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TESTIMONY IN SUPPORT OF ASSEMBLY BILL 4225

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AMERICAN CIVIL LIBERTIES UNION OF NEW JERSEY**

ASSEMBLY BUDGET COMMITTEE

December 12, 2013

Thank you for the opportunity to speak in support of A4225, as amended. My name is Udi Ofer and I am the Executive Director of the American Civil Liberties Union of New Jersey. Founded in 1960, the ACLU-NJ is a not-for-profit, nonpartisan organization with 15,000 members and tens of thousands of supporters across the state. The ACLU-NJ is the state's leading organization dedicated to advancing and defending civil liberties and civil rights.

The ACLU-NJ is committed to protecting and advancing the rights of our state's immigrants and enthusiastically supports legislation to allow undocumented students to qualify for in-state tuition rates at public institutions of higher education and to ensure those students' access to state financial aid. For without financial aid, we will not have full equality in New Jersey.

The ACLU-NJ supports A4225 because we believe that the time has come for New Jersey to end its unequal treatment of state residents seeking to enroll in New Jersey's colleges and universities. Today, one group of New Jersey high school graduates who wish to attend state colleges and universities are forced to pay much higher rates than their classmates – in some cases over twice as much – based solely on their status as undocumented immigrants.

This form of unequal access and unequal treatment must end. More than three decades ago, the United States Supreme Court, in *Plyler v. Doe*, held that undocumented students must be provided equal access to a public school education.¹ The Court held that the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution protects all persons within the United States, including those who may be unlawfully present in the country.

In its ruling, the Supreme Court recognized the pivotal role that education plays in maintaining the fabric of our society and in sustaining our political and cultural heritage. According to the Supreme Court, “the deprivation of education takes an inestimable toll on the social, economic, intellectual, and psychological well-being of the individual, and poses an obstacle to individual achievement.” The Court explained that the denial of an education to undocumented students is

¹ 457 U.S. 202 (1982). For an analysis of the Supreme Court's decision, as well as recent attempts to sidestep its protections, see Udi Ofer, *Protecting Plyler: New Challenges to the Right of Immigrant Children to Access a Public School Education*, 1 Columbia Journal of Race and Law 187 (2012).

a denial “of the ability to live within the structure of our civic institutions,” and held that depriving undocumented students with equal access to a public school education forecloses the possibility that they will contribute to the progress of our country, and thus deprives us all.²

The same logic and same spirit that informed the U.S. Supreme Court in *Plyler v. Doe* should inform the New Jersey State Legislature today. Each year, thousands of undocumented immigrant students who have lived in New Jersey for a significant portion if not most of their lives graduate from our elementary schools, junior highs, and high schools. They are a part of our school systems, our economy and our communities. They call the United State home—they may even have no memories of their birth country or even speak the language of the country where they were born—and want to pursue the “American dream.” They pay taxes: a recent study by the Institute on Taxation and Economic Policy estimated that undocumented immigrants *pay over \$476 million in state and local taxes in New Jersey* each year.³ They volunteer at community organizations or at their churches, participate in school clubs and sports teams, and often work to help support their families. But when faced with New Jersey tuition rates that can cost more than twice as much as their friends, neighbors, teammates, lab partners, or prom dates, they are locked out of the American dream.

This bill does not afford any special treatment to undocumented students; it simply gives them the same opportunity to attend state schools at the same cost as other New Jersey students. Many other states, including California,⁴ Illinois,⁵ Kansas,⁶ Maryland,⁷ Nebraska,⁸ New Mexico,⁹ New York,¹⁰ Texas,¹¹ Utah,¹² and Washington¹³ have enacted similar legislation.

With an immigrant population estimated to rank fifth in the country, it is time for the state of New Jersey to recognize the achievements of all of its hardworking students, regardless of immigration status. Consequently, we urge you to pass A4225, as amended. Thank you.

² The Supreme Court also recognized that statutes that deny an equal access to an education to undocumented students impose a “lifetime hardship on a discrete class of children not accountable for their disabling status.” The Court held that “[t]hese children can neither affect their parents’ conduct nor their own undocumented status.” *See* 457 U.S. at 223.

³ Inst. on Taxation and Economic Policy, *Undocumented Immigrants’ State and Local Tax Contributions* (July 2013), <http://www.itep.org/pdf/undocumentedtaxes.pdf>.

⁴ Cal.Educ.Code § 68130.5.

⁵ 110 ILCS 947/67.

⁶ K.S.A. 76-731a.

⁷ MD Code, Education, § 15-106.8.

⁸ Neb.Rev.St. § 85-502(8).

⁹ N.M.S.A.1978, § 21-1-4.6.

¹⁰ N.Y.EDUC.LAW§355(2)(h)(8) (McKinney Supp. 2009).

¹¹ TEX.EDUC.CODE ANN. §§ 54.051, et seq.

¹² U.C.A. 1953 § 53B-8-106.

¹³ WASH. REV. CODE ANN. § 28b.15.012.