

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

YAIR LEV, individually and as parent and Natural guardian of his children, <i>et al.</i> ,	:	CIVIL ACTION
	:	
	:	NO. 2:26-CV-06347
Plaintiffs,	:	
	:	HON. JOHN MILTON YOUNGE
v.	:	
	:	
LOWER MERION SCHOOL DISTRICT, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**DEFENDANTS' BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY
INJUNCTION**

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I. INTRODUCTION

Currently before this Court is the Motion for Preliminary Injunction filed by Plaintiffs Yair Lev, Eleanor Stanford, Joaquin Imaizumi, Erin Amini, Michael Amini, Meredith Brisco-Bacik, Bradley Bacik, Bertha Escobedo Barrondo, James Hausman, and Sara Moyn (collectively, “Plaintiffs”) on behalf of themselves and/or their respective children. (Doc. 14.) In their Motion, Plaintiffs seek an injunction to restore a prior technology policy of Defendant Lower Merion School District (the “District”) under which they claim parents who declined a District-issued, internet-connected device would receive guaranteed non-technological accommodations for their children or, in the alternative, reimbursement for the cost of enrolling their children in private school. Plaintiffs’ Motion, however, is meritless in every sense of the word.

For one, it is based on a nonexistent constitutional right of a parent to choose which technology their child uses in a public school, if any. The Motion is also predicated upon the false premise that the prior District technology policy afforded parents the right to “opt-out” of all technology-based instruction for their children while enrolled at the District, when, in reality, it did not. Moreover, Plaintiffs claim that they are seeking to preserve the “status quo ante as of August 17, 2026,” (Doc. 14 at 1; *see* Doc. 14–1 at 1, 10), but this is untrue as the District’s Board of School Directors repealed the technology policy in question on June 15, 2026, (Doc. 14–1 at 1). Further, Plaintiffs’ suggestion that there is an urgent need for judicial relief in this case (*id.* at 11) is belied by the fact that they waited until 77 days after the repeal of the District’s prior technology policy to file their 114-page Complaint (Doc. 1). Additionally, at least six of the seven Plaintiff families lack standing to bring the underlying lawsuit because they did not suffer a concrete injury as a result of the District’s new technology policy.

Assuming, *arguendo*, standing exists, Plaintiffs improperly seek a permanent injunction as an alternative form of relief. To the extent they actually seek a preliminary injunction, Plaintiffs cannot

establish any of the four factors. They have not shown and cannot show irreparable harm as personified by their desperate reference to the supposed ills of “unacceptably dangerous AI chatbots.” (Doc. 14–1 at 14.) Nor can they show a likelihood of success on the merits because, among other reasons, “parents simply do not have a constitutional right to control each and every aspect of their children’s education and oust the state’s authority over that subject.” *Swanson v. Guthrie Indep. Sch. Dist.*, 135 F.3d 694, 699 (10th Cir. 1998). And they cannot satisfy the remaining two factors for a preliminary injunction either, because granting the requested injunction will result in greater harm to Defendants than Plaintiffs and the public interest strongly militates against injunctive relief here.

At bottom, Plaintiffs’ Motion is just the latest attempt by a small—but vocal—minority of the District community to pressure the duly-elected members of the Board of School Directors to kowtow to their peculiar views on technology in the classroom. But such an abuse of the legal process should not be countenanced by this Honorable Court. Accordingly, and for the additional reasons set forth below, Defendants Lower Merion School District, Frank Ranelli, Kerry Sautner, Todd Ridky, Jason Herman, Shayna Kalish, Juanita Kerber, and Anna Shurak (collectively, “Defendants”) respectfully request that this Court summarily deny Plaintiffs’ Motion.

II. COUNTERSTATEMENT OF THE CASE

The District serves approximately 62,000 residents of Lower Merion Township and the Borough of Narberth. (*See* Doc. 25 (Shafer Decl. ¶ 3).) Established as one of Pennsylvania’s first public school districts in 1834, the District enjoys a rich tradition of achievement, innovation, and community partnership, as well as a longstanding reputation as one of the finest school systems in the United States. (*See id.* (Shafer Decl. ¶ 4).) The District’s six elementary schools, three middle schools, and two high schools provide a challenging, multi-disciplinary academic program and dynamic, extra-curricular experiences to approximately 8,600 students. (*See id.* (Shafer Decl. ¶ 5).) The District is led by an elected Board of

School Directors, a superintendent, and a team of senior administrators. (*See id.* Shafer Decl. ¶ 6.) The nine-member Board sets the District’s educational policies, among other things. (*See id.* (Shafer Decl. ¶ 7).)

For the past 30 years, the Board has enacted and revised multiple policies dealing with the use of technology by students. (*See id.* (Shafer Decl. ¶ 8).) One of them is former Board Policy 137. (*See id.* (Shafer Decl. ¶ 9).) Originally adopted on April 25, 2011, former Board Policy 137 established a policy for student use of District-issued electronic devices consistent with the educational mission of the District. (*See* Doc. 25–1 at 1.) The policy operated as follows. Before the beginning of each school year, the District Superintendent or designee provided a written notification to all District parents and guardians who were eligible to be issued an electronic device by the District about the District’s “One-to-One Electronic Device Initiative,”¹ as well as information relating to other District policies regarding electronic device distribution and use. (*Id.* at 2(II)(1).) Each student’s parent or guardian in grades K-12, along with each student in grades 5-12, had to sign an Agreement for Electronic Device Use setting forth the terms and conditions of former Board Policy 137 and other related policies and acknowledge receipt of guidelines for use of the device. (*Id.* at 2(II)(2)(a).) In the event that the parent/guardian or student refused to sign the Agreement for Electronic Device Use, “the Superintendent or designee shall be responsible for ensuring that the District uses its best efforts to make necessary accommodations for the student to ensure that the student’s education is not adversely affected.” (*Id.* at 2(II)(2)(b).)

¹ The One-to-One Electronic Device Initiative began at the high school level in 2007. (*See* Doc. 25 (Shafer Decl. ¶ 12 n.1).) During the pandemic, all students in the District (elementary, middle, and high school) were provided with Chromebooks or Mac Books due to the unique circumstances of the pandemic. (*See id.*) However, the One-to-One Electronic Device Initiative was not formally expanded to middle school until 2022 and was never formally expanded to elementary school. (*See id.*) Post pandemic elementary students had access to devices for teacher-directed, instructional purposes. (*See id.*) In June 2026, Board Policy 137 was repealed. (*See id.*)

The accompanying Administrative Regulation stated that: “In the event the parent/guardian or student refuses to sign either form Agreement for Electronic Device Use . . . , the building principal shall be responsible for ensuring that Attachment D is sent to the parent/guardian and that the District uses its best efforts to make necessary accommodations for the student to ensure that the student’s education is not adversely affected.” (Doc. 25–2 at 2(IV).) Importantly, Attachment D to the Administrative Regulation, in turn, provided:

In the event that the parent/guardian of a student, or the student themselves if the student is over 18, decline to participate in the One-to-One Electronic Device Initiative by refusing to sign an Agreement for Electronic Device Use, the building principal shall be responsible for making necessary accommodations for the student to ensure that the student’s education is not adversely affected. *Such accommodations may include access to printed resources and access to building based electronic devices in areas such as Libraries and Help Centers.*

All accommodations will be made on an individualized basis. *The District does not guarantee that all accommodations will be provided to all students who do not participate in the One-to-One Electronic Device Initiative.*

(Doc. 25–2 at 19 (emphasis added).)

As the foregoing makes clear, former Board Policy 137 and its accompanying regulation did not create an “opt-out” of all technology-based instruction while a student is enrolled at the District. To the contrary, former Board Policy 137 and its Administrative Regulation allowed for non-guaranteed accommodations for students whose parents/guardians refused assignment of a District-issued electronic device, and such accommodations included “access to building based electronic devices.” At no point in time did former Board Policy 137 or its accompanying regulation permit a parent/guardian to eliminate all technology from their child’s education within the District. (*See* Doc. 25 (Shafer Decl. ¶ 19).)

Against this backdrop, and following a public presentation on balanced technology use in the fall of 2025, the District began looking at revising its technology policies and practices as part of its increased focus on the purpose and balanced use of technology in the classroom, with the goal of enhancing

consistency, clarity, and transparency. (*See id.* (Shafer Decl. ¶ 20).) Over the next several months, the District sought input from parents/guardians, teachers, students, and other stakeholders about the use of technology and its impact on students, which included multiple special meetings with parents/guardians and other stakeholders. (*See id.* (Shafer Decl. ¶ 21).) Those community members offered diverse—and often divergent—views and perspectives on the appropriate amount and purpose of technology in the classroom. (*See id.* (Shafer Decl. ¶ 22).) After hearing those competing opinions together with input from District staff, the Board voted to repeal former Board Policy 137 at a duly-noticed public meeting, on June 15, 2026. (*See id.* (Shafer Decl. ¶ 23).)

Then, on August 17, 2026, the Board voted to adopt Board Policy 141. (*See id.* (Shafer Decl. ¶ 24).) The key features of Board Policy 141 include:

- **“Early Elementary (K-Grade 2):** Students in Kindergarten through Grade 2 shall not be issued individual devices. Technology shall not be used for routine classroom instruction in these grades. Any use shall be minimal, highly structured, and limited to specific educational purposes”
- **“Upper Elementary (Grades 3–4):** Students shall have supervised, teacher-directed access to technology resources. Devices shall remain in the classroom or another designated location and shall be used only as directed by the teacher. Teachers shall use technology only for limited, developmentally appropriate activities tied to standards, approved curricular resources and state testing preparation and mandates. Devices shall remain at school.”
- **“Lower Middle School (Grades 5–6):** Students shall have supervised, teacher-directed access to technology resources. Students will be assigned individual devices; however, students shall not be required to use a computer at home. Parents/guardians may choose to allow their child to bring individual devices home for educational purposes, but are not required to do so. Devices shall not be used in school buildings in the morning before classes begin, between classes, at lunch, or during Intervention & Enrichment except for a specific instructional purpose under teacher supervision. Teachers shall use technology only for limited, appropriate activities tied to standards and approved curricular resources.”
- **“Upper Middle School (Grades 7–8):** Students shall have supervised, purposeful access to technology resources. Students will be assigned individual devices for instructional use during the school day and may take such devices to and from school.

Devices shall be used only for approved instructional purposes and school-related work in accordance with teacher direction and District expectations. . . .”

- **“High School (Grades 9–12):** Students shall be assigned individual devices to carry throughout the school day and to and from school. Devices may be used for approved instructional purposes and school-related work in accordance with District expectations, with increasing student responsibility for appropriate, effective, and independent use. . . .”

(Doc. 25–3 at 3–4.)

On August 31, 2026, 77 days after the Board repealed former Board Policy 137, Plaintiffs filed a Complaint against the District, its Superintendent, and seven of the nine members of the Board of School Directors on behalf of themselves and/or their respective children, asserting claims of “[s]ubstantive due process violation of Plaintiffs’ parental rights—care (health)” (Count I), “[s]ubstantive due process violation of Plaintiffs’ parental rights—care (safety)” (Count II), “[s]ubstantive due process violation of Plaintiffs’ parental rights—care (privacy)” (Count III), “[s]ubstantive due process violation of Plaintiffs’ parental rights—education” (Count IV), and declaratory judgment (Count V). (*See* Doc. 1 ¶¶ 618–684.) Counts I–IV are all brought purportedly under 42 U.S.C. § 1983. (*See id.* ¶¶ 618–678). All of Plaintiffs’ claims are premised on the allegation that Defendants are “violating Plaintiffs’ constitutional rights by requiring Plaintiffs’ children to use computers that are persistently connected to the internet and that expose them to all manner of online harms and risks to their health, safety, and privacy.” (*Id.* ¶ 9.)

Plaintiffs contemporaneously filed a Motion for Preliminary Injunction, seeking to enjoin Defendants from “interfering with their ability to make decisions regarding the care of their children, including those necessary to protect their health, safety, and privacy, and from undermining their ability to direct their children’s education and upbringing, by requiring Plaintiffs’ children to use internet-connected computers to access their education that are unhealthy, unsafe, and invade their privacy.” (Doc. 14 at 1.) In the alternative, Plaintiffs seek an order “requiring the District to pay the tuition, fees, and other costs of private education for any child for whom the District refuses to make the necessary accommodations.” (*Id.*)

III. COUNTERSTATEMENT OF QUESTION INVOLVED

A. Whether this Court should deny Plaintiffs’ Motion for Preliminary Injunction?

Suggested Answer: Yes, deny the Motion on the papers.

IV. ARGUMENT

A. **This Court Should Deny Plaintiffs’ Motion for Preliminary Injunction**

A preliminary injunction is a “drastic and extraordinary remedy” that should be granted only in limited circumstances. *Issa v. Sch. Dist. of Lancaster*, 847 F.3d 121, 131 (3d Cir. 2017). Courts apply a four-pronged test in weighing the propriety of injunctive relief. They look first to the “most critical” factors: likelihood of success on the merits; and irreparable harm. *Reilly v. City of Harrisburg*, 858 F.3d 173, 179 (3d Cir. 2017). These two factors are “gateway” requirements, and the absence of either one ends the inquiry. *Id.* If the movant satisfies the first two factors, the Court may proceed to the third and fourth—the potential for harm to others, and whether the public interest favors an injunction. *See id.* at 176, 179. Failure to establish any one of the four factors renders an injunction “inappropriate.” *NutraSweet Co. v. Vit-Mar Enters., Inc.*, 176 F.3d 151, 153 (3d Cir. 1999).

A faithful application of these standards reveals Plaintiffs are not entitled to the sought-after injunction.

1. At least six of the seven Plaintiff families lack standing to sue Defendants because they did not suffer a concrete injury as a result of the District’s new technology policy

As a threshold matter, nearly all Plaintiffs lack standing to sue Defendants. Article III of the United States Constitution limits the federal courts to adjudication of “cases” and “controversies.” U.S. CONST. art. III, § 2, cl. 1. One doctrine encompassed by the case-or-controversy requirement is standing. The United States Supreme Court has repeatedly described the question of standing as a “threshold issue.” *Wayne Land & Mineral Grp. LLC v. Del. River Basin Comm’n*, 959 F.3d 569, 575 (3d Cir. 2020) (collecting

cases; internal citation and quotation marks omitted). Article III standing requires the plaintiff to have a personal stake in the case and, thus, guarantees that the federal judicial power is confined to the resolution of cases and controversies. *See, e.g., TransUnion LLC v. Ramirez*, 594 U.S. 413, 423 (2021). The plaintiff bears the burden of establishing standing. *See id.* at 430–31.

In order to establish standing to sue, plaintiffs must show that (1) they have suffered an injury in fact, (2) the injury is fairly traceable to the conduct of the defendant, and (3) the injury is likely redressable by a favorable decision. *See, e.g., Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). To establish the first requirement, a plaintiff must show that he or she suffered ‘an invasion of a legally protected interest’ that is ‘concrete and particularized’ and ‘actual or imminent, not conjectural or hypothetical.’” *Id.* at 339 (quoting *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560 (1992)). The alleged invasion of a protected interest must be “concrete and particularized,” in the sense that “concrete” means the injury must be “de facto.” *Id.* at 340. In other words, it must be “real” and not “abstract.” *Id.* Importantly, the United States Supreme Court has rejected the proposition that “a plaintiff automatically satisfies the injury-in-fact requirement whenever a statute grants a person a statutory right and purports to authorize that person to sue to vindicate that right.” *TransUnion*, 594 U.S. at 426 (citation and internal quotation marks omitted). “Article III standing requires a concrete injury even in the context of a statutory violation.” *Spokeo*, 578 U.S. at 341.

Furthermore, “standing is not dispensed in gross.” *Lewis v. Casey*, 518 U.S. 343, 358 n.6 (1996). Instead, “a plaintiff must demonstrate standing separately for each form of relief sought.” *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs. (TOC), Inc.*, 528 U.S. 167, 186 (2000); *see, e.g., L.A. v. Lyons*, 461 U.S. 95, 109 (1983) (notwithstanding the fact that plaintiff had standing to pursue damages, he lacked standing to pursue injunctive relief). “The same principle applies when there are multiple plaintiffs.” *Town of Chester v. Laroe Estates, Inc.*, 581 U.S. 433, 439 (2017).

Here, and as conceded by Plaintiffs, “three Plaintiff families withdrew their children from schools in the District in the spring and summer of 2026,” (Doc. 1 ¶ 12; *see* Doc. 14–1 at 8), while “[a]nother Plaintiff family wants to enroll, but the current environment prevents them from doing so,” (Doc. 14–1 at 8). Critically, none of the children of those families (the Escobedo Barrondo family, the Hausman family, the Moyn family, and the Standford/Imaizumi family) were enrolled in the District at the time of the alleged event that forms the basis of this lawsuit—*i.e.*, the School Board’s enactment of a new policy on August 17, 2026, in which parents were supposedly “no longer able to decline a computer for their child,” (*id.* at 1). (*See* Doc. 25 (Shafer Decl. ¶¶ 29–30).) Moreover, while former Board Policy 137 is no longer in effect, even if it was, both of the Lev children, two of the Amini children, and all three of the Bacik children “would not have been eligible to receive a District-issued electronic device under the One-to-One Electronic Device Initiative because they are not in 5th grade or above.” (*Id.* (Shafer Decl. ¶ 28).) Thus, the Bacik, Escobedo Barrondo, Hausman, Lev, Moyn, and Standford/Imaizumi families all did not suffer a concrete injury as a result of the District’s new policy; the alleged injury is entirely abstract.² Therefore, at least six of the seven Plaintiff families lack standing to bring this lawsuit.

2. Assuming, *arguendo*, standing exists, Plaintiffs improperly seek a permanent injunction as an alternative form of relief

Assuming, *arguendo*, standing exists, Plaintiffs’ Motion suffers from a fatal flaw. While Plaintiffs assert that they are moving for a preliminary injunction only, (*see* Doc. 14 at 1), in reality, they are seeking a permanent injunction, in part. This is because Plaintiffs are requesting “an order requiring the District to

² Defendants are mindful of this Court’s recent decision in *Hiester v. School District of Philadelphia*, No. 2:25–CV–04502, 2026 U.S. Dist. LEXIS 188206 (E.D. Pa. Aug. 21, 2026). *Hiester*, however, is distinguishable from the instant matter for standing purposes because the students there alleged violations of their respective constitutional rights while enrolled at the school district at issue. *See id.* at *2. Here, in contrast, Plaintiffs are alleging supposed constitutional violations that occurred after three Plaintiff families unenrolled from the District (as in the case of the the Hausman family, the Moyn family, and the Standford/Imaizumi family) or before they were even enrolled there (as in the case of the Escobedo Barrondo family).

pay the tuition, fees, and other costs of private education for any child for whom the District refuses to make the necessary accommodations” as an alternative form of relief. (*Id.*; accord Doc. 14–1 at 15.) This is a classic example of a permanent injunction because it does not contemplate an injunction only for the pendency of the litigation. *See, e.g., Transcontinental Gas Pipe Line Co., LLC v. Pa. Env’t Hearing Bd.*, 108 F.4th 144, 150 (3d Cir. 2024) (“A preliminary injunction is an extraordinary and drastic subspecies of injunctive relief that is issued before resolution on the merits and that applies during the pendency of litigation.” (citation and internal citation marks omitted)). *See generally* 42 AM. JUR. 2D INJUNCTIONS § 11 (2025) (“A final or permanent injunction is perpetual in effect[.]”). Such relief is inappropriate at this stage of the proceedings.

3. To the extent they actually seek a preliminary injunction, Plaintiff have not shown and cannot show irreparable harm

To the extent they actually seek a preliminary injunction, Plaintiff families have not shown and cannot show irreparable harm. The standard for irreparable harm is high. The movant must prove “that it is more likely than not to suffer irreparable harm in the absence of preliminary relief.” *Reilly*, 858 F.3d at 179. It is “not enough” to establish “a risk of irreparable harm.” *Hoxworth v. Blinder, Robinson Co.*, 903 F.2d 186, 205 (3d Cir. 1990). The movant must make “a clear showing of immediate irreparable injury.” *Id.* Moreover, when a movant seeks mandatory relief that does not maintain but instead alters the status quo like here, the movant must meet an even “higher standard of showing irreparable harm,” since mandatory injunctions are generally disfavored. *Bennington Foods LLC v. St. Croix Renaissance Grp., LLP*, 528 F.3d 176, 179 (3d Cir. 2008). It follows that “[m]andatory injunctions should be used sparingly.” *United States v. Price*, 688 F.2d 204, 212 (3d Cir. 1982) (citation omitted).

Moreover, and despite Plaintiffs’ contrary intimation, a purported “[c]onstitutional harm is not necessarily synonymous with the irreparable harm necessary for issuance of a preliminary injunction.” *Hohe v. Casey*, 868 F.2d 69, 73 (3d Cir. 1989). Indeed, the United States Court of Appeals for the Third

Circuit recently held that, outside the First Amendment context, an alleged violation of a litigant's constitutional rights does not constitute *per se* irreparable harm. *See Del. State Sportsmen's Ass'n v. Del. Dep't of Safety & Homeland Sec.*, 108 F.4th 194, 203–04 (3d Cir. 2024).

Plaintiffs here cannot come close to clearing the bar of establishing irreparable harm—and on that basis alone, this Court should deny the Motion. *See id.* at 203 (“When one factor is dispositive, a district court need not consider the others.” (internal citation and quotation marks omitted).)

a. Plaintiffs have an adequate remedy at law

It is axiomatic that the equitable remedy of an injunction is inappropriate where the movant has an adequate remedy at law. *See, e.g., Instant Air Freight Co. v. C.F. Air Freight*, 882 F.2d 797, 801 (3d Cir. 1989). As the Supreme Court has explained, “[t]he possibility that adequate compensatory or other corrective relief will be available at a later date . . . weighs heavily against a claim of irreparable harm.” *Sampson v. Murray*, 415 U.S. 61, 90 (1974). Despite Plaintiffs’ contrary assertions, (*see* Doc. 1 ¶¶ 631, 645, 663, 678, 690), Section 1983 claims are, by their very nature, compensable by monetary damages. *See, e.g., Carey v. Piphus*, 435 U.S. 247, 256–57 (1978) (“To the extent that Congress intended that awards under § 1983 should deter the deprivation of constitutional rights, there is no evidence that it meant to establish a deterrent more formidable than that inherent in the award of compensatory damages.”). In fact, Plaintiffs themselves acknowledge that their causes of action are compensable by money damages by requesting in their Complaint that the District be ordered to “pay the tuition, fees, and other costs of private education for any child whose parent seeks to decline or limit their child’s use of an internet-connected computer, and for whom the Defendants refuse to make necessary accommodations.” (Doc. 1, RELIEF REQUESTED ¶ 2.) This reason, without more, is a sufficient basis to deny Plaintiffs’ Motion.

b. Neither homeschooling a child nor sending a child to private school constitute irreparable harm

Plaintiffs argue that if the injunction is not granted, “the harm will be irreparable.” (Doc. 14–1 at 13.) As support, they initially point to the purported “burden” of one Plaintiff parent homeschooling her son, as well as the fact that other Plaintiff parents will be “forced” to enroll their children at “low-technology private schools” at their “expense.” (*Id.*) Plaintiffs, however, fail to cite any authority, published or otherwise, that stands for the proposition that homeschooling a child constitutes irreparable harm. (*See id.* at 1–15.)³ The same is true for enrolling a child in a private school. (*See id.* at 1–15). Moreover, logic dictates that the expense of enrolling a child at a private school is compensable with money damages. *See, e.g., Frank’s GMC Truck Ctr., Inc. v. General Motors Corp.*, 847 F.2d 100, 102–03 (3d Cir. 1998) (“The availability of adequate monetary damages belies a claim of irreparable injury.”).

Further, both education options are authorized under the Pennsylvania Public School Code, 24 P.S. §§ 1–101 to 27–2702. *See, e.g., Combs*, 540 F.3d at 236 (“The Pennsylvania General Assembly currently permits parents to choose among four alternative categories of education to satisfy the compulsory attendance requirement: (1) a public school with certain trade school options; (2) a private academic day school or private tutoring; (3) a day school operated by a bona fide church or other religious body; or (4) a home education program.” (citations, footnotes, and internal quotation marks omitted).) Because homeschooling and enrollment at a private school are both lawful, it necessarily follows that neither can amount to irreparable harm. *Cf. PUC v. Israel*, 52 A. 2d 317, 321 (Pa. 1947) (holding that when the Legislature declares certain conduct to be unlawful, it is tantamount to calling it injurious to the public, and to continue such unlawful conduct constitutes irreparable injury for purposes of seeking injunctive relief).

³ It bears noting that the United States Court of Appeals for the Fourth Circuit reversed the entry of a preliminary injunction where the plaintiffs alleged irreparable harm due to being forced to homeschool their child. *See Perry v. Marteney*, 172 F.4th 315, 329 (4th Cir. 2026).

c. The balance of the alleged harms are vague and speculative, and therefore, insufficient to support a preliminary injunction

The other purported harms that Plaintiffs cobble together are speculative at best. *See, e.g., Adams v. Freedom Forge Corp.*, 204 F.3d 475, 488 (3d Cir. 2000) (for a preliminary injunction to issue, “the risk of irreparable harm must not be speculative”). They assert, for example, that their children will have access to “unacceptably dangerous AI chatbots” if the sought-after injunction is not entered. (Doc. 14–1 at 14.) Plaintiffs also claim that their privacy rights will be violated. (*See id.*) They further contend that, absent a preliminary injunction, certain Plaintiff children will suffer “headaches, stress, anxiety, frustration, harms to their attention, their eyes, neck, spine, and wrists, and be exposed to conditions that exacerbate symptoms to their ASD or ADHD.” (*Id.*) And when all else fails, Plaintiffs resort to fearmongering, maintaining: “A digital world that is not designed to be healthy, safe, or respectful of privacy will be forced into Plaintiffs’ homes and into their children’s lives in ways they do not want, did not ask for, and cannot adequately control.” (*Id.*) All of these purported harms are hypothetical—and none of them are even irreparable. Case in point: Section 1983 provides Plaintiffs a vehicle to recover monetary relief for physical pain and suffering such as headaches, stress, anxiety, stiff neck, etc. *See, e.g., Memphis Cmty. Sch. Dist. v. Stachura*, 477 U.S. 299, 307 (1986) (noting that mental anguish and pain and suffering are compensable with monetary damages in a Section 1983 action).

4. Plaintiffs have not shown and cannot show a likelihood of success on the merits

The required showings on the first two factors are correlative: because Plaintiffs’ showing of irreparable harm is flimsy at best, even more is required for its showing on the merits. *See Reilly*, 858 F.3d at 179. Plaintiffs fail to meet this burden, too.

a. There is no constitutional right for a parent to choose which technology their child uses in a public school, if any

Plaintiffs argue that Defendants have presented them with an “unconstitutional ultimatum:” “either waive their constitutional rights or remove their children from the District.” (Doc. 14–1 at 11.) But this is a false dichotomy because the purported constitutional right asserted in this case—the right for a parent to choose which technology their child uses in a public school, if any (*see, e.g., id.* at 12)—has never been recognized.

b. Any alleged interference between the District’s new technology policy and a parent’s limited right to direct their child’s education does not rise to the level of a constitutional violation

Cognizant of that reality, Plaintiffs urge a “novel application”⁴ of a parent’s constitutional right to make decisions regarding the care, custody, and control of their children, and to direct their education and upbringing. (Doc. 14–1 at 12 (citing *Meyer v. Nebraska*, 262 U.S. 390, 399 (1923), and *Pierce v. Society of Sisters*, 268 U.S. 510, 533–534 (1925).) However, that right “is neither absolute nor unqualified.” *C.N. v. Ridgewood Bd. of Educ.*, 430 F.3d 159, 182 (3d Cir. 2005). Rather, “it is a limited one.” *Combs v. Homer-Center Sch. Dist.*, 540 F.3d 231, 247 (3d Cir. 2008).

In *Gruenke v. Seip*, 225 F.3d 290 (3d Cir. 2000), the Third Circuit recognized that, despite the Supreme Court’s “near-absolutist pronouncements” concerning the right to familial privacy, a parent’s right to raise and nurture their child is necessarily qualified in a school setting where “the state’s power is ‘custodial and tutelary, permitting a degree of supervision and control that could not be exercised over free adults,’” adding: “[T]here may be circumstances in which school authorities, in order to maintain order and a proper educational atmosphere in the exercise of police power, may impose standards on conduct of students that differ from those approved by some parents.” *Id.* at 304 (quoting *Vernonia Sch. Dist. v. Acton*,

⁴ EdTech Law Center, Active Cases, Lower Merion School District, <https://edtech.law/cases/lower-merion-school-district/> (last visited Sept. 10, 2026).

515 U.S. 646, 655 (1995)). The Third Circuit reiterated that principle in *Ridgewood*, writing that “in certain circumstances the parental right to control the upbringing of a child must give way to a school’s ability to control curriculum and the school environment.” 430 F.3d at 182. More recently, in *Combs*, the Third Circuit made clear that “[p]arents do not have a constitutional right to avoid reasonable state regulation of their children’s education.” 540 F.3d at 249.

Other federal Circuit Courts similarly have held that a parent’s right to direct their child’s education is limited in scope. *See, e.g., Mozert v. Hawkins Cnty. Bd. of Educ.*, 827 F.2d 1058, 1065 (6th Cir. 1987) (parents have no right to exempt their children from certain reading programs the parents found objectionable); *Fleischfresser v. Dirs. of Sch. Dist. 200*, 15 F.3d 680 (7th Cir. 1994) (same); *Murphy v. State of Arkansas*, 852 F.2d 1039, 1044 (8th Cir. 1988) (home-schooled children may be subjected to standardized testing to assess the quality of education the children are receiving, even over the parents’ objections); *Brown v. Hot, Sexy & Safer Prods., Inc.*, 68 F.3d 525, 533 (1st Cir. 1995) (finding in context of plaintiff parents’ claim that mandatory student attendance at sexually explicit AIDS awareness assembly that plaintiff parents had failed to demonstrate an intrusion of “constitutional magnitude” on the right to direct the upbringing and control of child); *Immediato v. Rye Neck School Dist.*, 73 F.3d 454, 462 (2d Cir. 1996) (no right for parents to exempt their children from a school’s community-service requirement); *Hill-Carrboro City Bd. of Educ.*, 89 F.3d 174 (4th Cir. 1996) (same); *Swanson*, 135 F.3d at 700 (10th Cir. 1998) (a school policy against part-time attendance does not violate parent’s right to direct upbringing of child).

In short, “[t]he case law in this area establishes that parents simply do not have a constitutional right to control each and every aspect of their children’s education and oust the state’s authority over that subject.” *Swanson*, 135 F.3d at 699. The rationale behind this long line of cases is sound:

If all parents had a fundamental constitutional right to dictate individually what the schools teach their children, the schools would be forced to cater a curriculum for each student whose parents had genuine moral disagreements with the school’s choice of subject matter. We cannot see that the Constitution imposes such a burden on state educational systems,

and accordingly find that the rights of parents as described by *Meyer* and *Pierce* do not encompass a broad-based right to restrict the flow of information in the public schools.

Brown, 68 F.3d at 534.

Plaintiffs nonetheless argue that their limited right to direct their child's education is implicated here because "Defendants' alleged conduct strikes at the heart of parental decision making in matters of public importance: their children's health, their safety, and their privacy; how their children learn; and how they raise their children to develop good habits, sound character, and internal motivation." (Doc. 14–1 at 12–13.) In doing so, Plaintiffs invoke the Third Circuit's statement in *Gruenke* that "[a] school's policies might come into conflict with the fundamental right of parents to raise and nurture their child. But when such collisions occur, the primacy of the parents' authority must be recognized and should yield only where the school's action is tied to a compelling interest." (*Id.* at 13 (quoting *Gruenke*, 225 F.3d at 305).)

But Plaintiffs misread *Gruenke*. As the Third Circuit subsequently explained in *Ridgewood*, *Gruenke* "recognize[s] [] a distinction between actions that strike at the heart of parental decision-making authority on matters of the greatest importance and other actions that . . . are not of constitutional dimension." 430 F.3d at 184; *accord Combs*, 540 F.3d at 249. The Third Circuit noted that "[o]ther Courts of Appeals have recognized a similar distinction" and cited favorably a series of decisions that stand for the proposition that state action which affects the parental relationship only incidentally is insufficient to establish a violation of a constitutional dimension. *Ridgewood*, 430 F.3d at 184 (citing *Hodge v. Jones*, 31 F.3d 157, 163 (4th Cir. 1994), *Pittsley v. Warish*, 927 F.2d 3, 8 (1st Cir. 1991), *Duchesne v. Sugarman*, 566 F.2d 817, 825 (2d Cir. 1977), and *Bohn v. County of Dakota*, 772 F.2d 1433, 1436 n.4 (8th Cir. 1985)).

Turning to the facts of *Ridgewood*, the Third Circuit concluded that, while the Supreme Court has extended constitutional protection to parental decisions regarding certain matters, "the decision whether to permit a middle or high school student to participate in a survey of [seeking information about students' drug and alcohol use, sexual activity, experience of physical violence, attempts at suicide, personal

associations and relationships (including the parental relationship), and views on matters of public interest] is not a matter of comparable gravity.” *Id.* at 185. The Third Circuit determined that “introducing a child to sensitive topics before a parent might have done so herself can complicate and even undermine parental authority, but . . . the survey in this case did not intrude on parental decision-making authority in the same sense as occurred in *Gruenke*.” *Id.* “School Defendants in no way indoctrinated the students in any particular outlook on these sensitive topics,” the Third Circuit continued. *Id.* “[A]t most, they have introduced a few topics unknown to certain individuals.” *Id.* The Third Circuit thus held that the survey’s interference with parental decision-making authority did not amount to a constitutional violation. *Id.*

The same is true here. At most, the District’s new technology policy (Board Policy 141) only incidentally interferes with a parent’s limited right to direct their child’s education. Such indirect interference is insufficient to rise to the level of a constitutional violation. *See Ridgewood*, 430 F.3d at 184; *see also J.S. v. Blue Mt. Sch. Dist.*, 650 F.3d 915, 933–34 (3d Cir. 2011) (“the parents’ liberty interest will only be implicated if the state’s action ‘deprived them of their right to make decisions concerning their child,’ and not when the action merely ‘complicated the making and implementation of those decisions.’” (quoting *Ridgewood*, 430 F.3d at 184)).

c. Even assuming, *arguendo*, that the alleged interference is of a constitutional dimension, the District’s new technology policy satisfies rational basis review

Even assuming, *arguendo*, that the alleged interference caused by the District’s new technology policy is of a constitutional dimension, the policy is subject to rational basis scrutiny, which it easily satisfies. This is because, per Pennsylvania law, the District’s curriculum requires the use of electronic devices, necessitating students’ access to the same. *See, e.g.*, 22 Pa. Code Part I, Subpt A, Ch 4, Appendix A-2 (students required to “explore a variety of digital tools to produce and publish writing or in collaboration with peers”).

Evidently aware of this fact, Plaintiffs self-servingly proclaim that “Defendants must survive strict scrutiny.” (Doc. 14–1 at 12.) But as noted by the Fourth Circuit,

From *Meyer* to *Runyon* [*v. McCrary*, 427 U.S. 1976], the Supreme Court has stated consistently that parents have a liberty interest, protected by the Fourteenth Amendment, in directing their children’s schooling. Except when the parents’ interest includes a religious element, however, the Court has declared with equal consistency that reasonable regulation by the state is permissible even if it conflicts with that interest. That is the language of rational basis scrutiny.

Herndon by Herndon v. Chapel Hill-Carrboro City Bd. of Educ., 89 F.3d 174, 179 (4th Cir. 1996); *see Immediato*, 73 F.3d at 462 (collecting cases and observing that “[o]ther circuits, analyzing state-imposed educational requirements, have expressly applied the rational basis standard when reviewing a parent’s claimed right to control the upbringing of their child”).⁵

d. The Individual Defendants are entitled to qualified immunity

And in addition to all of the other problems that plague Plaintiffs’ claims, there is, of course, the issue of qualified immunity. Qualified immunity “shields governmental officials from suit and from liability if their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known.” *Mack v. Yost*, 63 F.4th 211, 221 (3d Cir. 2023) (citation and internal quotation marks omitted). Qualified immunity “balances two important interests—the need to hold public officials accountable when they exercise power irresponsibly and the need to shield officials from harassment, distraction, and liability when they perform their duties reasonably.” *Peroza-Benitez v. Smith*, 994 F.3d 157, 164 (3d Cir. 2021) (citation and internal quotation marks omitted). The analysis of a qualified

⁵ To the extent that Plaintiffs argue that *Gruenke* mandates a different result, 225 F.3d at 305 (“the primacy of the parents’ authority must be recognized and should yield only where the school’s action is tied to a compelling interest”), they are wrong. Not only did the Third Circuit not purport to apply strict scrutiny in *Gruenke*, but it has since held that “state action that incidentally affects the parent-child relationship is subject to minimum scrutiny, requiring only that the action rationally advance a legitimate government interest.” *Angstadt v. Midd-West Sch. Dist.*, 377 F.3d 338, 344 (3d Cir. 2004); *accord Combs*, 540 F.3d at 249.

immunity claim is guided by a two-part test: (1) whether the facts show the violation of a legal right, and (2) whether that right was clearly established. *See, e.g., Davenport v. Borough of Homestead*, 870 F.3d 273, 280 (3d Cir. 2017). A court may address these steps in either order. *See Pearson v. Callahan*, 555 U.S. 223, 236 (2009); *see also Reichle v. Howards*, 566 U.S. 658, 664 (2012) (“courts may grant qualified immunity on the ground that the purported right was not ‘clearly established’ . . . without resolving . . . whether the purported right exists at all”).

With regard to the second step, courts conduct a two-part inquiry. First, a court must “define the right allegedly violated at the appropriate level of specificity.” *Sharp v. Johnson*, 669 F.3d 144, 159 (3d Cir. 2012). This requires us to frame the right “in light of the specific context of the case, not as a broad general proposition.” *Peroza-Benitez*, 994 F.3d at 165 (citation and internal quotation marks omitted). Second, a court must ask whether that right was “clearly established” at the time of its alleged violation, *i.e.*, its “contours . . . [were] sufficiently clear that a reasonable official would have understood” that his *particular* conduct “violates that right.” *Kendig v. Stolar*, 173 F.4th 466, 476 (3d Cir. 2026) (citation and internal quotation marks omitted). This is an “objective (albeit fact-specific) question.” *Anderson v. Creighton*, 483 U.S. 635, 641 (1987)). As the Third Circuit recently explained, a right is not clearly established unless “Supreme Court precedent, our own precedent, or a consensus of authority among the courts of appeals placed that right beyond debate.” *Otero v. Police Officer Christian Kane*, 161 F.4th 189, 194 (3d Cir. 2025).

Here, it is beyond cavil that the Individual Defendants are entitled to qualified immunity because not only did they not violate Plaintiffs’ constitutional rights for the reasons explained above, but Plaintiffs’ counsel recently told local media that he believes this case “is the first of its kind.” Hayden Mitman, *et al.*,

“Classes resume amid tech opt out lawsuit in Lower Merion schools,” NBC10 (Sept. 8, 2026).⁶ In other words, there is no authority—much less Supreme Court precedent, Third Circuit precedent, or a consensus of authority among other Courts of Appeals—that placed the alleged right at issue in this case beyond debate. *See Otero*, 161 F.4th at 194. Thus, Plaintiffs’ gratuitous decision to name seven out of the nine Directors and the District’s Superintendent as Defendants in this litigation does not just test the bounds of Rule 11 of the Federal Rules of Civil Procedure; it crosses them. *See* Fed. R. Civ. P. 11(b)(1) (“By presenting to the court a pleading, written motion, or other paper—whether by signing, filing, submitting, or later advocating it—an attorney or unrepresented party certifies that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation[.]”).⁷

5. Granting the requested injunction will result in greater harm to Defendants than Plaintiffs

Issuing the requested injunction would cause greater harm to Defendants than Plaintiffs as it would require the District and its teachers to develop a non-technological curriculum for each of Plaintiffs’ children. Because Plaintiffs’ children are in different grades and enrolled in different schools across the District (save the ones that unenrolled from the District or never enrolled there), (*see* Doc. 25 (Shafer Decl. ¶¶ 27, 32)), the dual curriculums would create a logistical and financial hardship for the District.

⁶ Available at: <https://www.nbcphiladelphia.com/news/local/classes-resume-amid-tech-opt-out-lawsuit-in-lower-merion-schools/4459475/>.

⁷ In light of this and the other serial infirmities afflicting Plaintiffs’ Motion (and by extension, their Complaint), Defendants reserve the right to seek sanctions against Plaintiffs, their counsel, and their respective law firms for initiating this litigation under Rule 11. *See* Fed. R. Civ. P. 11(c) (“If, after notice and a reasonable opportunity to respond, the court determines that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation. Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.”).

6. The public interest strongly militates against the sought-after injunction

The public interest also does not favor Plaintiffs' requested relief because the purported constitutional right they are advocating for is potentially limitless. If a parent's limited right to direct their child's education subsumes the right to select which technology their children can and cannot access in a classroom in a public school, where does that right end? Does it include the right to select which books their children are assigned to read by their teacher? Does it subsume the right to select their children's curriculum? Or how about which teacher(s) they have? And what would stop a parent from demanding that their child receive a public school education free from books, paper, and even pencils? As these rhetorical questions show, taken to its logical conclusion, recognition of the right claimed by Plaintiffs would necessitate in the District creating an individualized learning plan for each of its 8,600 students.

Worse, the sweeping, if not unlimited, right Plaintiffs are asking for would not just apply to public schools—it would apply to public universities as well since they, too, are subject to the Fourteenth Amendment of the United States Constitution. *See, e.g., Children's Health Def., Inc. v. Rutgers*, 93 F.4th 66, 78 (3d Cir. 2024) (applying rational basis review to objection to vaccination mandate under the Fourteenth Amendment). This Court should decline Plaintiffs' invitation to convert the American public school educational system into a private school, whereby each parent has the right to hand-select each and every aspect of their child's education, and exercise the restraint other courts have displayed in this area of the law. *See, e.g., Henry v. City of Erie*, 728 F.3d 275, 286 (3d Cir. 2013) ("The Supreme Court has counseled a restrained approach in the area of substantive due process.")

V. CONCLUSION

Defendant Lower Merion School District is a large public school district with diverse views and perspectives on technology in the classroom. The District spent close to a year listening and hearing from a wide range of parents, teachers, and other stakeholders before enacting its new technology policy, which

strives to achieve a balanced digital culture to benefit District students and prepare them for the future. But for those who disagree with that policy, their remedy does not lie in a federal courthouse. Rather, it “lies in the ballot box.” *In re Pa. Congressional Dist. Reapportionment Cases*, 567 F. Supp. 1507, 1517 (M.D. Pa. 1982) (Weis, C.J.). This is because, at its core, this lawsuit is an attempt to overturn the District’s repeal of its prior technology policy by its duly-elected Board of School Directors. For the reasons set forth above, this Court should summarily deny Plaintiffs’ Motion for Preliminary Injunction.

Respectfully submitted,

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Dated: September 14, 2026

CERTIFICATE OF SERVICE

I, Casey Alan Coyle, certify that on this 14th day of September, 2026, I electronically filed the foregoing BRIEF IN OPPOSITION TO PLAINTIFFS' MOTION FOR PRELIMINARY INJUNCTION using the Court's CM/ECF System, that all participants in this case are registered CM/ECF users, and that service will be accomplished by the CM/ECF System, in accordance with Rule 5.7 of the Local Rules of Court for the Eastern District of Pennsylvania.

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