

January 3, 2013

VIA U.S. MAIL AND FACSIMILE

Spence Agee
Superintendent
Autauga County Schools
153 West Fourth Street
Prattville, AL 36067

Re: Participation Requirements for Extracurricular Activities

Dear Mr. Agee:

We are writing on behalf of immigrant students who have been denied access to, or discouraged from participating in, extracurricular activities in Autauga County Schools ("ACS"). Apparently, certain ACS schools require students to provide a social security number when signing up for various after-school activities such as baseball or cheerleading.¹ This practice raises serious legal concerns. We hope that upon consideration of the following information you will take prompt action to rescind this policy without need for further legal action.

Without question, all children present in the United States have a constitutional right to attend public elementary and secondary schools, regardless of their federal immigration status. This rule, announced by the United States Supreme Court in 1982, is premised on the fact that education is a child's only path to becoming a "self-reliant and self-sufficient participant[] in society." *Plyler v. Doe*, 457 U.S. 202, 222 (1982). A public school education inculcates the

¹ For example, on Prattville Junior High School's website, a form entitled "Consent to Participate in Sports" can be found in the "Sports" section of the "Forms" link. On this form, a social security number is required and at the bottom of the form in bold, underlined capital letters, the form states that "**BOTH SIDE OF THIS FORM MUST be completed.**" See Attachment A. Further, on the "Forms" link under "ATHLETICS Consent to Participate in Athletics" it states "This is a form which must be signed by a parent/guardian and the student to be allowed to participate in ANY school sport." Also, on Marbury Middle School's website, a form entitled "MMS Document Checklist Form" can be found in the "Sports" section of the "Forms" link. On this form, a copy of the student's social security card is listed as a required document, and at the top of the form, it states:

In this packet you will find a series of forms that must be filled out and returned to the head coach of the sport your child is participating in. You will also find a list of documents that *must also be sent* along with this packet. The forms must be filled out completely or the packet will be returned and your child will not be able to participate until the packet and documents are returned and completed properly.

See Attachment B (emphasis added). Also found in this section of the website (listed as a Cheerleading form) is a form entitled "Player Information Check List." This form also requires a student's social security card. See Attachment C.

“fundamental values necessary to the maintenance of a democratic political system” and “provides the basic tools by which individuals might lead economically productive lives” *Id.* at 221. Denying children access to a public school education, the Court reasoned, could doom them to live within “a permanent caste of undocumented resident aliens.” *Id.* at 218-19. The United States Department of Justice and United States Department of Education have been clear that *Plyler* prohibits state action that would “chill” or hinder children’s right of access to education. U.S. Dep’t of Justice & U.S. Dep’t of Ed., Joint “Dear Colleague” Letter (May 6, 2011) [hereinafter “Joint ‘Dear Colleague’ Letter”], <http://www2.ed.gov/about/offices/list/ocr/letters/colleague-201101.pdf>.

The right to a public education includes the secondary benefits of public education such as participating in extracurricular activities, as education must be “available to all on equal terms.” *Plyler*, 457 U.S. at 223 (quoting *Brown v. Bd. of Ed.*, 347 U.S. 483, 493 (1954)). To do otherwise would clearly impede a child’s education without accomplishing any legitimate state goal. Indeed, in 1968, a three-judge district court panel ordered the integration of high school athletics and stated that “[i]t is without serious question that athletic programs in the various public high schools throughout Alabama are an integral part of the public school system in Alabama.” *Lee v. Macon County Bd. of Ed.*, 283 F. Supp. 194, 197 (M.D. Ala. 1968).

To ensure that immigrant students are neither singled out nor denied access because of their status, both state and federal authorities have outlined strict rules regarding any request for a student’s social security number. A school district may not deny enrollment to a student who is unable or unwilling to produce a social security number. Indeed, if a district requests a social security number, it must inform the student that disclosure is voluntary, provide the statutory or other basis upon which it is seeking the number, and explain what uses will be made of it. Joint “Dear Colleague” Letter (citing 5 U.S.C. § 552a); *see also* Alabama Dep’t of Ed., Memorandum to Alabama Superintendents from Thomas R. Bice Regarding Enrollment Documents (Aug. 17, 2012) (“We cannot emphasize enough that no child is to be denied enrollment in any school or participation in school activities or programs based on his or her immigration status.”). ACS’s activity registration forms, while clearly seeking restricted information, contain none of the protections required by law.

ACS’s policy and practice of conditioning student participation in extracurricular activities upon the receipt of a social security number violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. This is true regardless of whether a student was explicitly turned away from an activity or discouraged from joining. The U.S. Department of Justice, the U.S. Department of Education, and the Alabama Department of Education have set forth clear rules in this area—none of which have been observed by ACS.

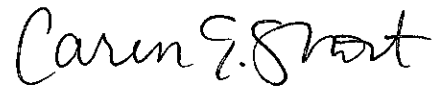
We ask that you take immediate action to rescind these policies, ensure that all written materials authored or distributed by the district comply with the law, and provide assurances that no student will be excluded from any district activity based on his or her federal immigration status.

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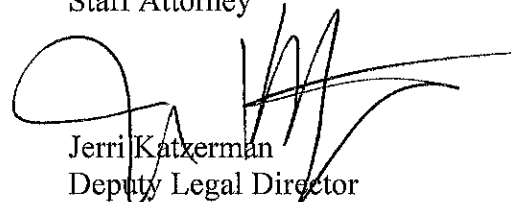
Please confirm in writing **no later than January 14, 2013** that appropriate action will be taken to correct these issues.

Thank you for your prompt attention to this important matter.

Very truly yours,



Caren Short
Staff Attorney



Jerri Katzerman
Deputy Legal Director
**licensed in Arizona and Washington*

cc: Eleanor Ballow
Jim Manderson
Mark Hindman
Jeffrey Keith
Ledronia Goodwin

Encl.

ATTACHMENT A

Prattville Junior High Athletic Warning and Consent to Participate
 _____ - _____ School Year

Last Name	First Name	M.I.	Sex
Birth Date	Social Security #	Address	

As an athlete/athletic parent in Prattville Junior High School's Athletic program, I/We understand that participation in any sport can be a dangerous activity involving MANY RISK OF INJURY. I/We further understand that there are serious risks including, but not limited to brain damage, cardiac arrest, serious injury to internal organs, and to bones, joints, ligaments, and other serious injury to the athlete's general health and well being. I/We understand that the dangers and risk or participating in athletics also include the potentially high cost of medical care and the impairment of the athlete's future ability to earn a living, to engage in other business, social, and recreational activities, and generally to enjoy life. Recognizing these risks, I/We consent to the participation of my/our son/daughter in the athletic program at Prattville Junior High School. I/We also agree to comply with all rules, regulations, and recommendations of administrators, coaches, athletic trainers, and doctors concerning injury prevention and care. I/We hereby grant consent to any and all healthcare providers designated by Prattville Junior High School to provide my child with any necessary medical care as a result of injury or illness. I/We consent to participation in the following sport(s) for the _____ - _____ school year.

Baseball _____	Football _____	Volleyball _____
Basketball _____	Golf _____	Wrestling _____
Cheerleading _____	Track _____	

Signature of Parent	Date	Signature of Student	Date
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***BOTH SIDE OF THIS FORM MUST be completed.** If you do not have health insurance, contact the school nurse for information concerning ALL KIDS INSURANCE. Also please inform the athletic department of any change in your insurance coverage throughout this school year.

ATTACHMENT B

Marbury Middle School Athletic Department

Coach Jamie Lawler

Parents/Students

Welcome to Marbury Middle School Athletics. In this packet you will find a series of forms that must be filled out and returned to the head coach of the sport your child is participating in. You will also find a list of documents that must also be sent along with this packet. The forms must be filled out completely or the packet will be returned and your child will not be able to participate until the packet and documents are returned and completed properly.

- Physical (Attached) – physical is good for one year (physical must be signed by a doctor)

Dr. Danny Ingram
361 Main Street
Prattville, AL 36067
(334)365-2205
Fee \$10.00

Dr. Martin Wybenga
564 N. Memorial Drive
Prattville, AL 36066
(334)358-2010
Fee \$10.00

- Consent Form- good for one year only (each coach may request separate form for each sport)
- Copy of Social Security Card (if returning player, this is not needed)
- Copy of Birth Certificate (if returning player, this is not needed)
- Copy of Insurance Card- good for one year only
All Players must have insurance. If needed National Security Insurance Company offers insurance to students for a reasonable price. If you have any questions, please contact me.
- Concussion Form (Attached)
- Spirit Pack Information (if attached or coach will send later)

Parent's Email Address _____

Parent's Cell Phone Number _____

Student's Cell Phone Number _____

If you have any questions, please contact me at (334)365-3522.

Sincerely,

Jamie Lawler

Jamie Lawler
Athletic Director
Head Football and Basketball Coach

ATTACHMENT C

Marbury middle School

Player Information Check List

Player's Name _____

Forms:

- Player Information Sheet
- AHSAA Participation Physical Evaluation
- Star Sportsmanship Certificate
- Birth Certificate
- Social Security Card
- Insurance Card

Marbury Middle School Athletic Warning Statement and
Consent to Participate