



A PROFESSIONAL CORPORATION

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January 28, 2010

**VIA-FACSIMILE  
AND HAND DELIVERY**

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Superintendent Sam Marolo  
Deputy Superintendent Francis X. Antonelli  
Hazleton Area School District  
1515 West 23rd Street  
Hazleton, PA 18202-1647

Re: Proposed HASD Registration and Admissions Procedures

Dear Messrs. Marolo and Antonelli:

We write jointly with the American Civil Liberties Union of Pennsylvania to express concerns regarding the Hazleton Area School District's recent proposed new admission and proof of residency requirements, which are scheduled to be reviewed by the School Board on January 28, 2010. A number of these requirements have no apparent connection to the District's legal obligations regarding new students, but sound strikingly similar to those who are familiar with the City of Hazleton's recent history of legislation designed to disadvantage immigrants. Just one example is the Census Enumeration Form, requiring identification of all adults and children living at the new student's address – information that has no relation to the requirements of the School Code. We are aware that the revised registration policy changed this from a required to a "recommended" form, but that does nothing to dispel the inference that the Registration and Admissions Procedures are intended to discourage enrollment by immigrant children. We urge the District to further revise the policy to eliminate all references to information that is not required by the School Code.

That revision must eliminate, as well, requirements that create unnecessary and unjustified hurdles to enrollment. Specifically, parents and service organizations have raised legitimate complaints about the proposed new procedures' extensive and burdensome documentation requirements for verifying residency from all families with children who attend

District schools. The District's request for these documents is overbroad, unreasonable, and violates the guidelines established by the Pennsylvania Department of Education.

According to the proposed Registration and Admissions Procedures, all families with children who wish to attend District schools must provide four (4) separate proofs of residency/address. In cases of multiple occupancy, the proposed Procedures require eight such proofs (four for the homeowner/lessee and four for the multiple occupant). By way of example, the proposed Procedures refer to the following: Internal Revenue Statement, W2 Form, Voter Registration Card, Property Deed, Property Tax Bill, Driver's License, State ID Cars, Insurance Statement, Vehicle Registration, Current Pay Stub, Bank Statement, Billing Statement or a Utility Statement. It is our understanding that the District's request for this documentation is intended to be mandatory. In other words, if an enrolling student's parent or guardian can produce only one, two or even three valid documents confirming residency, the student's registration would be denied by the Central Registration Office.

The Pennsylvania Department of Education has established guidelines for school districts to follow in their school-enrollment procedures in its Basic Education Circular on Enrollment of Students.<sup>1</sup> Although the Department's guidelines for school-enrollment procedures do allow school districts to ask for proof of residency when initially enrolling a child in school, the documents requested to substantiate residency must be reasonable and the Department requires school districts to be flexible in verifying residency.<sup>2</sup> This is of particular relevance with respect to homeless students.

We note that the Supreme Court of this Commonwealth has made clear that students need not demonstrate that their primary residence is in the school district to be eligible for an education. Rather, children need only show that they have a "factual place of abode" evidenced by a person's physical presence in a particular place" to satisfy the requirements of the Pennsylvania School Code. *In re Residence Hearing Before the Bd. of Sch. Dirs.*, 560 Pa. 366, 371 (2000). This, certainly, can be achieved in a less onerous manner than through mandating four separate forms of documentary proof.

Additionally, the documents listed, albeit as examples, in the proposed Procedures also seem somewhat arbitrary in light of their purpose. Indeed, the suggested proofs, regardless of their number, do nothing to provide certainty as to a person's "residence" for the purposes of the Pennsylvania School Code. For instance, a person who owns property in Hazleton, but resides elsewhere, could easily produce (a) a property deed; (b) a property tax bill; (c) property insurance; (d) vehicle registration; (e) a billing statement; and/or (f) a utility statement. By

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<sup>1</sup> The Basic Education Circular can be found online at the following link:  
[http://www.pde.state.pa.us/portal/server.pt/community/purdon%27s\\_statutes/7503/enrollment\\_of\\_students/507350](http://www.pde.state.pa.us/portal/server.pt/community/purdon%27s_statutes/7503/enrollment_of_students/507350)

<sup>2</sup> The same website's "Student Enrollment-Questions & Answers," dated October 14, 2009, clearly states that "School districts should be flexible in the documents required and should consider what is reasonable in light of the family's situation."

contrast, and absent from the list of examples in the proposed Procedures, an affidavit of residency is a more compelling piece of evidence alone, than all six of the documents that could be easily produced by a non-resident homeowner.

Also of great concern is the fact that the proposed Procedures do not detail the procedures for children or newcomers to the area who may be unable to provide any type of documentary evidence of residency in a timely fashion, if at all. By way of example, children who reside in an apartment with a relative who is not the named lessee on a lease would have serious difficulty meeting the HASD's new eligibility requirements, despite having a clear right of admission under the School Code.

In sum, when viewed in the context of the Department of Education's guidelines, the District's proposed requirements for multiple documents from all families residing in the district is unreasonably broad and burdensome.

Moreover, the proposed Procedures requesting the documents provides no guidance for families who are unable to comply with the request due to homelessness, lack of English proficiency, or other factors.

The Department of Education's Basic Education Circular is clear in that "[e]ducational agencies shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youth. [...] In the case of homeless students, traditional concepts of 'residence' and 'domicile' do not apply." The Circular also provides that "[c]hildren and families with limited English proficiency **must** be provided translation and interpretation services to the extent needed to help the family understand the enrollment process and enroll the student in school promptly per the Civil Rights Act of 1964, Title VI, 42 U.S.C. § 2000d *et seq.* and the Equal Education Opportunity Act, 20 U.S.C. § 1703." (The emphasis is ours). The proposed Procedures do not seem to account for the requirements set forth under federal law.

The policy has several other inconsistencies with state law. For instance, the District policy lists only two acceptable proofs of age, while the Department of Education lists five. And the Department of Education Guidance says that enrollment cannot be delayed for the collection of certain data, e.g., the Home Language Survey, while the District policy states that registration will not be accepted without *all* required forms.

For these reasons, we urge the District to reconsider the proposed Procedures overall in light of federal law and Department of Education Guidelines, particularly with respect to the verification of residency. Because of the importance of this matter and the short amount of time before the January 28, 2010 meeting, we request that you defer consideration or adoption of the new registration and admissions procedures pending further review of their compliance with the School Code and federal law and ensure that they do not present an unreasonable or unlawful obstacle to enrollment for students living within the District. In your response, please advise of

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the District's justification for requiring families to comply with such a burdensome request, and explain why we should not be requested to stay or enjoin the new procedures. Thank you.

Very truly yours,

COZEN O'CONNOR

/s/  
By: Thomas G. Wilkinson, Jr.

/s/  
Ilan Rosenberg

AMERICAN CIVIL LIBERTIES UNION OF PENNSYLVANIA

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