

Edward Barocas (026361992)
Jeanne LoCicero (024052000)
Alexander Shalom (021162004)
AMERICAN CIVIL LIBERTIES UNION
OF NEW JERSEY FOUNDATION
P.O. Box 32159
Newark, NJ 07101
(973) 642-2086

Counsel for Plaintiff

AMERICAN CIVIL LIBERTIES UNION OF)	SUPERIOR COURT OF NEW JERSEY
NEW JERSEY,)	MORRIS COUNTY
)	CHANCERY DIVISION
Plaintiff,)	
)	Docket No.
v.)	
)	CIVIL ACTION
BUTLER PUBLIC SCHOOL DISTRICT)	
)	
Defendant.)	VERIFIED COMPLAINT AND
)	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 Butler, New Jersey, whose children will be denied access to free, public education in their hometown because of their parents' immigration status. There are many families in Butler who have children that will be eligible to begin kindergarten and can satisfactorily demonstrate their eligibility. But, instead of being enrolled, these children will not be registered for school because of the Defendant Butler Public School District's unlawful – and misguided – policy of requiring parents to provide state- or county-issued photo identification.

2. In addition to requesting proof of residency, age, parentage, current immunizations and a recent physical examination (all of which are permissible), the Butler Public School District (hereafter “the School District” or “Butler”) adds an impermissible and discriminatory registration hurdle: a requirement that parents provide a driver’s license, a New Jersey non-driver’s identification card or a Morris County photo identification. It is not possible for immigrants who lack Social Security numbers and 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, a membership organization that includes residents of Butler who cannot obtain state-issued photo identification, 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 Morris County pursuant to R. 4:3-2(a) because Defendant is located in Morris 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 supporters in New Jersey. 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. Several of the ACLU-NJ’s members are undocumented immigrants who live in Butler and are being prevented from registering their children for school because of the School District’s unconstitutional registration requirement.

6. Defendant Butler Public School District is school district located in Butler, New Jersey. Its mailing address is 38 Bartholdi Ave, Butler, NJ 07405.

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

FACTUAL ALLEGATIONS

8. The School District is holding kindergarten registration the week of March 10, 2014. Registration is open to children who will be five years of age on or before October 1, 2014. Registration is by appointment only.

9. The School District notifies parents seeking to participate in this registration are that they are required to provide certain documentation at their appointment.

10. The School District requires parents to provide two documents to prove their residency in Butler, including one of the following: a deed, a tax bill, a lease showing all tenants including children, or a notarized affidavit. Secondary forms of proof that are accepted are: a bank statement, an original utility bill, and a cancelled check.

11. The School District requires parents to produce the student's birth certification to prove the child's age.

12. If the parents are divorced, the School District requires that they produce proof of residential custody or joint legal custody.

13. The School District requires parents to provide proof that their child has obtained a series of immunization and has had a physical examination with the last calendar year.

14. The School District also requires parents to provide a "[v]alid photo driver's license or NJ MVC/Morris County photo ID with current Butler address." (*See*

<http://www.butlerboe.org/ads2/wp-content/uploads/2014/01/Kindergarten-Survey-2014-2015.pdf>).

15. To get either a driver's license or a non-driver identification card 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.

16. 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.

17. To get a Morris County photo identification a person over the age of eighteen must prove his or her identity, Morris County residency, and "citizenship or legal status." *See* <http://www.morriscountyclerk.org/html/passports/courtesyid.asp>.

18. Some ACLU-NJ members are parents who seek to register their children for school in Butler for the 2014-15 school year.

19. The member parents possess all required documentation with the exception of the forms of photo identification sought by the School District.

20. The members are undocumented immigrants.

21. If required to produce a photo identification that requires a Social Security Number or a valid immigration status, the member parents will be unable to register their children for school.

FIRST CAUSE OF ACTION
VIOLATION OF THE AMENDMENT XIV OF
THE UNITED STATES CONSTITUTION
(Equal Protection)

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

23. The actions of Defendant described herein violated the right of the American Civil Liberties Union of New Jersey's members 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."

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

25. By requiring a form of identification that is only available to residents who have Social Security Numbers to register a child for school, the School District denies an education to students with parents who are undocumented immigrants.

26. ACLU-NJ members are currently seeking to register their children and unless Defendant's photo identification policy is enjoined, ACLU-NJ members and their children will suffer irreparable harm.

SECOND CAUSE OF ACTION
VIOLATION OF ARTICLE I, PARAGRAPH 1 OF
THE NEW JERSEY CONSTITUTION
(Equal Protection)

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

28. The actions of Defendant described herein violated the right of the American Civil Liberties Union's members 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.”

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

30. 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.

31. ACLU-NJ members are currently seeking to register their children and unless Defendant’s photo identification policy is enjoined, ACLU-NJ members will suffer irreparable harm.

THIRD CAUSE OF ACTION
VIOLATION OF ARTICLE VIII, SECTION IV, PARAGRAPH 1 OF
THE NEW JERSEY CONSTITUTION
(Thorough and Efficient Education)

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

33. The actions of Defendant described herein violated the right of the American Civil Liberties Union’s members 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.”

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

35. 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.

36. ACLU-NJ members are currently seeking to register their children and unless Defendant's photo identification policy is enjoined, ACLU-NJ members will 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 Butler 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.

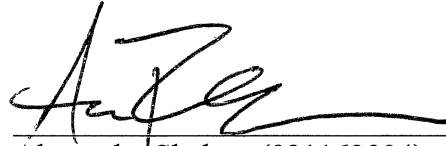
NO JURY DEMAND

Plaintiff does not demand trial by jury in this action.

DESIGNATION OF TRIAL COUNSEL

Plaintiff designates Alexander Shalom as trial counsel.

Dated: March 7, 2014

A handwritten signature in black ink, appearing to read 'A. Shalom', written over a horizontal line.

Alexander Shalom (021162004)

Senior Staff Attorney

ACLU-NJ Foundation

P.O. Box 32159

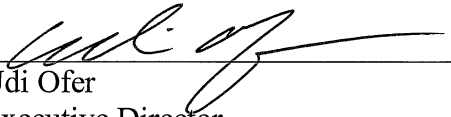
Newark, NJ 07102

973-854-1714

ashalom@aclu-nj.org

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
P.O. Box 32159
Newark, NJ 07102

Dated: March 7, 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.

Dated: March 7, 2014

By:

A handwritten signature in black ink, appearing to read 'Ashalom', written over a horizontal line.

Alexander Shalom (021162004)

Senior Staff Attorney

ACLU-NJ Foundation

P.O. Box 32159

Newark, NJ 07102

973-854-1714

ashalom@aclu-nj.org