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May 30, 2014

Hon. Frank Ciuffani, P.J.Ch.
Superior Court of New Jersey, Chancery Division
56 Paterson St.
New Brunswick, NJ 08903-0964

Re: *American Civil Liberties Union of NJ v. Perth Amboy Public School*
District
Civil Action No. _____

**Letter Brief in Support of Order to Show Cause
with Temporary Restraints**

Dear Honorable Judge Ciuffani,

Pursuant to *R. 2:6-2(b)*, please accept this letter-brief in lieu of a more formal brief in support of Plaintiff's Order to Show Cause which seeks to immediately enjoin Defendant from requiring parents to produce particular forms of photo identification in order to register their children for public school.

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PRELIMINARY STATEMENT

The children of undocumented parents have an unquestionable right to a free, public education that is guaranteed through the State and Federal Constitutions and implemented through New Jersey’s Administrative Code. However, New Jersey school districts have not always abided by their legal obligations and instead have created impermissible barriers to school registration for children of undocumented parents. When the American Civil Liberties Union of New Jersey surveyed many New Jersey school districts in 2008, it found that 139 school districts either required students or parents to produce Social Security numbers or to produce documents that indicate immigration status.¹

In the years since that study, the New Jersey Commissioner of Education has reminded school districts about their obligations to ensure access to education for the children of immigrants.² When districts have failed to heed these reminders, the ACLU

¹ Letter to Commissioner Davy, available at: <http://www.aclu-nj.org/files/4713/1540/4575/091508letterdavy.pdf>. (Exhibit A).

² October 25, 2010 *Letter from Rochelle Hendricks*, available at: http://www.aclu-nj.org/download_file/1365. (Exhibit B).

has been able to inform districts of the state of the law³ and resolve disputes without the need to resort to litigation.⁴ In one instance, despite the unambiguous state of the law, a school district insisted that it may exclude children – even citizen children – from access to a free, public education by imposing barriers to registration that prevent immigrant parents from completing the registration process.⁵ After the ACLU-NJ filed a lawsuit against the district, it relented and changed its policy to conform to the law.

In the wake of that case, Plaintiff again surveyed all New Jersey school districts; this time 136 districts violated clearly established law by requiring photo identification to register children for school.⁶ Plaintiff explained to the Perth Amboy Public Schools – and 135 other school districts – that the policies described on their website violated the Constitution, the law, and New Jersey regulations. In the seven weeks since receiving the letter, Perth Amboy has not changed its discriminatory policy. The ACLU-NJ has filed suit to make sure this injustice does not continue.

STATEMENT OF FACTS

The published policy of the Perth Amboy Public Schools requires parents who want to register their children for public schools to produce either a New Jersey driver's

³ See American Civil Liberties Union of New Jersey, *Legal Backgrounder on Equal Access to Education in New Jersey*, August 29, 2008, available at: <http://www.aclu-nj.org/files/4113/1540/4574/090308facts.pdf>.

⁴ See, e.g., *American Civil Liberties Union of New Jersey Annual Report*, 2011, page 18-19, available at: <http://www.aclu-nj.org/files/8813/1661/2977/092111annrep.pdf>.

⁵ Peggy McGlone, *The Star Ledger*, “Facing lawsuit, Butler schools agree to stop discriminating against immigrant parents,” March 11, 2014, available at: http://www.nj.com/education/2014/03/facing_lawsuit_butler_schools_agree_to_stop_discriminating_against_immigrant_parents.html?utm_source=twitterfeed&utm_medium=twitter

⁶ ACLU-NJ [Press Release] “ACLU-NJ Warns Schools Statewide to Stop Discriminatory ID Policies” April 1, 2014, available at: <https://www.aclu-nj.org/news/2014/04/01/aclu-nj-warns-schools-statewide-stop-discriminatory-id-polic>

license or a State ID. *Verified Complaint*, ¶ 13. Undocumented immigrants are unable to obtain either of these forms of identification. *Id.* at ¶¶ 15-16. Without a change in policy, undocumented parents in Perth Amboy are unable to register their children for school. *Id.* at ¶¶ 25, 30, 35.

ARGUMENT

To be entitled to interim relief pursuant to *Rule* 4:52-1, a party must show (a) that the restraint is necessary to prevent irreparable harm, *i.e.*, that the injury suffered cannot be adequately addressed by money damages, which may be inadequate because of the nature of the right affected; (b) that the party seeking the injunction has a likelihood of success on the merits; (c) that the relative hardship favors the party seeking the restraint; and (d) that the restraint does not alter the *status quo ante*. *Crowe v. DeGoia*, 90 N.J. 126, 132-136 (1982). Plaintiff easily satisfies these requirements.

I. PLAINTIFF IS LIKELY TO SUCCEED ON ITS CLAIMS, AS DEFENDANT'S REGISTRATION POLICY REQUIRING PARENTS TO PROVIDE SPECIFIC FORMS OF PHOTO IDENTIFICATION VIOLATES THE STATE AND FEDERAL CONSTITUTIONS AND THE ADMINISTRATIVE CODE

Federal constitutional law is neither new nor unsettled: the right to a free public education cannot be conditioned on the immigration status of children or their parents. *Plyler v. Doe*, 457 U.S. 202, 228 (1982). The New Jersey Department of Education, in recognition of this bedrock equal protection principle, has promulgated regulations addressing those documents which can be required to register a child for public school. *See N.J.A.C.* 6A:22-3.4(d). The Perth Amboy Public School District's written policy, which effectively precludes undocumented immigrants from registering their children for

school, is directly counter to those regulations and violates principles of equal protection embedded in the Federal and State Constitutions.

In *Plyler*, the United States Supreme Court determined that a state can only “deny a discrete group of innocent children the free public education that it offers to other children residing within its borders,” 457 U.S. at 230, if the denial “furthers some substantial state interest.” *Id.* Such a standard is consistent with the Court’s recognition of the value of primary and secondary education. As the Court explained:

The “American people have always regarded education and [the] acquisition of knowledge as matters of supreme importance.” *Meyer v. Nebraska*, 262 U.S. 390, 400 (1923). We have recognized “the public schools as a most vital civic institution for the preservation of a democratic system of government,” *Abington School District v. Schempp*, 374 U.S. 203, 230 (1963) (Brennan, J., concurring), and as the primary vehicle for transmitting “the values on which our society rests.” *Ambach v. Norwick*, 441 U.S. 68, 76 (1979). “[A]s ... pointed out early in our history, ... some degree of education is necessary to prepare citizens to participate effectively and intelligently in our open political system if we are to preserve freedom and independence.” *Wisconsin v. Yoder*, 406 U.S. 205, 221 (1972). And these historic “perceptions of the public schools as inculcating fundamental values necessary to the maintenance of a democratic political system have been confirmed by the observations of social scientists.” *Ambach*, 441 U.S. at 77. In addition, education provides the basic tools by which individuals might lead economically productive lives to the benefit of us all. In sum, education has a fundamental role in maintaining the fabric of our society. We cannot ignore the significant social costs borne by our Nation when select groups are denied the means to absorb the values and skills upon which our social order rests.

[*Plyler*, 457 U.S. at 222.]

Plyler simply reinforced that which the Court had previously noted in *Brown v. Board of Education* about the importance of schooling: “education is perhaps the most

important function of state and local governments. . . . It is the very foundation of good citizenship. . . . [I]t is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education.” *Id.* at 222-23, *quoting Brown v. Board of Education*, 347 U.S. 483, 493 (1954).

In assessing whether the state could demonstrate its substantial interest in denying an education to immigrant children, the *Plyler* Court rejected the three proffered state interests. *Id.* at 228-230. First, a state cannot justify denial of education based upon a desire “to protect itself from an influx of illegal immigrants.” *Id.* at 228. Second, there is no evidence that the “exclusion of undocumented children is likely to improve the overall quality of education in the State.” *Id.* at 229. Finally, the Court rejected the suggestion that exclusion was justified by the fact that undocumented children’s “unlawful presence . . . within the United States renders them less likely than other children to remain within the boundaries of the State, and to put their education to productive social or political use within the State.” *Id.* at 229-230. As a result, the Court held that “consistent with the Equal Protection Clause of the Fourteenth Amendment, [a state] may [not] deny to undocumented school-age children the free public education that it provides to children who are citizens of the United States or legally admitted aliens.” *Id.* at 205.

The State Department of Education is clear on what *Plyler* requires. In an October 25, 2010, memorandum to all chief school administrators and charter school leaders, Acting Commissioner Rochelle Hendricks confirmed the fundamental holding of *Plyler*: “that undocumented children living in the United States could not be excluded from public elementary and secondary schools based upon their immigration status.” *Letter from Rochelle Hendricks*, available at: http://www.aclu-nj.org/download_file/1365.

(Exhibit B). She explained: “Accordingly, school districts are prohibited from . . . making inquiries of students or parents that may expose their undocumented status or engaging in any practices that ‘chill’ or hinder the right of access to public schools.” *Id.* This requirement is codified in *N.J.A.C.* 6A:22-3.4, which prohibits conditioning enrollment on the production of documents “pertaining to criteria that are not a legitimate basis for determining eligibility to attend school. They include . . . Social Security numbers.” *N.J.A.C.* 6A:22-3.4(d)(4).

That is exactly what is being done by the Perth Amboy Public Schools. While the School District is not directly requiring Social Security numbers, it is requiring forms of identification that require those numbers and/or a valid immigration status. Because there is no way for a parent to obtain the required identification without a Social Security number or valid immigration status, the School District is explicitly conditioning a child’s enrollment on the parents’ immigration status.⁷ Such a result is prohibited by *Plyler*.

There is no dispute: *Plyler* is still good law. In 2012, on the 30th anniversary of the decision, then-Assistant Attorney General Thomas E. Perez remarked that “*Plyler* represents the best of our collective ideals as a nation.” Remarks of Assistant Attorney General Thomas E. Perez at the American Civil Liberties Union’s *Plyler v. Doe* 30th Anniversary Event,

⁷ It is worth noting that in *Plyler*, the students were themselves undocumented. 457 *U.S.* at 206. It is possible that the parents of American citizen children are being denied access to public schools because of the *parents’* immigration status.

Washington, D.C., June 11, 2012, available at:
<http://www.justice.gov/crt/opa/pr/speeches/2012/crt-speech-120611.html>. (Exhibit C).

He further explained:

For the past three decades, *Plyler* has kept the door to opportunity open for millions of children across America. *Plyler* has stood for the proposition that public schools serve all children in this country, no matter where they were born. *Plyler* has represented the promise that the American dream should be accessible to all.

[*Id.*]

In recognition of the continued importance of *Plyler*, in 2011, the United States Department of Justice, Civil Rights Division and the United States Department of Education, Office for Civil Rights and Officer of the General Counsel issued guidance to local school districts reminding them of their obligations under *Plyler*. *Dear Colleague Letter*, May 6, 2011, available at:
<http://www.justice.gov/crt/about/edu/documents/plylerletter.pdf>. (Exhibit D). The guidance was explicit: “To comply with . . . the mandates of the Supreme Court, you must ensure that . . . students are not barred from enrolling in public schools at the elementary and secondary level on the basis of their own citizenship or immigration status or that of their parents or guardians.” *Id.* at 1-2. To that end, “districts may not request information with the purpose *or result* of denying access to public schools on the basis of race, color, or national origin.” *Id.* at 2. While Perth Amboy’s policy may not have a purpose of barring undocumented immigrants from school, it certainly has that result. As such, it violates *Plyler* and must be enjoined.

If there was any doubt about the propriety of a Driver's License requirement⁸ in March 2014 when the ACLU-NJ sued the Butler School District, the United States Department of Justice and United States Department of Education recently resolved any uncertainty. In a publication dated May 8, 2014, the Departments explained:

A district should review the list of documents that can be used to establish residency to ensure that any required documents would not unlawfully bar or discourage a student who is undocumented or whose parents are undocumented from enrolling in or attending school.

For example, while a district may choose to include a parent's state-issued identification or driver's license among the documents that can be used to establish residency, a school district may not require such documentation to establish residency or for other purposes where such a requirement would unlawfully bar a student whose parents are undocumented from enrolling in school.

[United States Department of Justice and United States Department of Education, "Information on the Rights of All Children to Enroll in School: Questions and Answers for States, School Districts and Parents:" available at: <http://www.justice.gov/crt/about/edu/documents/plylerqa.pdf> (emphasis original) (Exhibit E).]

The United States Supreme Court reached its conclusion in *Plyler* even taking into account that there is no right to public education found in the United States Constitution. *Plyler*, 457 U.S. at 221; *San Antonio Independent School Dist. v. Rodriguez*, 411 U.S. 1, 35 (1973). The New Jersey Constitution provides an affirmative right to public education. As such, while this court need not go beyond the clear and unambiguous precedent of *Plyler*, the State Constitution provides even greater reason to

⁸ While the Butler and Perth Amboy policies both allow for multiple forms of identification – NJ Driver's License or NJ State ID in both cases, Morris County ID in the case of Butler – all require either a Social Security number or good immigration status.

strike down the District's policies. *See State v. Cooke*, 163 N.J. 657, 666 (2000) (recognizing that the Court has interpreted our State Constitution as affording greater protections than those afforded by its federal counterpart). As the New Jersey Supreme Court has explained:

The New Jersey Constitution charges the State with the fundamental responsibility to educate schoolchildren: "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years." N.J. Const. art. VIII, § 4, ¶ 1. In *Abbott v. Burke*, 119 N.J. 287, 384–85 (1990) (*Abbott II*), this Court held that students in the poorest urban districts were deprived of their constitutional right to a thorough and efficient education due to the State's failure to provide adequate financial resources for their educational programming.

[*Abbott ex rel. Abbott v. Burke*, 206 N.J. 332, 340 n.1 (2011).]

In this case, the court need not even reach the question of whether the education is "thorough and efficient"; because of the School District's photo identification policy, there is a likelihood of a total deprivation. Such a denial of access to a public school education violates the State Constitution.

Under both the State and Federal Constitutions, the law is clear: the children of immigrants cannot be denied access to schools as a result of their parents' immigration status. Because that is exactly what is occurring in Perth Amboy, Plaintiff is likely to succeed on the merits.

II. PLAINTIFF EASILY MEETS THE REMAINING STANDARDS FOR GRANTING TEMPORARY RESTRAINTS

A. Restraints are necessary to prevent irreparable harm

As explained above, the District's policy prevents those without Social Security numbers or valid immigration status from registering their children from school. There is simply no way that an undocumented person (who lacks a Social Security number and valid immigration status), can obtain either of the two forms of identification that Perth Amboy School District is demanding.

This injury is irreparable. Undocumented immigrant parents currently cannot register their children for school. There is no doubt that a delayed start to school has serious long-term implications. As President Obama has explained: "Study after study shows that the earlier a child begins learning, the better he or she does down the road." Barack Obama, *Remarks by the President on Early Childhood Education -- Decatur, GA*, February 14, 2013, available at: <http://www.whitehouse.gov/photos-and-video/video/2013/02/14/president-obama-early-childhood-education#transcript>. If these children are kept out of school they will be forever denied the benefits associated with early education.

B. The relative hardship favors entering immediate injunctive relief

The Court should grant immediate temporary restraints because, as described above, parents who lack state- or county-issued identification⁹ will suffer a hardship,

⁹ While undocumented immigrants are among those who lack these forms of identification, they are not alone. As we have seen in the context of voter identification laws, many populations (including the elderly, transgender people, students and the poor)

even if they are ultimately allowed to register their children for school at some point in the future. Registration for the Perth Amboy Public School District is ongoing.

If the case the adjudicated in the normal course, without immediate injunctive relief, there is no assurance that it will be complete – and certainly not that appeals will be complete – before the start of the 2014-2015 school year. In addition to the immediate threat facing parents without the required identification, it is impossible to overstate the harm suffered children denied access to an education to which they are entitled. The children will fall behind their peers in ways from which they may never be able to recover. The data that supports the conclusion that children do better the earlier they are exposed to school are overwhelming. Children who participated in New Jersey’s Abbott Preschool program had improved achievement in language arts, literacy, math and science, compared to children not in the Abbott program. Barnett, W. Steven, Kwanghee Jung, Min-Jong Youn, Ellen C. Frede. *Abbott Preschool Program Longitudinal Effects Study: Fifth Grade Follow-Up*. National Institute for Early Education Research, 2013 available at: <http://nieer.org/sites/nieer/files/APPLES%205th%20Grade.pdf>. The benefits transcend education: In one study, children who had received comprehensive educational support services between the ages of three and nine were less likely to have been arrested, have problems with substance abuse, and be on food stamps. Reynolds, Arthur J., Judy A. Temple, Barry A.B. White, Suh-Ruu Ou, and Dylan L. Robertson. *Age 26 Cost-Benefit Analysis of the Child-Parent Center Early Education Program*. *Child Development*, 2011. Available at: <http://ts-si.org/files/doi101111j14678624201001563x.pdf>. Another

have trouble obtaining these forms of identification. See, e.g., Lawyers Committee for Civil Rights Under Law, *Think Getting “Free” ID Is Easy? Think Again!*, available at: <http://www.lawyerscommittee.org/page?id=0046> (documenting instances where people were kept from the polls because of insufficient identification).

study showed that children who attended a high-quality preschool as three- and four-year-olds were more likely to graduate from high school, earn higher wages and hold a job, and less likely to have committed a crime as adults. Schweinhart, Lawrence J., Jeanne Montie, Zongping Xiang, W. Steven Barnett, Clive R. Belfield, and Milagros Nores, *The High/Scope Perry Preschool Study Through Age 40: Summary, Conclusions, and Frequently Asked Questions*, High Scope Press, 2005. Available at: http://www.highscope.org/file/Research/PerryProject/specialsummary_rev2011_02_2.pdf.

Moreover, even if adjudication before the start of the next school year could be guaranteed, the delay itself imposes a significant burden on parents who wish to prepare their children for school. Some parents may reasonably choose to forego the months of indecision and instead relocate in order to register their children in a school district that complies with basic constitutional, statutory and regulatory provisions. These burdens favor immediate injunctive relief.

Further, even if parents are willing to endure the indecision, concern and confusion associated with awaiting adjudication in the ordinary course, if a preliminary injunction is not granted, when the District eventually eliminates the discriminatory policy and permits the children to be registered, the parents availing themselves of the registration process at a later date will be easily identifiable as those who were unable to produce the identification required under the current policy. Not only could they be subject to blackmail or threats of deportation, but they could be thrust in to a local debate regarding national immigration policy. Access to educational benefits for children of undocumented immigrants is a public issue of significant importance, and has received media coverage in other states. *See, e.g.*, Brad Cooper, “Kansas House repeals in-state

tuition for children of illegal immigrants,” *Kansas City Star*, Feb. 22, 2011, available at: <http://www.mcclatchydc.com/2011/02/22/109174/kansas-house-repeals-in-state.html>.

Brian Lyman, “Immigration Law Makes School Officials Uneasy,” *Montgomery Advertiser*, Jun. 8, 2011, available at: <http://www.montgomeryadvertiser.com/article/20110608/NEWS02/106080307>. The possibility that these parents, many of whom have children who are United States citizens, may become enmeshed in the larger controversy involving immigration policy and the backlash against children of immigrants is a realistic one.

On the other side of the balance, there will be no hardship to the Defendant to force it to simply *abide by existing law*. Plaintiff does not question Defendant’s right to require proof of residency. *N.J.A.C.* 6A:22-3.4(a); *Martinez v. Bynum*, 461 U.S. 321, 328 (1983). There are several categories of documents that are explicitly permitted to be considered for that purpose. *N.J.A.C.* 6A:22-3.4(a). There is also no doubt that the law forbids denial of “enrollment based on a failure to provide a particular form or subset of documents without regard to other evidence presented.” *N.J.A.C.* 6A:22-3.4(c). That is all that Plaintiff seeks to enjoin: Defendant’s policy requiring one of three specific forms of identification, all of which require a Social Security number and/or valid immigration status.

Clearly, the balance of hardships supports immediate injunctive relief.

C. The restraint does not alter the *status quo ante*

As noted, the *status quo* is that which is permitted by the United States Constitution, the State Constitution, and New Jersey regulations. The Defendant's policy alters the *status quo*, and does so unlawfully.

D. The public interest requires entering injunctive relief

It is frequently said that in determining whether to order immediate injunctive relief, the public interest must be considered. Indeed, "courts, in the exercise of their equitable powers, 'may, and frequently do, go much farther both to give and withhold relief in furtherance of the public interest than they are accustomed to go when only private interests are involved.'" *Waste Mgmt. of New Jersey, Inc. v. Union County Utilities Auth.*, 399 N.J. Super. 508, 520-21 (App. Div. 2008) *quoting Yakus v. United States*, 321 U.S. 414, 441 (1944).

Here the public interest requires injunctive relief. Individual students and their families have private interests in obtaining the education to which they are entitled. But, there is a societal value in ensuring access to education for all. As the Court explained in *Plyler*:

In addition to the pivotal role of education in sustaining our political and cultural heritage, denial of education to some isolated group of children poses an affront to one of the goals of the Equal Protection Clause: the abolition of governmental barriers presenting unreasonable obstacles to advancement on the basis of individual merit. Paradoxically, by depriving the children of any disfavored group of an education, we foreclose the means by which that group might raise the level of esteem in which it is held by the majority.

[*Plyler*, 457 U.S. at 221-22.]

All of the factors therefore favor the granting of temporary restraints.

III. PLAINTIFF HAS STANDING TO BRING THIS CHALLENGE BECAUSE IT IS IMPACTED AS AN ORGANIZATION

“New Jersey courts take a broad and liberal approach to standing.” *NJ Citizen Action v. Riviera Motel Corporation*, 296 N.J. Super. 402, 415 (App. Div. 1997). As a result, “where the plaintiff is not simply an interloper and the proceeding serves the public interest, standing will be found.” *In re Quinlan*, 70 N.J. 10, 35 (1976). An organization such as the ACLU-NJ can obtain standing where “it has a real stake in the outcome of the litigation, there is a real adverseness in the proceeding, and the complaint ‘is confined strictly to matters of common interest and does not include any individual grievance which might perhaps be dealt with more appropriately in a proceeding between the individual [member] and the [defendant].’” *NJ Citizen Action*, 296 N.J. Super. at 416 (quoting *Crescent Pk. Tenants Ass'n v. Realty Equities Corp.*, 58 N.J. 98, 109 (1971)).

In the pleadings before the court, the ACLU-NJ demonstrates that it meets New Jersey’s broad approach to organizational standing: the organization itself is impacted in a real sense. First, it is clear that the ACLU-NJ has a stake in the outcome of this litigation and has a long history of advocating on behalf of immigrant communities. *See, e.g., State v. Gaitan*, 209 N.J. 339 (2012) (addressing retroactive application of *Nunez-Valdéz*, *infra*); *State v. Nuñez-Valdéz*, 200 N.J. 129 (2009) (addressing impact of bad legal advice regarding immigration consequences on the validity of a guilty plea); *ACLU-NJ v. Hudson County, et al.*, 352 N.J. Super. 44 (App. Div.), *certif. denied* 174 N.J. 190 (2002) (seeking information on immigration detainees held in county jails so as to meet with detainees and offer legal assistance); *Riverside Coalition of Business Owners, et al.*

v. Township of Riverside, Dkt. No. BURL-L-2965-06 (Law. Div. 2007) (challenge to local ordinance creating penalties for renting to or hiring undocumented immigrants).

The ACLU-NJ has also been specifically involved in efforts to ensure access to education for the children of immigrants. *See, e.g.*, ACLU-NJ [Press Release] “ACLU-NJ Warns Schools Statewide to Stop Discriminatory ID Policies” April 1, 2014, available at: <https://www.aclu-nj.org/news/2014/04/01/aclu-nj-warns-schools-statewide-stop-discriminatory-id-police> (describing letters sent to 136 school districts demanding changes to discriminatory registration policies); Peggy McGlone, *The Star Ledger*, “Facing lawsuit, Butler schools agree to stop discriminating against immigrant parents,” March 11, 2014, available at: http://www.nj.com/education/2014/03/facing_lawsuit_butler_schools_agree_to_stop_discriminating_against_immigrant_parents.html? (explaining ACLU’s lawsuit against Butler’s discriminatory identification policy); *A.Z. v. Higher Education Assistance Authority*, 427 N.J. Super. 389, 398 (App. Div. 2012) (challenge to denial of state financial aid to citizen students of undocumented parents); “1 in 5 NJ Schools Puts Up Barriers for Immigrant Children” available at <http://www.aclu-nj.org/news/2008/09/02/1-in-5-nj-schools-puts-up-barriers-for-immigrant-children> (describing ACLU-NJ advocacy efforts to end discriminatory registration policies for children of undocumented immigrants); Parastou Hassouri, *The Star Ledger* “Don’t Deny Immigrant Kids An Education” September 8, 2004, available at: <https://www.aclu-nj.org/theissues/immigrantrights/dontdenyimmigrantkidsanedu/> (op-ed written by ACLU-NJ Immigrant Rights Specialist criticizing schools’ Social Security number requirements).

As described in great detail in Paragraph 6 of the Verified Complaint, the ACLU-NJ has expended significant resources to advance its mission of protecting the rights of all New Jersey children to obtain primary, secondary and higher education free from impermissible barriers such as is at issue here. The process of documenting schools' discriminatory registration policies – which the ACLU has done three times on a statewide basis¹⁰ – is extremely time consuming and, therefore, costly. The follow-up from these surveys also requires the expenditure of significant resources.¹¹ At times, the ACLU-NJ has even dedicated litigation resources to ensuring access to education for all New Jerseyans.¹² The investment of significant resources over a long period of time is strong evidence of the ACLU-NJ's organizational interest.

In short, the ACLU-NJ has a concrete, demonstrated and long-standing organizational interest in challenging Perth Amboy's school registration identification policy.

¹⁰ The ACLU-NJ conducted surveys in 2006 (<https://www.aclu-nj.org/news/2006/08/29/survey-immigrants-risk-exclusion-in-1-of-4-nj-schools>), 2008 (<https://www.aclu-nj.org/news/2008/09/02/1-in-5-nj-schools-puts-up-barriers-for-immigrant-children>) and 2014 (<https://www.aclu-nj.org/news/2014/04/01/aclu-nj-warns-schools-statewide-stop-discriminatory-id-polic>).

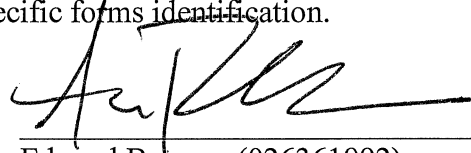
¹¹ In 2006, the ACLU-NJ followed up with a letter to the Department of Education (<https://www.aclu-nj.org/files/6713/1540/4574/082906LtrDOE.pdf>); in 2008, the ACLU-NJ sent letters to both the Department of Education and the 187 offending school districts (<https://www.aclu-nj.org/news/2008/09/02/1-in-5-nj-schools-puts-up-barriers-for-immigrant-children>); this year, the ACLU-NJ sent letters to 136 school districts and has been in contact with the State Department of Education and the United States Department of Justice.

¹² *A.Z.*, 427 *N.J. Super.* at 398; <https://www.aclu-nj.org/files/8813/1661/2977/092111annrep.pdf> (pages 18-19) (describing advocacy done on behalf of a parent whose children were unlawfully excluded from school); http://www.nj.com/education/2014/03/facing_lawsuit_butler_schools_agree_to_stop_discriminating_against_immigrant_parents.html

CONCLUSION

For the reasons set forth above, Plaintiff requests that its Order to Show Cause be granted, including immediate restraints against further implementation of the Perth Amboy Public School District's requirement of specific forms identification.

Dated: May 30, 2014



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