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Counsel for Plaintiff

AMERICAN CIVIL LIBERTIES UNION OF)	SUPERIOR COURT OF NEW JERSEY
NEW JERSEY,)	CAMDEN COUNTY
)	CHANCERY DIVISION
Plaintiff,)	
)	Docket No.
v.)	
)	CIVIL ACTION
GLOUCESTER TOWNSHIP PUBLIC)	
SCHOOL DISTRICT)	
)	VERIFIED COMPLAINT AND
Defendant.)	DESIGNATION OF TRIAL COUNSEL
)	

Plaintiff, through its undersigned attorneys, states its Complaint as follows:

PRELIMINARY STATEMENT

1. This action is brought to vindicate the constitutional rights of residents of Gloucester Township, New Jersey, whose children will be denied access to free, public education in their hometown because of their parents' immigration status. It is part of the American Civil Liberties Union of New Jersey's mission to ensure that the constitutional and statutory rights of children of immigrants to obtain an education are not infringed. Over the past decade, Plaintiff has dedicated extensive resources to ensuring that New Jersey school districts' adhere to the mandates of *Plyler v. Doe*, 457 U.S. 202, 228 (1982), *N.J.S.A.* 18A:38-1 and *N.J.A.C.* 6A:22-3.4(d).

2. In addition to requesting an original birth certificate, immunization records and proof of residency (all of which are permissible), the Gloucester Township Public School District (hereafter “the School District” or “Gloucester Township”) adds an impermissible and discriminatory registration hurdle: a requirement that parents provide a driver’s license. It is not possible for immigrants who lack Social Security numbers or a valid immigration status to obtain such identification. Therefore, these residents and their children are prevented from registering for school and are denied equal protection of the laws.

3. Plaintiff brings this action to enjoin Defendant and end this policy which violates the New Jersey and United States Constitution.

VENUE

4. Venue is proper in Camden County pursuant to R. 4:3-2(a) because Defendant is located in Camden County.

PARTIES

5. The American Civil Liberties Union of New Jersey ("ACLU-NJ") is a private, non-profit, non-partisan membership organization dedicated to the principle of individual liberty embodied in the Constitution. Founded in 1960, the ACLU-NJ has approximately 12,000 members and donors in New Jersey and tens of thousands of supporters across the state. Its primary office is in Newark, New Jersey. The ACLU-NJ is the state affiliate of the American Civil Liberties Union, which was founded in 1920 for identical purposes, and is composed of hundreds of thousands of members and supporters nationwide. Among the organizational interests of the ACLU-NJ is insuring access to education for all New Jerseyans, regardless of immigration status.

6. The ACLU-NJ has expended significant resources advocating for equal educational opportunities for immigrant students and students who are the children of immigrant

parents. On several occasions the ACLU-NJ has conducted statewide surveys of school districts to determine compliance with regulations ensuring access to education. *See, e.g.*, <https://www.aclu-nj.org/news/2006/08/29/survey-immigrants-risk-exclusion-in-1-of-4-nj-schools>; <https://www.aclu-nj.org/news/2008/09/02/1-in-5-nj-schools-puts-up-barriers-for-immigrant-children>; <https://www.aclu-nj.org/news/2014/04/01/aclu-nj-warns-schools-statewide-stop-discriminatory-id-polic>. The ACLU-NJ has engaged in significant advocacy with the State Department of Education. *See, e.g.*, <https://www.aclu-nj.org/files/6713/1540/4574/082906LtrDOE.pdf>; <https://www.aclu-nj.org/files/4713/1540/4575/091508letterdavy.pdf>; https://www.aclu-nj.org/download_file/1449. Plaintiff has engaged in litigation and advocacy to ensure access to primary, secondary and higher education for children of immigrants. *See, e.g.*, <https://www.aclu-nj.org/legaldocket/z-v-hes/>; <https://www.aclu-nj.org/files/8813/1661/2977/092111annrep.pdf> (pages 18-19); <https://www.aclu-nj.org/news/2014/03/11/school-district-drops-discriminatory-policy-upon-aclu-nj-cha>. The ACLU-NJ has also been actively involved in legislative efforts to ensure access to education for immigrant youth. *See, e.g.*, <https://www.aclu-nj.org/news/2013/12/19/aclu-nj-statement-nj-dream-act-agreement>; The leadership of the ACLU-NJ on this issue was recognized in the Governor's Blue Ribbon Advisory Panel on Immigrant Policy's *Report to Governor Jon S. Corzine*. http://blog.nj.com/ledgerupdates_impact/2009/03/imm%20report.pdf (page 45-47).

7. Defendant Gloucester Township Public School District is school district located in Gloucester Township, New Jersey. Its mailing address is 17 Erial Road, Blackwood, NJ 08012.

8. Defendant, at all relevant times and as to all relevant actions described herein, was acting under the color of state law.

FACTUAL ALLEGATIONS

9. The School District has been holding kindergarten and new student registration since March.

10. The School District notifies parents seeking to participate in the registration process that they must bring certain documents.

11. The District require parents to produce the child's birth certificate and immunization records.

12. Additionally, parents are told that they must provide proof of residency. The requested documents vary according to whether the parent owns a home or rents a home, but in both instances, the parent is told to bring a driver's license. (*See* http://www.gloucestertownshipschools.org/apps/pages/index.jsp?uREC_ID=103104&type=d&termREC_ID=&pREC_ID=182822).

13. New Jersey Administrative Code prohibits such a requirement. *N.J.A.C.* 6A:22-3.3(b) provides that immigration status does not impact eligibility to attend school; *N.J.A.C.* 6A:22-3.4(c) requires districts to consider the totality of the evidence presented in determining residency; and *N.J.A.C.* 6A:22-3.4(d) prohibits conditioning enrollment on the receipt of documents "pertaining to criteria that are not a legitimate basis for determining eligibility to attend school"

14. To get a driver's license from the New Jersey Motor Vehicle Commission, a person must meet the six-point identification verification requirements. That system allows a person to bring in several documents, each of which is assigned a point value, the total of which

must meet or exceed six points. N.J.A.C. 13:21-8.2 *See also* http://www.state.nj.us/mvc/pdf/Licenses/ident_ver_posterpint.pdf.

15. In any event, to satisfy the six point requirements, a person must possess at least one primary document, at least one secondary document, a verifiable social security number or a valid immigration status, and proof of address. N.J.A.C. 13:21-8.2.

16. On April 1, 2014, the ACLU-NJ sent Gloucester Township a letter explaining that the District's registration policy violated the State and Federal Constitution, state law and state regulations.

17. Plaintiff requested that the District bring its policy into compliance within four weeks.

18. The District, through counsel, responded on April 7, 2014 (Exhibit A). The District explained that "[t]o be clear, the District's website does not require 'photo identification', but rather a driver's license and is [sic] done to prove residency, not to discriminate against anyone." The District indicated that it "will begin examining its procedures, as well as relevant law, and will make changes if necessary."

19. As of May 30, 2014 – 53 days after the District sent a letter to Plaintiff – the District has not changed its policy.

20. The Gloucester Township Public School District still requires a driver's license to register a child for school.

FIRST CAUSE OF ACTION
VIOLATION OF THE AMENDMENT XIV OF
THE UNITED STATES CONSTITUTION

(Equal Protection)

(brought directly under the United States Constitution and pursuant to *N.J.S.A.* 10:6-2(c))

21. The allegations of the preceding paragraphs are incorporated as if fully set forth herein.

22. The actions of Defendant described herein violated the right of the American Civil Liberties Union of New Jersey, its members, and the communities for which the ACLU-NJ advocates and has dedicated resources, to equal protection of the law, in violation of the Fourteenth Amendment to the United States Constitution, which forbids a state to “deny to any person within its jurisdiction the equal protection of the laws.”

23. School districts may not deny students an education based on their immigration status or their parents’ immigration status.

24. By requiring a form of identification that is only available to residents who have Social Security Numbers or valid immigration status to register a child for school, the School District denies an education to students with parents who are undocumented immigrants. It also discourages immigrants from attempting to enroll their children in the School District.

25. Unless Defendant’s photo identification policy is enjoined, undocumented parents and their children will suffer irreparable harm. The ACLU-NJ’s institutional mission of protecting access to education will also suffer irreparable harm.

SECOND CAUSE OF ACTION
VIOLATION OF ARTICLE I, PARAGRAPH 1 OF
THE NEW JERSEY CONSTITUTION

(Equal Protection)

(brought directly under the New Jersey Constitution and pursuant to *N.J.S.A.* 10:6-2(c))

26. The allegations of the preceding paragraphs are incorporated as if fully set forth herein.

27. The actions of Defendant described herein violated the right of the American Civil Liberties Union of New Jersey, its members, and the communities for which the ACLU-NJ advocates to equal protection of the law, in violation of Article I, paragraph 1 of the New Jersey Constitution, which states that “[a]ll persons are by nature free and independent, and have certain natural and unalienable rights, among which are those of enjoying and defending life and liberty, of acquiring, possessing, and protecting property, and of pursuing and obtaining safety and happiness.”

28. School districts may not deny students an education based on their immigration status or their parents’ immigration status.

29. By requiring a form of identification that is only available to residents who have Social Security Numbers or valid immigration status in order to register a child for school, the School District denies an education to students with parents who are undocumented immigrants. It also discourages immigrants from attempting to enroll their children in the School District.

30. Unless Defendant’s photo identification policy is enjoined, undocumented parents and their children will suffer irreparable harm. The ACLU-NJ’s institutional mission of protecting access to education will also suffer irreparable harm.

THIRD CAUSE OF ACTION
VIOLATION OF ARTICLE VIII, SECTION IV, PARAGRAPH 1 OF
THE NEW JERSEY CONSTITUTION
(Thorough and Efficient Education)
(brought directly under the New Jersey Constitution and pursuant to *N.J.S.A.* 10:6-2(c))

31. The allegations of the preceding paragraphs are incorporated as if fully set forth herein.

32. The actions of Defendant described herein violate the right of the American Civil Liberties Union of New Jersey, its members' children, and the communities for which the ACLU-NJ advocates to a thorough and efficient education, in violation of Article VIII, Section IV, paragraph 1 of the New Jersey Constitution, which provides that "[t]he 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."

33. School districts may not deny students an education based on their immigration status or their parents' immigration status.

34. By requiring a form of identification that is only available to residents who have Social Security Numbers or valid immigration status in order to register a child for school, the School District denies an education to students with parents who are undocumented immigrants. It also discourages immigrants from attempting to enroll their children in the School District.

35. Unless Defendant's photo identification policy is enjoined, undocumented parents and their children will suffer irreparable harm. The ACLU-NJ's institutional mission of protecting access to education will also suffer irreparable harm.

REQUEST FOR RELIEF

WHEREFORE, Plaintiff requests judgment against the Defendant as follows:

- (a) Declaratory relief, including but not limited to, a declaration that the Gloucester Township Public School District's photo identification requirement is unconstitutional;
- (b) Immediate, preliminary and permanent injunctive relief, enjoining the Defendant's photo identification policy;
- (c) Attorney's fees and costs associated with this action, pursuant to *N.J.S.A. 10:6-1 et seq.* and other relevant authority;
- (d) Any further relief as this Court deems just and proper and any other relief as allowed by law.

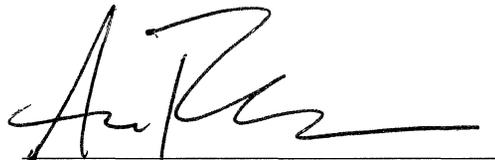
NO JURY DEMAND

Plaintiff does not demand trial by jury in this action.

DESIGNATION OF TRIAL COUNSEL

Plaintiff designates Alexander Shalom as trial counsel.

Dated: May 30, 2014



Alexander Shalom (021162004)
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VERIFICATION

I, Udi Ofer, hereby affirm under the penalty of perjury that the factual statements contained in the foregoing Verified Complaint are, to the best of recollection and belief, true and accurate.



Udi Ofer
Executive Director
American Civil Liberties Union
of New Jersey
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Newark, NJ 07102

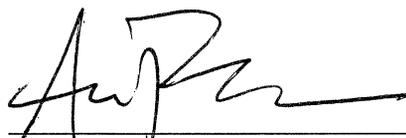
Dated: May 30, 2014

CERTIFICATION PURSUANT TO R. 4:5-1

Plaintiff, via counsel, hereby certifies that there are no other proceedings or pending related cases arising from the same factual dispute described herein. The matter in controversy is not the subject of any other action pending in any other court or a pending arbitration proceeding, and no other action or arbitration proceeding is contemplated. Further, other than the parties set forth in this complaint, the undersigned knows of no other parties that should be made a part of this lawsuit. In addition, the undersigned recognizes the continuing obligation to file and serve on all parties and the court an amended certification if there is a change in the facts stated in this original certification. Notwithstanding that Plaintiff is unaware of other controversies involving this Defendant, Plaintiff is simultaneously filing challenges to photo identification policies in several other districts throughout New Jersey. The other complaints – none of which have docket numbers yet – are being filed in Atlantic, Camden, and Middlesex Counties. Plaintiff will provide docket numbers and additional information upon request.

Dated: May 30, 2014

By:



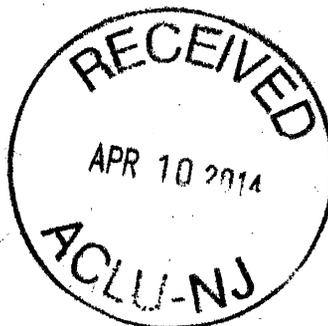
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EXHIBIT A

WADE, LONG, WOOD & KENNEDY, LLC

Attorneys at Law

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Christopher F. Long



April 7, 2014

Alexander Shalom
Senior Staff Attorney
American Civil Liberties Union of New Jersey
P.O. Box 32159
Newark, NJ 07102

RE: Gloucester Township Public Schools- Photo Identification

Dear Mr. Shalom:

Please be advised that I represent Gloucester Township Public Schools ("the District"). I am in receipt of your letter dated April 1, 2014 regarding the District's policies and procedures for student registration. To be clear, the District's website does not require "photo identification", but rather a driver's license and is done to prove residency, not to discriminate against anyone.

However, the District will begin examining its procedures, as well as the relevant law, and will make changes, if necessary.

If you have any questions or require any further information, please do not hesitate to contact me.

Very truly yours,
WADE, LONG, WOOD & KENNEDY, LLC

A handwritten signature in black ink, appearing to read "John D. Wade".

John D. Wade, Esquire

JDW/tlw
Enclosure

cc: John Bilodeau, Superintendent
Orlando Mercado, Supervisor of Student Support Services