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April 2, 2019

Dr. Alan Carter, Headmaster  
Creative Montessori Academy  
12701 McCann Street  
Southgate, MI 48195  
[alancarter@choiceschools.com](mailto:alancarter@choiceschools.com)

*Delivered via Email*

**Re: Creative Montessori Academy's Unlawful Enrollment Application**

Dear Dr. Carter:

We at the ACLU of Michigan were disturbed to learn that the online enrollment application for the Creative Montessori Academy requires applicants to reveal their immigration status. It also requires parents to present a valid Michigan driver's license, which effectively prevents undocumented parents from enrolling children in the school. Over 35 years ago, the Supreme Court made it crystal clear that all children residing in a school district have a constitutional right to education regardless of their immigration status. Not only is Creative Montessori Academy's practice unconstitutional, but it gratuitously stigmatizes children because of their immigration status. We strongly urge you to take immediate action to remedy this injustice.

*Facts*

The ACLU received a complaint about the application process from a concerned parent at the Creative Montessori Academy (hereafter, "the Academy") named Rita Aceves. Although Ms. Aceves is a U.S. citizen, she was shocked and distressed by the application process and how it would prevent many students from enrolling in the Academy.

As you can see from the online application the parents are confronted with a request for citizenship status:

Creative Montessori Academy

Reset Submit **Updates Pending**

Important Notes:

- Complete all of the required fields
- REMEMBER TO CHOOSE THE GRADE YOUR CHILD WILL BE ENROLLING INTO. NOT the grade they are in right now
- Capitalize first, middle, and last name!
- Use the "Additional Race" field if your student is more than one race.
- Primary Language = the language that is primarily spoken in your home on a daily basis
- Home Language = the language your child first learned to speak

**Student Information**

Student Name:     
First Middle Last

Gender:

Hispanic/Latino:  Yes  No

Race: [Add Race](#)

Birth Date:        
NaN years NaN months

Birth Place:     
City State Country

Citizenship:    
Status Country

Language:    
Primary Home

Additional Phones: [Add Phone](#)

Grade:

Not only does the application process request the parents reveal the place of birth of their child and their citizenship status, but the drop-down menu further stigmatizes and criminalizes the undocumented population by requesting that they self-identify as an “illegal alien.”

Creative Montessori Academy

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**Student Information**

Student Name:     
First Middle Last

Gender:

Hispanic/Latino:  Yes  No

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Birth Date:        
NaN years NaN months

Birth Place:     
City State Country

Citizenship:    
Status Country

Language:

Additional Phones:

Grade:

**Next Step**

To [add another student](#), click the **Next Step** button on the left side of the page.

Otherwise, click the **Submit** button when complete!

In fact a parent cannot proceed with the enrollment process without revealing this detrimental information:

Creative Montessori Academy

Reset Submit Updates Pending

The following issues must be addressed before this information may be submitted:

- First Name is required
- Last Name is required
- Gender is required
- Birthdate is required
- Middle Name is required
- Home Language is required
- Primary Language is required
- Citizenship is required
- Country is required
- Grade Level is required
- Birth City is required
- Birth State is required
- Birth Country is required

Important Notes:

- Complete all of the required fields
- REMEMBER TO CHOOSE THE GRADE YOUR CHILD WILL BE ENROLLING INTO. NOT the grade they are in right now
- Capitalize first, middle, and last name!
- Use the "Additional Race" field if your student is more than one race.
- Primary Language = the language that is primarily spoken in your home on a daily basis
- Home Language = the language your child first learned to speak

**Student Information**

Student Name:     
First Middle Last

Gender:

Hispanic/Latino:  Yes  No

Race:  [Add Race](#)

Birth Date:  NaN years NaN months

Birth Place:     
City State Country

Citizenship:    
Status Country

Language:    
Primary Home

Additional Phones:  [Add Phone](#)

Grade:  <Unset>

The Academy is further requiring parents to present a valid Michigan Driver's License or Michigan State ID:



Creative Montessori Academy Pre-Enrollment

**Welcome to Creative Montessori Academy!**

**We look forward to meeting you and your family**

Please complete the following requirements to being the enrollment process:

1. COMPLETE ONLINE APPLICATION
2. SUBMIT, PRINT, AND SIGN the online application
3. BRING THE SUBMITTED, PRINTED AND SIGNED ONLINE APPLICATION ALONG WITH ALL OF THE FOLLOWING:
4. Kindergarten and PreSchool students must have a Health Appraisal WITH vision screening dated for the year 2018\*
  - Birth Certificate (Original with seal) a copy will not be accepted - we will make a copy for our records
    - if born outside of the USA birth certificate must be translated to English
  - Immigration Record—must be dated for the current year and all shots must be current
  - Parent/Guardian Valid Michigan Drivers License or Michigan State ID (office will make a copy)
  - Students must current report card (for 1st—8th grade applicants)

### The Question Requiring Applicants to Reveal their Immigration Status is Unconstitutional

The Supreme Court, in *Plyler v. Doe*,<sup>1</sup> held that children have a constitutional right to a free public K-12 education regardless of their immigration status. However, this right is widely compromised by discriminatory student enrollment practices that require families to provide proof of their child's immigration status when registering that child for school. Federal Courts have held that requiring students or students' parents to provide schools with information

<sup>1</sup> 457 U.S. 202 (1982).

regarding their immigration status, or taking other actions that significantly interfere with the right to a basic public education, violates the constitutional principles set out in *Plyler*.<sup>2</sup> These policies and practices pose a substantial risk of decreasing children's access to education by fostering the fear that enrollment may bring families to the attention of immigration authorities.

Schools cannot require students to provide a social security number and, consistent with *Plyler*, schools should identify a range of documents (e.g., birth certificate, baptism certificate, parent affidavit) that may be used to establish a child's age. To further remove barriers to enrollment, schools can limit the information required to enroll students to proof of residency, proof of age, and immunization records, and request any other information after enrollment.

### **Preventing Children from Enrolling unless their Parents have a Michigan Driver's License is Unconstitutional**

Only individuals who can demonstrate "legal presence" in this country can obtain a Michigan driver's license or state ID.<sup>3</sup> Therefore, the Academy's insistence that parents provide either a license or state ID in order to enroll their children in primary school constitutes a de facto immigration status/citizenship requirement. As demonstrated above, such a requirement is unconstitutional because it is a backdoor way to exclude undocumented children from attending public school.

If the purpose of the driver's license requirement is to establish residency, there are many other means to prove where a parent lives besides showing a driver's license or state ID. For example, copies of phone or water bills, mortgage or lease agreements, affidavits, or other documents.<sup>4</sup>

### **Request for Immediate Action**

The ACLU is strongly committed to defending *Plyler's* rule of fairness and equality. Public schools that do not follow *Plyler* violate the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution by denying undocumented school-age children a free public education. Immigrant children are in this country through no fault of their own; therefore, they are entitled to the same K-12 education that the state provides to children who are citizens or legal residents.

Schools should not -- and cannot legally -- erect barriers that prevent undocumented children from exercising their right to an education. Accordingly, we strongly urge you to immediately revise the application process to eliminate questions regarding immigration status, place of birth, and Michigan Driver's License or ID, and to add alternative ways to prove residency other than through means that are only available to documented residents.

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<sup>2</sup> See *Hispanic Interest Coal. of Alabama v. Governor of Alabama*, 691 F.3d 1236, 1245 (11th Cir. 2012); *League of United Latin Am. Citizens v. Wilson*, 908 F. Supp. 755, 774 (C.D. Cal. 1995), on reconsideration in part, 997 F. Supp. 1244 (C.D. Cal. 1997).

<sup>3</sup> M.C.L. §257.307(1)(b).

<sup>4</sup> See U.S. Department of Justice and U.S. Department of Education's Fact Sheet: Information on the Rights of All Children to Enroll in School, available at, <https://www.justice.gov/sites/default/files/crt/legacy/2014/05/08/plylerfact.pdf>

We would very much like to resolve this matter amicably. Kindly write back within ten (10) days to assure us that you have fixed the problem.

If we are not able to resolve this matter, we intend to take further action such as filing a complaint with the U.S. Department of Education Office of Civil Rights (OCR) and the Michigan Department of Civil Rights (MDCR). You or your counsel may wish to contact the MDCR independently for compliance assistance.

Respectfully,



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