Students are again habitually late to school because of the District's failures, there is a shortage of bus drivers, the routing system is a disaster, and students' safety is at risk due to improperly trained staff. Livelli Decl. ¶ 22-25, Daggett Decl. ¶ 18, 30, 38, Guerrero Decl. ¶ 16, Clark Decl. ¶ 16, McCray Decl. ¶ 29-31, Robertson Decl. ¶ 28. The District would clearly just as soon forget *Petties*; perhaps that it why any mention of it is entirely absent from the District's Opposition brief. But two important lessons from *Petties* can be applied here. First, that the District will not make the difficult choices necessary to comply with its transportation obligations under the IDEA without a court order. Second, that the remedies requested by Plaintiffs here are necessary and will work. Like in *Petties*, an independent monitor here will effectively oversee the District's transportation practices and hold the District to specific, clear metrics. ECF No. 4-2 at 3-4; *Petties v. District of Columbia*, 2006 WL 1046943 at *1 (D.D.C. April 21, 2006); *aff'd* 232 F. App'x. 4 (D.C. Cir. 2007).

b. Plaintiffs May Seek Broad, Systemic Injunctive Relief

Plaintiffs appropriately seek systemic relief on behalf of themselves and others. First, the policy changes Individual Plaintiffs seek are necessary to remedy the District's unlawful conduct. *Burlington v. Dep't of Educ.*, 471 U.S. 359, 374 (1985) ("equitable considerations are relevant in fashioning relief."); a*ccord Friends of the Earth, Inc. v. Laidlaw Envtl. Servs.*, 528 U.S. 167, 181 (2000) (injury is redressable if it is "likely, as opposed to merely speculative, that the injury will be redressed by a favorable decision."). Second, Plaintiffs are entitled to broad systemic relief because The Arc stands with them. Entities with associational standing regularly obtain broad injunctive relief that inure to the benefit of individuals, such as that entity's members, that are not before the court. *See Outdoor Amusement Business Assoc., Inc.* v. *Dep't. of Homeland Security*, 983 F.3d 671, 683 (4th Cir. 2020) (citing *Hunt v. Washington State Apple Advertising Comm'n.*, 432 U.S. 333, 342 (1977)). An injunction "is not necessarily made overbroad by extending benefit or protection to persons other than prevailing parties in [a] lawsuit . . . if such breadth is necessary to give prevailing parties the relief to which they are entitled." *Bresgal v. Brock*, 843 F.2d 1163, 1170–71 (9th Cir. 1987) (citations and emphasis omitted). Third, this Court can provisionally certify Plaintiffs' proposed class in conjunction with this Motion for Preliminary Injunction and their Motion for Class Certification, ECF 29. Courts in this Circuit have routinely done just that. *See, e.g. Charles H. v. District of Columbia*, 2021 WL 2946127, at *14 (D.D.C. June 16, 2021) (provisionally certifying class and granting broad preliminary injunction in IDEA class action); *P.J.E.S. by and through Escobar Francisco v. Wolf*, 502 F. Supp. 3d 492, 534 (D.D.C. 2020) (provisionally certifying class and granting preliminary injunction); *Damus v. Nielsen*, 313 F. Supp. 3d 317, 335 (D.D.C. 2018).

c. The Requested Relief Complies with Rule 65

Plaintiffs' requested injunctive relief complies with Rule 65 of the Federal Rules of Civil Procedure. Crafting an injunction is "an exercise of discretion and judgment, often dependent as much on the equities of a given case as the substance of the legal issues it presents" and a court "may mold its decree to meet the exigencies of a particular case." *Trump v. Int'l. Refugee Assistance Project,* 582 U.S. 571, 580 (2017). Generally, injunctions are overly vague only when they "enjoin all violations of a statute in the abstract without any further specification, or when they include, as a necessary descriptor of the forbidden conduct, an undefined term that the circumstances of the case do not clarify[.]" *United States v. Philip Morris USA, Inc.*, 566 F.3d 1095, 1137 (D.C. Cir. 2009) (collecting cases). A more general injunction is not too vague if it "relates the enjoined violations to the context of the case." *Id.*

Plaintiffs' proposed relief satisfies this standard. The proposed injunction does not abstractly enjoin the District from violating federal disability rights laws, but instead specifically orders Defendant to address the deficiencies laid out in the Motion for Preliminary Injunction. ECF No. 4-1 at 2-16; ECF No. 4-2 at 2-3. This includes the development of specific policies and procedures related to transportation personnel, fleet size, staff training, a GPS system, route adjustments, parent communication, and data procedures for timeliness, all of which relate to specific facts laid out in the Motion for Preliminary Injunction. *Compare* ECF No. 4-2 at 3 *with* ECF No. 4-1 at 6-16, 28. Any undefined terms can easily be understood within the "circumstances of the case." *Philip Morris USA*, 566 F.3d at 1156.

CONCLUSION

For the foregoing reasons, the Court should grant Plaintiffs' Motion for a Preliminary Injunction.

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Respectfully submitted,

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