UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK

JANE DOE, individually and on behalf of her minor child, SARAH DOE, Plaintiffs, v. OCEANSIDE UNION FREE SCHOOL DISTRICT, et al. Defendants.	Civil Action No.: 2:25-cv-02304-GRB-ST

PLAINTIFFS' MEMORANDUM OF LAW IN SUPPORT OF MOTION FOR PRELIMINARY INJUNCTION

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PRELIMINARY STATEMENT

Plaintiffs Jane Doe, on behalf of her disabled sixteen-year-old daughter Sarah Doe, seeks immediate injunctive relief to remedy ongoing irreparable constitutional and statutory violations that threaten to exclude Sarah from her junior year of high school and beyond. This motion arises from the Oceanside Union Free School District's final determination received July 14, 2025, that Sarah cannot join her class for the upcoming school year unless she receives the third dose of the Hepatitis B vaccine series (the only vaccine she is missing). At least six treating physicians have certified that Sarah could be harmed or killed by this vaccine, and it goes against her family's sincerely held religious belief. Time is of the essence: school begins September 2, 2025, and without immediate relief, Sarah will lose irreplaceable academic and social opportunities that no future legal remedy can restore.

This motion is grounded in controlling new Supreme Court precedent that fundamentally transforms the legal landscape and was unavailable during Plaintiffs' prior application. Most significantly, *Mahmoud v. Taylor*, decided in June, held that government policies violate the Free Exercise Clause when they condition access to public education on parents accepting burdens to their religious exercise, and strict scrutiny applies even if the policies are neutral and generally applicable. Critically, while this Court previously found delay concerns undermined irreparable harm claims, *Mahmoud* establishes that ongoing religious burdens constitute *per se* irreparable injury that compounds daily, regardless of when litigation commences. This is because: "in the absence of an injunction, the parents will continue to be put to a choice: either risk their child's exposure to burdensome instruction or pay substantial sums for alternative educational services. As we have explained that choice unconstitutionally burdens the parents' religious exercise, and '[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably

constitutes irreparable injury.'" *Mahmoud v. Taylor*, 145 S. Ct. 2332, 2363–64 (2025) (citing *Roman Catholic Diocese of Brooklyn v. Cuomo*, 592 U.S. 14, 19 (2020)).

In addition to the religious burden claims, the District's policies constitute flagrant disability discrimination under the ADA, Section 504, and New York Human Rights Law. Sarah suffers from multiple severe disabilities including von Willebrand's disease, autoimmune hypersensitivity syndrome, severe allergic reactions and chronic rashes, and periodic paralysis. She requested the eminently reasonable accommodation of a medical exemption from a single vaccine dose—an accommodation unanimously supported by six treating physicians who certified she cannot safely receive it. Yet even though the Public Health Law provides that a child is exempt if "any" physician certifies that a vaccine may be detrimental to her health, the District denied relief solely because her conditions were not listed as examples in the CDC's Advisory Committee on Immunization Practices (ACIP) non-exhaustive best practices guidelines. This categorical denial violates disability law's core requirement of individualized assessment and cannot be justified by any compelling interest, as Hepatitis B poses no transmission risk in school settings.

This Court's immediate intervention is required to prevent irreparable harm that compounds with each day Sarah remains excluded. With school beginning **September 2, 2025**, Sarah faces losing the critical opening weeks when academic trajectories are established and social reintegration remains feasible. The District's unlawful conduct has created such desperation that Sarah contemplates taking a vaccine that **six treating physicians and one expert warn could cause her catastrophic injury or death**—a choice that would simultaneously violate her family's sincerely held religious beliefs and potentially end her life. No child should be forced to choose between her education, her faith, and her physical safety. For these reasons, this Court should grant the requested preliminary injunction.

STATEMENT OF RELEVANT FACTS AND PROCEDURAL HISTORY

This renewed motion addresses an escalating constitutional violation where the District demands that Sarah Doe and her family sacrifice their religious beliefs yet again—this time risking her life—despite having already paid an enormous price for school attendance. In 2019, Sarah's family violated their sincerely held Catholic beliefs to comply with New York's vaccine mandate, subjecting her to eighteen vaccines in six weeks that left her with severe disabilities. Now the District demands she violate both medical advice from six treating physicians and her family's religious convictions for a single remaining vaccine, creating the precise constitutional crisis that *Mahmoud v. Taylor* forbids.

A. The First Religious Sacrifice and Its Catastrophic Consequences

Prior to 2019, Sarah attended school under a religious exemption honoring her family's Catholic beliefs and guidance from prayer. (ECF No. 16, First Amended Complaint ("FAC") ¶ 53). When New York repealed the religious exemption, the Doe family faced an impossible choice: violate their conscience or forfeit Sarah's education. To keep Sarah in school, they sacrificed their religious convictions, subjecting her to an aggressive "catch-up" schedule of eighteen vaccine doses over six weeks, including two back-to-back Hepatitis B doses. (FAC ¶ 55).

That religious sacrifice nearly killed her. Previously healthy, Sarah developed a cascade of severe conditions including von Willebrand's disease, autoimmune hypersensitivity, chronic infections, and periodic paralysis. (FAC ¶¶ 58-61). The very vaccines she took in violation of her family's religious beliefs created the medical conditions that now make further vaccination potentially fatal. Yet despite this enormous sacrifice and its devastating consequences, the District now demands she risk her life for one remaining vaccine dose.

B. Six Physicians Certify the Renewed Violation Would Be Dangerous or Deadly

When notified in September 2024 that Sarah needed a third Hepatitis B dose, Jane Doe—a registered nurse who had witnessed her daughter's prior vaccine injuries—sought medical guidance. Seven treating providers unanimously have certified over the past year that Sarah cannot safely receive this vaccine. Dr. Field cited uncontrollable anaphylactic rash and autoimmune disease that was being diagnostically worked up (Plaintiff's Decl., Exhibit 1); Nurse Practitioner Vamos documented immune deficiency and von Willebrand's disease along with a host of other documented contraindications (Plaintiffs' Decl., Exhibit 2); a walk-in clinic physician at CityMD refused to vaccinate Sarah, formally documenting she was "INELIGIBLE" due to her acute condition. (Plaintiff's Decl. Exs. 2-4).

When the District refused to grant accommodation, Jane attempted to see the Oceanside School District doctor. (FAC ¶ 112). When she was unable to do so, she went to the neighboring school district's doctor, Dr. Richheimer who initially stated he would not write any medical exemptions, but immediately reversed his position after examining Sarah, writing a 90-day exemption for "dermatographia/hives – despite multiple medications." (FAC ¶¶ 113-115). The District granted an exemption until February 4, 2025.

Sarah's "dermatographia/hives" (uncontrollable and severe anaphylactic rash) did not subside during the three months. In fact, her condition worsened and specialists were conducting multiple tests to try to figure out what was wrong with her. Dr. Richheimer stated that she still needed an exemption, but indicated that it would have to come from someone else as he was afraid he would get in trouble for writing another medical exemption. (Plaintiff's Decl. ¶ 21).

Jane then obtained and submitted a certification from Dr. Field, who certified that Jane should be exempt until May 4, 2025 along with medical exemptions for the remainder of the school

year from Dr. Garbitelli (Plaintiff's Decl., Exhibit 5) and another from Sarah's rheumatologist Dr. Lang (Plaintiff's Decl., Exhibit 6).

C. The District's Administrative Obstruction and Arbitrary Enforcement

Rather than honor the overwhelming medical consensus showing Sarah could not be safely vaccinated, the District created a bureaucratic maze designed to frustrate accommodation. Even though the reasons provided by Dr. Field were identical to the one they just accepted from Dr. Richheimer, the District refused to accommodate Sarah unless Jane got pre-approval from the state department of health. (FAC ¶ 136). Despite the submission of three more medical exemption requests, the District took the position that until Jane got pre-approval from the state, Sarah would be excluded from school. (Plaintiff's Decl. ¶¶ 25-28).

While Jane attempted to get pre-approval from the State, as the District demanded, she temporarily enrolled her daughter in Long Beach School District, where the family had a home that was being sold, so that Sarah could attend school somewhere while her medical accommodation was being sorted out. Long Beach gave Sarah a sixty-day medical accommodation exemption.

In April 2025, Jane needed to re-enroll Sarah in her home district at Oceanside. On April 7, 2025, she forwarded Assistant Superintendent Jill De Rosa an email from the state explaining that it was not possible to get "pre-approval" from the state for medical exemptions. (FAC ¶ 153). On April 14, 2025, not having heard anything on her pending medical exemption requests, Jane filed a lawsuit and an emergency TRO application seeking reinstatement before the start of the new quarter on April 21, 2025. (FAC ¶ 160). Defendants obstructed and delayed this request by failing to appear at the initial hearing on April 21, 2025 and alleging the issue was "not ripe" as no determination had been made on the pending medical exemptions. On April 25, 2025, while

the motion for a preliminary injunction was pending in state court, the District issued a final denial of the February accommodation requests, stating that Sarah must take the Hepatitis B vaccine if she wanted to return to school. (FAC ¶ 167). The same day, one business day before the rescheduled state court hearing, the District removed the case to federal court. (FAC ¶ 168). This Court denied preliminary injunctive relief on or about May 19, 2025, holding that Plaintiffs delay in filing for emergency relief undercut their irreparable harm argument. [ECF No. 14].

On June 11, 2025, Plaintiffs submitted a new comprehensive exemption certification from Dr. Garbitelli for the 2025-2026 school year. (Plaintiff's Decl., Exhibit 11). On June 12, 2025, Plaintiffs amended their complaint to add religious discrimination claims and additional facts showing that they did not delay but worked diligently to meet the District's "procedural catch-22" and filed immediately once it became clear that it was not possible to get state pre-approval.

On July 14, 2025, Principal Mitchell issued a final denial, confirming Sarah would be excluded unless she violates both her family's religious beliefs and the unanimous medical advice of six physicians who warn the vaccine could cause her catastrophic injury or death. (Plaintiff's Decl. Ex. 8). The District thus demands Sarah risk everything—her life, her health, and her family's religious convictions—for the privilege of attending the school her prior religious sacrifice and suffering had already earned her. A final decision having been issued, Plaintiffs filed a pre-motion letter seeking emergency relief on July 17, 2025, this time adding religious and other constitutional claims. Pursuant to this Court's Order dated August 6, 2025, this full motion follows.

ARGUMENT

LEGAL STANDARD

To obtain a preliminary injunction, a movant must establish: (1) likelihood of success on the merits; (2) likely irreparable harm absent relief; (3) the balance of equities tips in their favor;

and (4) the injunction serves the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008). For constitutional deprivations, the Second Circuit applies a more flexible standard, requiring either clear likelihood of success or sufficiently serious questions on the merits coupled with a balance of hardships tipping decidedly in plaintiffs' favor. *Citigroup Glob. Mkts., Inc. v. VCG Special Opportunities Master Fund Ltd.*, 598 F.3d 30, 35, 38 (2d Cir. 2010).

The relief sought here is properly characterized as prohibitory, not mandatory, relief. Plaintiffs seek to enjoin Defendants from *continuing* Sarah's unlawful exclusion from school—relief that preserves the status quo and prevents ongoing constitutional violations. The "status quo" is "the last actual, peaceable uncontested status which preceded the pending controversy." *N. Am. Soccer League, LLC v. U.S. Soccer Fed'n, Inc.*, 883 F.3d 32, 37 (2d Cir. 2018). Here, that status was Sarah's enrollment and attendance at Oceanside High School before the District began its pattern of constitutional and statutory violations. An injunction would thus restore and preserve this pre-controversy status quo by prohibiting the District's ongoing unlawful conduct, not by mandating new affirmative obligations. Accordingly, the flexible constitutional standard applies, though Plaintiffs satisfy even the more demanding clear likelihood standard.

POINT I

PLAINTIFFS DEMONSTRATE A CLEAR LIKELIHOOD OF SUCCESS ON THE MERITS

This renewed motion is based on a superseding First Amended Complaint, a fully developed factual record, and—most critically—new, controlling Supreme Court precedent that establishes a clear path to victory for Plaintiffs.

A. The District's Enforcement of New York's Vaccine Mandate Violates the First Amendment's Free Exercise Clause

The District's enforcement of New York's vaccine mandate is unconstitutional as applied to the Doe family because it substantially burdens their religious rights and fundamental parental

rights, which triggers strict scrutiny even if the law is neutral and generally applicable. *Mahmoud,* 145 S. Ct. at 2353. The statutory scheme also triggers strict scrutiny because it fails to allow for religious accommodation and is not generally applicable, containing a discretionary system for medical exemptions while categorically denying religious ones. Under either analysis, the mandate's lack of a provision for religious accommodation is subject to strict scrutiny, a standard it cannot survive.

1. Strict Scrutiny Applies Because the Vaccine Mandate Substantially Burdens the Doe Family's Fundamental Parental and Religious Rights

The Supreme Court's recent decision in *Mahmoud v. Taylor* represents a watershed moment in the jurisprudence of parental rights and religious freedom, establishing that the government cannot condition access to public education on parents accepting policies that substantially interfere with their religious child-rearing practices. 145 S. Ct. at 2352, 2361. The *Doe* case presents a paradigmatic example of such interference. As a devout Catholic, Jane understands her faith to encompass not merely Sunday worship or private devotional practices, but a comprehensive worldview that informs every aspect of raising her children, including medical decision-making. Her religious convictions, informed by prayer and divine guidance, lead her to believe that vaccinating Sarah against the explicit medical advice of six licensed physicians and guidance from prayer is not in accordance with God's will and violates fundamental precepts of Catholic teaching about the sanctity of conscience, the primacy of parental authority, and the imperative to seek and follow divine guidance in matters affecting her children's wellbeing.

The vaccine mandate enforced by the District creates what *Mahmoud* identified as constitutionally impermissible substantial interference with religious development by forcing Jane into an impossible choice: either violate her deeply held religious convictions or accept her daughter's exclusion from all access to public and private education. This represents exactly the

type of governmental coercion that the Free Exercise Clause and the identification of fundamental parental rights was designed to prevent. As the Court held, the First Amendment "right of parents to direct the religious upbringing of their children would be an empty promise if it did not follow those children into the public school classroom[,]" and thus, there are limits on the government's ability to interfere with a student's religious upbringing in a public school setting. *Id.* at 2351.

In *Mahmoud*, the Supreme Court held that strict scrutiny applies without regard to general applicability or neutrality any time that school related policies "substantially interfer[e] with the religious development of the parents' children. And those policies pose a very real threat of undermining the religious beliefs and practices that the parents wish to instill in their children." *Mahmoud*, 145 S. Ct. at 2361. Here, the threat is direct – abandon your religious practices or you cannot come to school.

The Supreme Court held that policies that substantially burden a parent's right to direct the religious upbringing and practices of their child at school trigger strict constitutional scrutiny regardless of whether the underlying policy might otherwise be considered neutral and generally applicable, because policies that substantially interfere with parental religious child-rearing occupy a special constitutional category deserving of heightened protection. That reasoning is compounded in the medical decision-making context, because medical decision making, like religion, is a central aspect of the fundamental right of parents. *See Parham v. J.R.*, 442 U.S. 584, 604 (1979) (affirming that parents, not the state, must make critical medical judgments for their children, even when those decisions involve risk).

Nothing in *Mahmoud* allow for an exception just because the burden involves vaccines. And, in keeping with Supreme Court precedent, the Second Circuit abrogated prior case law that allowed a "*Jacobson*" standard instead of strict scrutiny if a case involved public health. *Agudath*

Israel of America v. Cuomo, 983 F.3d 620, 635 (2d Cir. 2020) (citing *Roman Catholic Diocese of Brooklyn*, 141 S. Ct. at 71)

Mahmoud also forecloses the argument previously applied in the Second Circuit that fundamental rights are not burdened by school policies because dissenting parents can simply resort to private schooling or homeschooling. Reacting to that same argument, the Supreme Court stated unequivocally: "It is no answer that parents remain free to place their children in private school or to educate them at home. Public education is a public benefit, and the government cannot 'condition' its 'availability' on parents' willingness to accept a burden on their religious exercise." *Mahmoud*, 145 S. Ct. at 2359.

The constitutional analysis becomes even more compelling when considered in light of New York's compulsory education laws. As *Mahmoud* observed, parents subject to compulsory education requirements "are not being asked simply to forgo a public benefit" but face "an obligation—enforceable by fine or imprisonment—to send their children to public school unless they find an adequate substitute they can afford." New York Education Law § 3205 creates precisely this type of coercive framework, where Jane Doe faces potential criminal prosecution if she cannot secure adequate educational alternatives for Sarah. The choice is thus between violating religious conscience or potentially facing criminal sanctions—a form of coercion that makes the constitutional violation more severe, not less.

2. Strict Scrutiny Also Applies Because the Mandate is Not Generally Applicable

Mahmoud does not require this showing, but strict scrutiny is also independently triggered because the vaccine mandate is not generally applicable. “A law is not generally applicable in two circumstances: (1) when the law treats comparable secular conduct more favorably than religious activity, (2) when it invites the government to consider the particular reasons for a person's conduct by providing ‘a mechanism for individualized exemptions,’” *Miller v. McDonald,* 130 F.4th 258,

267 (2d Cir. 2025) (quoting *Fulton v. City of Philadelphia*, 593 U.S. 522, 533-35 (2021)). In *Fulton,* the Supreme Court held that a policy is not generally applicable, and therefore religious burdens trigger strict scrutiny, if there is *any* mechanism for individualized accommodation from a law, even if never utilized. *Fulton,* 593 U.S. 522.

There is a Circuit split of over whether a vaccine mandate is generally applicable if it allows medical exemptions but not religious. In *Lowe v. Mills,* 68 F.4th 706, 714 (1st Cir.), the First Circuit held: "it is plausible, in the absence of any factual development, that the Mandate [is subject to strict scrutiny], based on the complaint's allegations that the Mandate allows some number of unvaccinated individuals to continue working in healthcare facilities based on medical exemptions while refusing to allow individuals to continue working while unvaccinated for religious reasons."

The Second Circuit, by contrast, imposes a further requirement that the mechanism for exemption has to allow discretion to defeat general applicability. Thus, the Second Circuit has held that the availability of a medical exemption does not defeat general applicability if the medical exemption is "mandatory" – meaning, that the government has no discretion to examine reasons for accommodation requests but must simply accept it if it is written by a licensed doctor on the correct form. *See We The Patriots USA, Inc. v. Conn. Off. of Early Childhood Dev.*, 76 F.4th 130, 147–48 (2d Cir. 2023). In *Miller*, the plaintiffs argued that New York schools routinely exercise discretion to deny medical exemptions from New York State licensed physicians. The court found no evidence *on the record before it* that this discretion was being exercised. *Id*. at 269 ("Without information about a student population and its medical needs, there is no way to infer a discretionary element from the school officials' acceptance of medical exemption requests.")

Here, the record is replete with evidence of the District's arbitrary, case-by-case decision-making when applying the New York school vaccine mandate. District officials accepted a medical

exemption from Dr. Richheimer based on "dermatographia," yet rejected identical certifications from other licensed physicians. (*Compare* Plaintiff's Decl. Ex. 5 *with* Ex. 6). They have enforced an "ACIP-only" policy that effectively limits exemptions to cases of prior anaphylaxis—a standard found nowhere in the statute and that allows them to ignore a wide range of valid medical precautions (*Id*. ¶¶ 155-57, 159). And Defendants' own submission from the state shows that they were granted sole discretion to decide whether to accept or deny an exemption request regardless of the state's opinion about whether it comported with standards of care or not. (ECF No. 11-34 at 3, letter from the state noting that consultations with the state or school district doctor can be sought. "However, after the appropriate consultation has occurred, 'the principal or person in charge of a school' is responsible for making the final determination." This *ad hoc* process, where administrators and their consultants pick and choose which medical opinions are "worthy of solicitude," is precisely the kind of discretionary system the Supreme Court condemned in *Fulton*. 593 U.S. at 537. Thus, as an individualized mechanism for exemption exists, strict scrutiny must apply to denials of religious exemptions even prior to *Mahmoud's* holding that general applicability is irrelevant in this context.

3. Defendants Cannot Meet their Burden Under Strict Scrutiny

The District cannot satisfy strict scrutiny under this analysis. While public health likely represents a compelling government interest in the abstract, the District cannot demonstrate a compelling need to exclude Sarah specifically when she poses no transmission risk to the school community, even if she were to get infected. *See e.g., New York State Asso. for Retarded Children, Inc. v. Carey*, 466 F. Supp. 479, 483-5 (E.D.N.Y. 1978), aff'd 612 F.2d 644 (2nd Cir. 1979) ("there is no substantial risk of communication of hepatitis B from carrier pupils in the Track IV special education programs that justifies their discriminatory exclusion from the benefits of a public school

education, particularly in view of the unavoidable and irreparable harm such exclusion would work on the students involved.") To succeed in establishing narrow tailoring, the government must demonstrate that "public health would be imperiled if less restrictive measures were imposed." *Agudath Israel of America*, 983 F.3d at 637.

4. The District Cannot Escape Liability by Claiming it is "Just Following State Law."

The District argues it is merely enforcing state policy and that Plaintiffs should "take it up with the Legislature" rather than the District. [ECF No. 28 at 3]. This argument fails. School districts are state actors bound by the Constitution regardless of whether their conduct is mandated by state law. The Supreme Court has never held that constitutional violations become permissible merely because they are required by higher authority. *See Monell v. Dep't of Soc. Servs.*, 436 U.S. 658 (1978). Under § 1983, local officials can be held liable for constitutional violations even when implementing state policies. This exact same argument was rejected in *Mahmoud,* where the Court held that a preliminary injunction was properly applied against the school district to enjoin unconstitutional state law:

> Mustering one last alternative, the dissent asserts that, under its approach, the parents would "remain free to raise objections to specific material through the" democratic process. *Post*, at ——. In making this argument, the dissent seems to confuse our country with those in which laws enacted by a parliament or another legislative body cannot be challenged in court. In this country, that is not so. Here, the Bill of Rights and the doctrine of judicial review protect individuals who cannot obtain legislative change. The First Amendment protects the parents' religious liberty, and they had every right to file suit to protect that right.

Mahmoud, 145 S. Ct. at 2360. The school board in *Mahmoud* was required to provide religious accommodation under the First Amendment, just as the District is in this case.

B. The District's Unlawful "Anaphylaxis-Only" Policy Violates Federal and State Disability Laws by Denying a Reasonable Accommodation

The District's denial of a medical exemption, in the face of overwhelming and unanimous medical evidence, is a flagrant violation of the Americans with Disabilities Act ("ADA"),

42 U.S.C. § 12131, *et seq.*, Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, and the New York State Human Rights Law ("NYSHRL"), N.Y. Exec. Law § 296(4). To establish a claim for failure to provide a reasonable accommodation, a plaintiff must show she is a qualified individual with a disability who was denied a reasonable accommodation for that disability. *See Henrietta D. v. Bloomberg*, 331 F.3d 261, 273-77 (2d Cir. 2003). Plaintiffs easily meet this standard.

Sarah is a qualified individual with severe disabilities, and a constellation of symptoms including acquired von Willebrand's disease, an autoimmune hypersensitivity syndrome, horrific rash and periodic partial paralysis, which substantially limit major life activities and bodily functions, including her hemic and immune systems. (FAC ¶¶ 60-61, 63, 69). The requested accommodation—acceptance of a state-sanctioned medical exemption from a single vaccine dose—is eminently reasonable and required by law. Yet, the District has refused to provide it.

The District's justification for its denial rests on an illegal policy—now confirmed expressly by Principal Mitchell's July 2025 letter. (*See* Plaintiff's Decl. Ex. 8 ("Based on the information provided, according to Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices, Autoimmune Sensitivity Syndrome or blood clotting disorders are not listed as contraindications or precautions to Hep B.")) Instead of conducting the required individualized assessment of Sarah's unique medical needs, the District applied a rigid, categorical policy under which only prior anaphylactic reaction personally verified by Dr. Haskoor would be accepted. (FAC ¶¶ 154-55). This approach, which narrowly fixates on specific examples from the CDC's Advisory Committee on Immunization Practices ("ACIP") guidelines while ignoring the broader category of "precautions" and other contraindications, is a *per se* violation of disability law,[1] which requires an individualized inquiry into the specific needs of the disabled

[1] The District's reliance on its narrow "ACIP-only" policy is particularly unreasonable given that ACIP's guidance makes clear that the lists are not intended to be exhaustive and that clinic judgment is paramount. For example, ACIP

person. *See PGA Tour, Inc. v. Martin*, 532 U.S. 661, 688 (2001). As set forth in detail in the expert declaration of Dr. Clayton Baker, Sarah's medical exemptions are consistent with ACIP guidelines and other nationally recognized standards of care, including guidance on package inserts, which is expressly set forth as a basis for exemption on the forms provided by the New York State Department of Health. (Dr. Baker Decl., ¶¶ 8-10).

The District cannot assert undue hardship based on vaccine requirements because New York Public Health Law explicitly provides for medical exemptions, stating: "If *any* physician licensed to practice medicine in this state certifies that such immunization may be detrimental to the child's health, the requirements of this section shall be inapplicable..." PHL § 2164(8) (emphasis added). The statute's plain language is unambiguous—it requires only that "any physician" (not all physicians or a specific designated physician) certify the potential detriment. This singular requirement has been met multiple times over, as six physicians have submitted such certifications for Sarah. The NYSDOH regulations further reinforce this interpretation. They define "may be detrimental to a child's health" to mean "that *a* physician has determined that a child has a medical contraindication or precaution to a specific immunization consistent with ACIP guidance or other nationally recognized evidence-based standards of care." N.Y. Comp. Codes R. & Regs. Tit. 10, § 66-1.1(l) (emphasis added). Here again, the singular article "a physician" language preserves the statute's "any physician" standard. Had the legislature or NYSDOH intended to require consensus among multiple physicians or to grant school districts authority to

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defines a "precaution" very broadly as "a condition in a recipient that *might* increase the risk for a serious adverse reaction, *might* cause diagnostic confusion, or *might* compromise the ability of the vaccine to produce immunity." (Gibson Decl., Exhibit L at 52 (emphasis added)). It also gives a broad example: "The presence of a moderate or severe acute illness with or without a fever is a precaution to administration of all vaccines." (*Id*.) These broad, non-specific definitions inherently require a physician to exercise clinical judgment to determine if a patient's specific condition falls within these categories, and the document defers to medical professionals to "screen patients for contraindications and precautions" and to weigh the benefits and risks when a precaution is present. (*Id*. at 51-52) This context reinforces that the guidelines are a tool to **aid** clinical judgment, not to replace it with a rigid, exhaustive list.

override *a* physician's medical judgment, they could have used language requiring certification from "the school physician," "multiple physicians," or "physicians agreed upon by both parties." The absence of such language, coupled with the deliberate choice of the singular "any" and "a" when referring to the certifying physician, indicates the legislative intent to defer to the medical judgment of a single qualified medical professional chosen by the family to determine what is safe for their child.as well as the guidance it submitted from the state confirming that the principal must make the final choice, regardless of the opinions of the state or their school district doctor. (ECF No. 11-34 at 3).

The illegality of the District's conduct is underscored by the recent, persuasive decision in *A.A.C. v. Starpoint Central School District*, 2025 WL 1201971 (W.D.N.Y. 2025). In that factually analogous case, the court held that under New York Public Health Law § 2164(8), school officials have "no authority under New York law to second-guess [a treating doctor's] medical opinion" and do not possess the "discretion to approve or deny exemptions on a case-by-case basis." *Id.* at *19, 46 (internal quotations and citations omitted). The District's actions here—substituting Dr. Haskoor's judgment for that of six treating physicians and applying a blanket denial policy—are precisely the conduct the *Starpoint* court found to be unlawful. The District has no viable defense; it is black letter law that Sarah poses no "direct threat," as Hepatitis B is not transmitted in school settings, and granting the exemption imposes no undue burden. (*See* Point II(B), infra).

POINT II

PLAINTIFFS SATISFY THE REMAINING FACTORS FOR A PRELIMINARY INJUNCTION

A. Sarah Doe Is Suffering Immediate and Irreparable Harm

Constitutional violations create *per se* irreparable harm. "[T]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Elrod*,

427 U.S. at 373; *Roman Catholic Diocese*, 592 U.S. at 19. It is well-settled that "the alleged violation of a constitutional right…triggers a finding of irreparable harm." *Jolly v. Coughlin*, 76 F.3d 468, 482 (2d Cir. 1996). Thus, if a plaintiff is found likely to succeed on a constitutional claim, injunctive relief should follow. *Am. Civil Liberties Union v. Clapper*, 804 F.3d 617, 622 (2d Cir. 2015). *Mahmoud* reinforces this principle, holding that forcing parents to choose between religious exercise and public education constitutes irreparable harm warranting immediate injunctive relief. Unlike this Court's prior finding that delay undermined irreparable harm claims, *Mahmoud* establishes that ongoing religious burdens compound daily, regardless of when litigation commences.

The irreparable harm here is threefold and escalating. **First**, educational exclusion also causes *per se* irreparable harm. *Plyler v. Doe*, 457 U.S. 202, 223 (1982) (describing educational deprivation as "stigma of illiteracy and isolation [that] will last for the life of the child"). Sarah has already lost most of her sophomore year, and each additional day of exclusion deepens irreversible academic deficits. **Second**, documented psychological trauma compounds the harm. Sarah has been diagnosed with "adjustment disorder with mixed anxiety and depressed mood" directly attributable to her exclusion. (FAC ¶ 177). Her mother describes her as "in a state of crisis" with declining physical health. (Plaintiff's Decl. ¶¶ 14-15). **Third**, the District has created imminent risk of severe physical harm as set forth *Infra* Section IIB. This immediate danger—born of the constitutional violation—cannot be remedied by future monetary damages.

B. <u>The Balance of Hardships Tips Decidedly in Plaintiffs' Favor</u>

When balancing the equities, the Court must weigh the harm a plaintiff will suffer without an injunction against the harm the defendant will suffer if one is granted. Here, this balance tips so overwhelmingly in Sarah's favor that it compels the issuance of injunctive relief. The harm to

Sarah is severe, multifaceted, and certain, while any purported harm to the District is speculative, minimal, and contradicted by established science and law.

The hardship to Sarah is catastrophic. If the injunction is denied, she faces the certain loss of her junior year of high school, compounding the educational deficits she has already suffered. This is not a temporary inconvenience but a permanent disruption to her academic and social development. Furthermore, she will continue to endure the severe psychological distress that has already led to a formal diagnosis of adjustment disorder with mixed anxiety and depressed mood. (Doe Decl. ¶ 14). Most critically, denying the injunction leaves the Does in an untenable position: choose between Sarah's education and her physical safety and spiritual well-being. (*Id*. at ¶ 16). Her desperation to return to school has already driven her to contemplate obtaining the vaccine against the unanimous advice of six of her own physicians and the expert opinion of Dr. Clayton Baker, who has opined that vaccinating her would constitute "medical negligence." (Baker Decl. ¶ 3). Forcing a child into a situation where she might risk a life-threatening medical event to see her friends and classmates is a hardship of the highest order.

In stark contrast, the hardship to the District from granting the injunction is virtually nonexistent. The District's only conceivable interest is in preventing the spread of Hepatitis B, but this interest is not implicated by Sarah's attendance. This Circuit has long held that even a student with an active Hepatitis B infection cannot be excluded from public school as they do not pose a direct threat. *N.Y. State Ass'n for Ret. Children, Inc.* 466 F. Supp. at 485. If it is unlawful to exclude a student who is an active carrier of the virus, it is certainly irrational and arbitrary to exclude a student like Sarah, who is not infected and whose presence poses no risk to anyone. The District will suffer no cognizable harm by allowing Sarah to return to school. The only "hardship" is being required to follow the law and respect the medical judgment of six licensed physicians. The balance

of equities does not merely favor Plaintiffs; it demands that this Court intervene to prevent the severe and ongoing harm to Sarah.

C. Granting the Injunction Serves the Public Interest

The public interest overwhelmingly favors protecting constitutional rights and educational access. As the Supreme Court has held, "the public interest is not harmed by preliminarily enjoining the enforcement of a statute that is likely unconstitutional." *Roman Catholic Diocese*, 592 U.S. at 19-21. The public has vital interests in: (1) ensuring government operates within constitutional bounds; (2) protecting religious exercise and parental rights; and (3) preventing a medically vulnerable child from being forced to choose between education, religious beliefs, and physical safety. Where no transmission risk exists and overwhelming medical evidence warns of potential harm, the public interest lies in protecting the child.

CONCLUSION

Accordingly, Plaintiffs respectfully request that the Court issue a preliminary injunction enjoining the District from excluding her from school for failing to receive the third Hepatitis B vaccine and grant such other and further relief as the Court deems just and proper.

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Respectfully submitted,

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