



Eastern Region Office
PO Box 40008
Philadelphia, PA 19106
215.592.1513 T
215.592.1343 F

Central Region Office
PO Box 11761
Harrisburg, PA 17108
717.238.2258 T
717.236.6895 F

Western Region Office
313 Atwood Street
Pittsburgh, PA 15213
412.681.7736 T
412.681.8707 F

Witold Walczak
Legal Director
vwalczak@aclupa.org
412-681-7736 Ext. 21

Mary Catherine Roper
Staff Attorney
Eastern Region Office
mroper@aclupa.org
215-592-1513 Ext. 116

March 2, 2010

VIA FACSIMILE TO (570) 300-1807

John G. Audi
Sweet, Stevens, Katz, & Williams, LLP
Northeast Region Office
139 Wynchurch Circle
Pittston, PA 18640

Re: Proposed HASD Registration and Admission Procedures

Dear Mr. Audi:

The American Civil Liberties Union of Pennsylvania (“ACLU”) joins the Education Law Center (“ELC”) in applauding Hazleton Area School District’s (“HASD”) response to a number of points raised in previous letters from ELC and the ACLU regarding HASD’s proposed Registration and Admission Procedures. However, several issues remain in the latest revision of the procedures, as articulated in ELC’s most recent letter, dated today. We will not reiterate here the concerns described so well in ELC’s recent letters, except to stress that the remaining problems are serious. We also want to highlight the fact that several of the problems raise *constitutional* privacy concerns, under both the U.S. and Pennsylvania Constitutions.

As ELC highlights, the first page of the revised policy states that a parent or guardian should provide the placement school with a health history form and a private physician exam form. In addition, the Student Registration form includes a blanket authorization for release of “information as deemed necessary” by HASD including, but not limited

to, medical records and psychological reports. Any governmental requirement for the disclosure of highly personal information raises privacy concerns under the U.S. Constitution. *See, e.g., Whalen v. Roe*, 429 U.S. 589 (1977); *C.N. v. Ridgewood Bd. of Educ.*, 430 F.3d 159, 179 (3d Cir. 2005) (“[o]ur jurisprudence takes an encompassing view of [the] information entitled to a protected right to privacy”) (citation omitted). The privacy invasion in this case is especially suspect because medical and psychological information is not mandated by state law, and other school districts across the state operate without it, undermining any argument the district really needs the information in order to enroll a student. In Pennsylvania, an individual also enjoys a right of privacy under Article 1, § 1 of the state constitution, encompassing the right to freedom from disclosure of personal matters. *See, e.g., Denoncourt v. Commonwealth*, 470 A.2d 945, 947 (Pa. 1983). The ACLU believes any request for medical or psychological records raises serious constitutional privacy concerns.

While we appreciate HASD’s effort to relax the proposed admissions requirements, they are still severe and exceed what is necessary, and in some cases allowed, by state law. Moreover, requesting access to medical and mental health information raises constitutional privacy concerns. We urge the Board to reject the current proposal and make the remaining changes recommended in ELC’s recent letters. Thank you for considering our comments.

Sincerely,



Witold Walczak
Legal Director

Mary Catherine Roper
Staff Attorney

Cc: Superintendent Sam Marolo
Deputy Superintendent Francis X. Antonelli
Hazleton Area School District
1515 West 23rd Street
Hazleton, PA 18202-1647
Fax: 570-459-3118

Office of Chief Counsel
Pennsylvania Department of Education

333 Market Street, 9th Floor
Harrisburg, PA 17126-0333
Fax: (717) 783-0347

School Services Unit
Office of Elementary and Secondary Education
Pennsylvania Department of Education
333 Market Street, 9th Floor
Harrisburg, PA 17126-0333

Maura McInerney
Education Law Center
The Philadelphia Building
1315 Walnut Street, 4th Floor
Philadelphia, PA 19107-4717
Fax: 215-772-3125