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S.C. SUPREME COURT

THE STATE OF SOUTH CAROLINA
In the Supreme Court

IN THE ORIGINAL JURISDICTION OF THE SUPREME COURT

No. 2024002062

Yamilette Albertson, on her own behalf and on behalf of her children, Y., A., and J.; and
Constantine Shulikov, on his own behalf and on behalf of his children, A., E., P., N., and V.
..... Petitioners,

v.

Ellen Weaver, in her official capacity as State Superintendent of Education,Respondent.

NOTICE OF NONOBJECTION TO MOTION TO INTERVENE

Petitioners do not oppose the motion to intervene filed by Candace Eidson, Joy Brown, Crystal Rouse, and the South Carolina Education Association. Because the proposed intervenors were parties in *Eidson v. South Carolina Department of Education*, Petitioners consent to their motion to intervene. That said, Petitioners wish to point out a false statement that the putative intervenors make in their motion—specifically, their repeated assertion that “Petitioners filed an *amicus* brief in *Eidson*” raising arguments similar to those they raise in this case. Mot. to Intervene at 1 n.1; *see also id.* at 1 (“Petitioners filed an *amicus curiae* brief arguing in favor of the constitutionality of the ESTF program and raising substantially similar arguments they now raise in their Petition.”).

Petitioners did not file an *amicus* brief in *Eidson*, nor did they participate in *Eidson* in any other way. To be sure, their *counsel* filed an *amicus* brief on behalf of a separate party—the Partnership for Educational Choice—that raised arguments similar to the federal constitutional arguments that form the basis of Petitioners’ claims in this case. But as Petitioners noted in their

Petition for Original Jurisdiction, “no party in *Eidson* raised” those federal constitutional issues “and this Court never addressed” them. Pet. for Original Jurisdiction & Expedited Consideration at 2. Of course, “[a]n amicus curiae is merely a ‘friend of the court,’ not a party to the action, and to that end, an amicus may not assume the functions of a party, nor may it initiate, create, extend, or enlarge the issues.” *Famulus Health, LLC v. GoodRX, Inc.*, No. 2:24-CV-00886-BHH, 2024 WL 4151090, at *5 (D.S.C. Sept. 11, 2024) (internal quotation marks and citation omitted).

With the putative intervenors’ inaccuracy addressed, Petitioners do not object to their participation in this case.

Dated: December 23, 2024

Respectfully submitted,

/s/ Matthew P. Cavedon
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**Pro Hac Vice* Applications Pending