



IMMIGRATION ENFORCEMENT REVIEW BOARD

270 Washington Street, S.W., Suite 1-156

Atlanta, Georgia 30334-8400

SHAWN HANLEY
Chairman

March 12, 2018

Mr. D.A. King
2984 Lowe Trail
Marietta, GA30066

Dear Mr. King:

On March 7, 2018, the Immigration Enforcement Review Board (Board) received a purported Open Records Request for information and/or documents. In response to the request, the Board states as follows:

- Board minutes from the February 28, 2018 meeting. Response: No responsive documents.
- Audio or video of the February 28, 2018 meeting. Response: No responsive documents.
- O.C.G.A. § 50-18-71(b)(1)(A) does not require the Board to prepare documents. This applies to your request for a “list.” As you attended until you walked out, you saw which Board members were present.
- The Board voted to dismiss seven of the complaints on the calendar February 28, 2018. I have attached the original responses and the stipulations for these complaints. These complaints include:
 - 2016-02 – City of Atlanta
 - 2017-02 – City of Atlanta
 - 2017-14 – City of Atlanta
 - 2017-06 – Cobb County School System
 - 2017-05 – Marietta City Schools
 - 2017-10 – DeKalb County Board of Education
 - 2017-12 – Georgia Southern University
- Please note that in accordance with O.C.G.A. 50-18-72 (a)(4), documents relating to open investigations/cases are not subject to disclosure. While these seven complaints are officially still open, the Board has rendered an initial decision and they have moved to the appeal phase. Accordingly, we are providing the enclosed decisions free of charge as you have the right to appeal. However, the Board will not provide you with such documents for the remaining cases addressed during the February 28, 2018 meeting since the cases are still in the hearing/investigative phases.

- Mr. Hanley was elected during the September 27, 2017 meeting of the IERB. I have attached the minutes.
- The IERB utilized the services of Regency-Brentano, Inc. If you would like to request a copy of the transcripts, you may contact them at 404-321-3333.
- During the November 15, 2017 meeting, the Board voted to hire outside contractors to assist with the investigative duties related to the complaint. Subsequently, the Board hired John Herbert from the Herbert Legal Group to fulfil those needs. Mr. Herbert is the person who presented the complaints to the Board on February 28, 2018. Note: This information is provided as a voluntary courtesy. The Board is not required to answer questions and only to provide documents which are responsive to a proper request.
- As to any demands for rules relating to certain actions you describe, those are not proper Open Record Requests as this Board is not required to instruct you in the law nor in procedure. See O.C.G.A. § 50-18-71(b)(1)(A).

Sincerely

/s/ James A. Balli

James Balli, Vice-Chairman
Immigration Enforcement Review Board

cc: Mr. Shawn Hanley, Chairman
Mr. Russ Willard, Attorney General's Office
Carol Schwinne, Department of Audits and Accounts

*Shawn Hanley - Chairman
James Balli - Vice Chairman
Boyd Austin*



*Terry Clark
Phil Kent
Mike Yeager*

Immigration Enforcement Review Board

Board Meeting Minutes

Date: September 27, 2017

Time: 11:00 AM

Location: Meeting was held via Conference Call.
Office space was made available to anyone wishing to attend in person. The office space was located at the offices of the Department of Audits and Accounts

The Following Board Members Attended the Meeting via Conference Call:

Shawn Hanley
James Balli
Phil Kent
Mike Yeager

Opening Comments

Vice-Chairman Shawn Hanley called the meeting to order at approximately 11:03 AM. Mr. Hanley noted that there were four members present for the meeting by phone. This represented a quorum and therefore official action could be taken during the meeting.

Adoption of Minutes from Prior Meetings

Mr. Hanley noted that the first order of business was to adopt the meeting minutes from the June 29, 2017 meeting.

Mr. Mike Yeager made a motion to approve the minutes as reported. Mr. Phil Kent seconded the motion.

The meeting minutes from the June 29, 2017 meeting were adopted unanimously.

Current Business

Mr. Hanley noted that the primary focus of this quarterly meeting was to elect a new Chairman of the Immigration Enforcement Review Board. Mr. Ben Vinson resigned from the Board effective July 1, 2017.

Mr. Hanley then noted that he tendered his resignation as Vice-Chairman prior to the meeting. Therefore, the Board will need to elect both a Chairman and a Vice-Chairman at the meeting.

Mr. James Balli nominated Mr. Shawn Hanley to become the Chairman of the Immigration Enforcement Review Board. Mr. Phil Kent seconded the nomination and Mr. Hanley was elected Chairman by a unanimous vote.

Following the election of the Chairman, Mr. Phil Kent nominated Mr. James Balli to become Vice-Chairman of the Immigration Enforcement Review Board. Mr. Mike Yeager seconded this nomination and Mr. Balli was elected Vice-Chairman by a unanimous vote.

Other Business

Following the election of the Chairman and Vice-Chairman, the Board discussed dates for the next meeting. Chairman Hanley suggested having a meeting in October to review the status of the open complaints and to determine how to move forward with them. After discussion, the Board agreed to hold its next meeting on October 18, 2017 at 11:00 AM.

Chairman Hanley also suggested that the Board consider setting dates for the 2018 quarterly meetings in order to increase participation. The Board members agreed this was a good idea and would discuss possible dates during the October meeting. Additionally, the Board was going to look at the potential for holding meetings in locations other than Atlanta. However, there was acknowledgement that this option may be limited based on funding.

Adjournment

As there was no other business, Mr. Balli motioned to adjourn the meeting and Mr. Kent seconded the motion. The meeting was adjourned at 11:17 AM.

Official Minutes Statement

The foregoing Minutes for the September 27, 2017 meeting of the Immigration Enforcement Review Board were approved and adopted by the Board at the Board's meeting on November 15 2017


Shawn Hanley, Chairman

November 15, 2017
Date



CITY OF ATLANTA
DEPARTMENT OF LAW

KASIM REED
MAYOR

SUITE 5000 • CITY HALL
55 TRINITY AVENUE, S.W., ATLANTA, GEORGIA 30303-3520
(404) 546-4147

CATHY HAMPTON
CITY ATTORNEY

VIA U.S. MAIL AND ELECTRONIC MAIL TO: Ben.Vinson@Dentons.com

November 10, 2016

Benjamin J. Vinson, Chair
Immigration Enforcement Review Board
270 Washington Street, SW
Room 1-156
Atlanta, Georgia 30334

RE: September 19, 2016 Complaint by D.A. King.

Dear Mr. Vinson:

Please see the attached response to the Immigration Enforcement Review Board's notice to the City of Atlanta of the above-referenced Complaint. I look forward to receiving information regarding any next steps.

Meanwhile, I can be reached at the address and phone number above if the Board has questions or needs additional information.

Sincerely,

Angela M. Hinton
Chief Counsel
City of Atlanta – Department of Law

**BEFORE THE IMMIGRATION ENFORCEMENT REVIEW BOARD
STATE OF GEORGIA**

D.A. King,)	
Complainant)	
)	
v.)	Complaint No. Not Assigned
)	
City of Atlanta, Mayor Kasim Reed)	
Department of Finance Office of Revenue,)	
Respondents.)	
)	

RESPONSE OF THE CITY OF ATLANTA

COMES NOW the City of Atlanta, Department of Finance, Office of Revenue, (collectively, the “City”) and submits its response to the complaint dated September 19, 2016, submitted by D.A. King (“Complainant”) and received from the Immigration Enforcement Review Board (the “Board”) on October 24, 2016.

Introduction

The Complainant alleges the City of Atlanta (the “City”) “made a practice of non-compliance with OCGA 50-36-1 for non-profit corporations” and cites the Georgia Association of Latino Elected Officials (“GALEO”) as an example of the non-compliance. On or about September 14, 2016, Complainant requested E-Verify and SAVE affidavits received by the City in conjunction with issuance and renewal of a business license for GALEO, among other entities. The City provided other documents but did not have any responsive records related to GALEO. The Complainant therefore asserts that the City is in violation of O.C.G.A. §50-36-1, enacted by Ga. L. 2011, p. 794, §§ 16, 17, 18/HB 87, regarding the requirements for government agencies in the administration of public benefits. For reasons contained herein, the City denies

Complainant's allegations and moves the Board for an order dismissing the complaint as there is no basis to proceed.

Standard of Review

Chapter 291-2 of the Rules of the IERB sets forth the process for receipt, review and disposition of all Complaints received by the Board. IERB Rule 291-2-.02(3) authorizes the Board to schedule an Initial Hearing if the review panel determines the complaint meets the procedural requirements adopted by the Board and states sufficient facts to merit further hearing. The purpose of the Initial Hearing is to make a determination as to whether a violation of or a failure to enforce an eligibility status provision of state law has occurred.

Analysis

O.C.G.A. § 50-36-1, requires an agency or political subdivision that provides or administers a public benefit to require every applicant – at the time of application for such benefit – to submit 1) a signed and sworn affidavit verifying the applicant's lawful presence in the United States; and 2) secure and verifiable proof of identification. Public Benefits are defined to include, *inter alia*, “[a] Business certificate, license, or registration”.¹ The City of Atlanta is authorized to issue such public benefits to businesses that are within its jurisdiction or within the corporate limits of the City of Atlanta.² In compliance with the State mandate, the City presently requires anyone applying for or renewing a business license, certificate or registration to submit a notarized SAVE Affidavit and E-Verify Affidavit with their business license registration or renewal.³ Business licenses must be renewed each year by completion of a Business License Renewal Application, also known as the Annual

¹ See O.C.G.A. § 50-36-1(a)(4)(C).

² See Atlanta City Code Section 30-52. (Ord. No. 2004-80, § 1(Exh. B), 10-20-04)

³ Instructions to Business License applicants: <http://www.atlantaga.gov/index.aspx?page=987>

Business Tax Return. The City requires submission of notarized SAVE and E-Verify affidavits with renewal applications.

With respect to nonprofit organizations, O.C.G.A. § 48-13-13(5), prohibits local governments from levying any occupation tax, regulatory fee, or administrative fee on them.⁴ In order to establish entitlement to the State's exemption, the City of Atlanta requires nonprofit organizations to complete an application for a "non-profit license", which authorizes eligible nonprofit organizations to be exempted from paying for a business license and submitting the Annual Business Tax Return. Applicants for a "non-profit license" must provide a copy of the organization's IRS Form 501(c)(3) Form and the IRS determination letter that affirms the IRS' recognition of the organization's tax-exempt status. In addition, after the enactment of O.C.G.A. § 50-36-1, non-profits that apply for a "non-profit license" must submit a completed E-Verify affidavit, a completed SAVE affidavit and Secure and Verifiable Proof of Identification.⁵

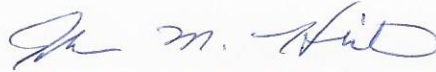
GALEO has never applied to the City for either a general business license or tax exemption as a 501(c)(3) nonprofit organization. The City's Office of Revenue has no report of GALEO operating within its jurisdiction. Therefore, the City has not violated or failed to enforce the requirements of O.C.G.A. 50-36-1 because the prerequisite of an application has never triggered the obligations imposed under that statute. Simply put, the City has no legal basis to require proof of lawful presence under O.C.G.A. §50-36-1 in the absence of an application for a public benefit. The City had no document that was responsive to the Complainant's request, not due to a failure of compliance but, due to the inapplicability of the mandate to a non-applicant.

⁴ See O.C.G.A. § 48-13-13; See also Atlanta City Ord. No. 2004-80, § 1(Exh. B), 10-20-04) Sec. 30-60.

⁵ Non-Profit License Application: <http://www.atlantaga.gov/modules/showdocument.aspx?documentid=19925>

For reasons contained herein, the City moves the Board for an order dismissing the complaint as an Initial Hearing is not warranted under IERB Rule 291-2-.02 and there is no basis to proceed.

Respectfully submitted this 10th day of November, 2016.



Angela M. Hinton
Chief Counsel
City of Atlanta Law Department

Attorney for the City of Atlanta

**IMMIGRATION ENFORCEMENT & REVIEW BOARD
STATE OF GEORGIA**

**RE: CITY OF ATLANTA
Public Agency Respondent**

IERB COMPLAINT NO. 2016-02

**D.A. KING
Complainant**

STIPULATION AGREEMENT

WHEREAS, the above-referenced Complaint was filed on September 19, 2016 by the Complainant, and the Review Panel of the Immigration Enforcement and Review Board ("Board") has determined that the Complaint should be heard in an Initial Hearing; and

WHEREAS, in an effort to narrow both legal and factual issues ahead of the Initial Hearing, the Public Agency Respondent and the Review Panel hereby make the following stipulations:

Stipulations of Fact

The Public Agency Respondent and the Review Panel make the following stipulations of fact:

1. The Public Agency Respondent states that no public benefit exists based upon a lack of application for or issuance of a business license by the City of Atlanta to the Georgia Association of Latino Elected Officials ("GALEO").
2. This position is supported by the affidavit of the City of Atlanta's Revenue Chief Felicia Daniel, as well as an affidavit from Gerardo Gonzalez, Executive Director of GALEO.
3. There are no additional facts for the resolution of the issues in this matter.

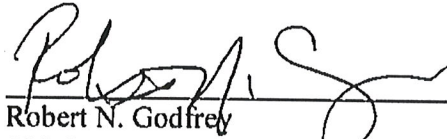
Stipulations of Law

4. NOT APPLICABLE

Based on the above stipulations of fact and supporting affidavits, the Review Panel and the Public Agency Respondent agree that the matter of IERB Complaint No. 2016-02 will be dismissed.

This Stipulation Agreement is entered into this 27th day of February 2018 by the Public Agency Respondent by its undersigned attorney.

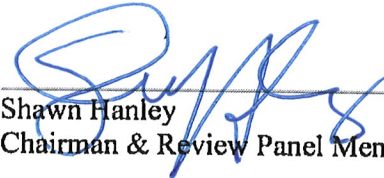
FIRM



Robert N. Godfrey
Chief Counsel, City of Atlanta Law Department
Georgia State Bar Number: 298550
Attorney for the Public Agency Respondent
55 Trinity Avenue SW, Suite 5000
Atlanta, GA 30303
Phone: 404-546-4100
eMail: rgodfrey@atlantaga.gov

This Stipulation Agreement is approved this 28th day of February 2018 by the Review Panel of the Immigration & Enforcement Review Board, and the matter of IERB Complaint No. 2016-02 is hereby dismissed.

IMMIGRATION & ENFORCEMENT REVIEW BOARD



Shawn Hanley
Chairman & Review Panel Member



CITY OF ATLANTA
DEPARTMENT OF LAW

KASIM REED
MAYOR

SUITE 5000 • CITY HALL
55 TRINITY AVENUE, ATLANTA, GEORGIA 30303
OFFICE: (404) 546-4100
DIRECT DIAL: (404) 546-4187

CATHY HAMPTON
CITY ATTORNEY

March 9, 2017

Via CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. Benjamin Vinson
Chairman
Immigration Enforcement Review Board
270 Washington Street, S.W., Suite 1-156
Atlanta, Georgia 30334

Re: D. A. King v. City of Atlanta
Case No.: Unassigned

Dear Mr. Vinson:

Enclosed, please find a copy of the City of Atlanta's Response to D. A. King's January 17, 2017 Complaint. If you have any questions regarding this matter please contact my office at 404-546-4100.

Sincerely,

M. Alexander Hope Jr.
Associate City Attorney

Enclosure(s)

BEFORE THE IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

D. A. KING,)	
)	
Complainant,)	
)	Complaint No.: Not Assigned
v.)	
)	
CITY OF ATLANTA,)	
)	
Respondent.)	
_____)	

**CITY OF ATLANTA’S RESPONSE TO
D.A. KING’S JANUARY 17, 2017 COMPLAINT**

COMES NOW Respondent, the City of Atlanta (the “City”), and submits this Response to the Complaint (the “Complaint”) dated January 17, 2017, submitted by D.A. King (“Complainant”), forwarded by the Immigration Enforcement Review Board (the “IERB”) to the City’s Law Department on February 23, 2017. For the reasons set forth below, the Complaint should be dismissed in its entirety for failure to cite “sufficient facts concerning an alleged violation of failure to enforce the eligibility status provision...to determine if a *prima facie* case exists for finding a violation or failure to enforce.”¹

I. Introduction and Statement of Facts

Complainant alleges in “his educated opinion” without confirmation, inquiry, or sufficient clarification that on December 7, 2016, the City administered a public benefit as provided under O.C.G.A. §50-36-1 in the form of an adult education class and failed to verify participant eligibility.² The City’s Office of Immigrant Affairs facilitates a free civic engagement series for

¹ IERB Rule 291-2-.01 (3) (c); *See also* IERB Rule 291-2-.01 (5) (e)

² Attachment to Official Complaint, p.1, par. 5.

new residents called MyCity Academy ATL (the “Initiative”). Held at the Atlanta-Fulton Public Library Buckhead Branch, Initiative participants engage in discussions with community leaders and other volunteer guest speakers over a six month period. The Initiative’s purpose is to provide an introduction to the City, its history and government, along with an overview of vital emergency and public safety matters, and other basic essential services. The inaugural Initiative session was held on December 7, 2016, with the last session scheduled for May 3, 2017.

The Complaint lacks sufficient facts or information necessary to determine whether a potential violation or failure to enforce occurred. Complainant alluded to news stories, materials, and an application, each allegedly regarding the Initiative as part of his “Attachment to Official Complaint” but failed to provide any copies of the referenced sources. Similarly, Complainant failed to perform any reasonable effort to support his Complaint by not including additional information or facts such as an open records act request response.³ Instead, Complainant summarily concluded, without any support, that the Initiative is a public benefit as provided by O.C.G.A. §50-36-1, and that there is no verification process because an online application (a printed copy of which was not provided with the Complaint) did not contain a “provision for verifying eligibility.”⁴ For reasons contained herein, the City denies the Complainant’s allegations and respectfully moves the IERB for an order dismissing the Complaint as there is no *prima facie* case established in the Complaint to provide a basis to proceed.

³ Complainant “leaves it to the IERB” to inquire whether there are any existing affidavits or documents. *See* Attachment to Official Complaint, p.1, par. 4,

⁴ Attachment to Official Complaint, p.1, par. 4.

II. Standard of Review

A review panel of the IERB shall review all complaints received to determine their legal sufficiency.⁵ Complaints must, *inter alia*, contain “sufficient facts concerning the alleged violation of failure to enforce the eligibility status provision, including a date or range of dates in which this violation or failure to enforce allegedly occurred, to determine if a *prima facie* case exists for finding a violation or failure to enforce.”⁶ If the review panel determines that the complaint meets the IERB’s adopted procedural requirements and states sufficient facts to merit further hearing before the review panel, the review panel shall set the complaint down for an initial hearing before the review panel.⁷

Any complaints made by an individual not authorized to file a complaint, made on forms not promulgated by the IERB, made in a manner not proscribed by the IERB, or *which do not contain sufficient facts to determine whether a potential violation or failure to enforce has occurred shall not be considered by the IERB* (emphasis added).⁸ Such determination shall not be considered either an initial or final decision of the IERB for purposes of either appeal or subject to the provisions dealing with service on the complainant or the applicable public agency or employee.⁹ Such determination shall be entered into the official records of the IERB.¹⁰

⁵ IERB Rule 291-2-.02 (1)

⁶ IERB Rule 291-2-.01 (3) (c); *See also* IERB Rule 291-2-.01 (5) (e)

⁷ IERB Rule 291-2-.02 (3)

⁸ IERB Rule 291-2-.02 (2)

⁹ *Id.*

¹⁰ *Id.*

III. Analysis

Complainant fails to state sufficient facts concerning the alleged violation to determine if a *prima facie* case exists for finding a violation or failure to enforce.

The Complaint does not contain sufficient facts to determine whether a potential violation or failure to enforce has occurred; thus, the Complaint should not be considered by the IERB.¹¹ While Complainant alleges that the City violated O.C.G.A. § 50-36-1 on December 7, 2016, the only argument in support of that claim is that the Initiative application does not contain a provision to verify eligibility. Complainant failed to attach any of the referenced documents to the Complaint and instead inserted unverifiable links. Accordingly, the City and the IERB are unable to review these referenced documents and respond to their authenticity. Despite Complainant's ambiguous allegation of "having been through the process of trying to obtain public documents" from the City pursuant to Georgia's open records law, the City has never received any requests for records pertaining to the Initiative from anyone, including the Complainant.

The sole supporting information cited in the Complaint is an allegation that an online application failed to contain an eligibility verification provision, but a copy of which was not provided with the Complaint. That lone allegation is not sufficient to establish that public benefits¹² were administered by the City on December 7, 2016, thus, triggering the City's obligation to gather eligibility documentation pursuant to O.C.G.A. § 50-36-1. Nor is it sufficient to establish that there were any applicants for public benefits from the City on December 7, 2016.

¹¹ IERB Rule 291-2-.02 (2)

¹² The City expressly denies that Initiative is a public benefit as defined in O.C.G.A. § 50-36-1.

The Complaint fails to establish that the City violated or failed to enforce the eligibility provision of O.C.G.A. § 50-36-1 on December 7, 2016.

The Complaint is void of sufficient facts to determine whether a violation or failure to enforce occurred because the documents and webpages referenced in the Complaint are not attached or reviewable. While Complainant may have attempted to include hyperlinks to referenced sources, the submitted Complaint did not include sufficient references to the electronic document locations or printed copies of the materials as viewed on the alleged date. Without the corresponding website address links and printed copies as available on the date in question, neither the IERB nor the City is able to fully understand or verify Complainant's claims. On its face, the Complaint fails to state any sufficient facts to establish a *prima facie* case and should not be considered by the IERB.

Further, Complainant fails to provide any fact or information establishing that the Initiative is an "adult education program" under O.C.G.A. §50-36-1 and, thus, subject to eligibility verification. The Complaint lacks even a scintilla of evidence for the IERB's review other than the Complainant's assumptions from reading a news story that apparently contained photos. Assumptions are not sufficient facts and cannot support a *prima facie* case for the IERB to review.

Further, relying solely on an online application's alleged lack of a verification provision is not sufficient to establish a violation of O.C.G.A. §50-36-1, should it be determined to apply to this instance. O.C.G.A. §50-36-1 clearly contemplates alternative collection methods.¹³ Specifically, the statute states:

Documents and copies of documents required by this subsection may be submitted in person, by mail, or electronically, provided the submission complies with Chapter 12 of Title 10. Copies of documents submitted in person, by mail, or electronically shall satisfy the requirements of this Code

¹³ O.C.G.A. § 50-36-1 (f) (3).


section. For purposes of this paragraph, electronic submission shall include a submission via facsimile, Internet, electronic texting, or any other electronically assisted transmitted method approved by the agency or political subdivision.¹⁴

There is no statutory requirement that documentation of eligibility must be collected with an application. There is also no rule which states that eligibility documentation cannot be collected in a format other than that utilized in the submission of the application, *e.g.* – a rule stating that an electronic application cannot be verified through submission of paper documents. There is no requirement that eligibility documents (even when properly required) must be posted online for anyone to view. Therefore, even if the Initiative was a qualified public benefit under O.C.G.A. §50-36-1(a)(4), which it is not, Complainant has failed to state sufficient facts to determine whether a potential violation or failure to enforce has occurred by merely stating that the online application viewed did not contain an eligibility status verification provision. For this and the other reasons as outlined herein, the Complaint fails to establish sufficient facts to determine whether a violation or failure to enforce occurred and the City respectfully requests that the IERB dismiss the Complaint.

IV. CONCLUSION

For the reasons set forth above, the Complaint should be dismissed in its entirety for failure to cite “sufficient facts concerning an alleged violation of failure to enforce the eligibility status provision...to determine if a *prima facie* case exists for finding a violation or failure to enforce.”¹⁵

Respectfully submitted this 9th day of March, 2017.



Elizabeth Wharton
Senior Assistant City Attorney
Georgia Bar No. 750850

¹⁴ *Id.*

¹⁵ IERB Rule 291-2-.01 (3) (c); *See also* IERB Rule 291-2-.01 (5) (e)

Diana Freeman
Assistant City Attorney
Georgia Bar No. 118898

M. Alexander Hope Jr.
Associate City Attorney
Georgia Bar No. 174139

CITY OF ATLANTA
DEPARTMENT OF LAW
55 Trinity Avenue, Suite 5000
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404-546-4187 (phone)
404-979-7814 (e-fax)
mahope@atlantaga.gov

BEFORE THE IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

D. A. KING,)
)
 Complainant,)
) Complaint No.: Not Assigned
 v.)
)
 CITY OF ATLANTA,)
)
 Respondent.)
 _____)


CERTIFICATE OF SERVICE

This is to certify that I have served the foregoing **RESPONSE OF THE CITY OF ATLANTA** by depositing the same in the U.S. Mail with adequate postage affixed thereto, addressed to:

Mr. Benjamin Vinson, Chairman
Immigration Enforcement Review Board
270 Washington Street, SW, Suite 1-156
Atlanta, GA 30334

Mr. D. A. King
2984 Lowe Trail
Marietta, GA 30066

This 9th day of March, 2017.



M. Alexander Hope Jr.
Associate City Attorney
Georgia Bar No. 174139

CITY OF ATLANTA
DEPARTMENT OF LAW
55 Trinity Avenue, Suite 5000
Atlanta, Georgia 30303
404-546-4187 (phone)
404-979-7814 (e-fax)
mahope@atlantaga.gov

**IMMIGRATION ENFORCEMENT & REVIEW BOARD
STATE OF GEORGIA**

**RE: CITY OF ATLANTA
Public Agency Respondent**

IERB COMPLAINT NO. 2017-02

**D.A. KING
Complainant**

STIPULATION AGREEMENT

WHEREAS, the above-referenced Complaint was filed on January 17, 2017 by the Complainant, and the Review Panel of the Immigration Enforcement and Review Board (“Board”) has determined that the Complaint should be heard in an Initial Hearing; and

WHEREAS, in an effort to narrow both legal and factual issues ahead of the Initial Hearing, the Public Agency Respondent and the Review Panel hereby make the following stipulations:

Stipulations of Fact

The Public Agency Respondent and the Review Panel make the following stipulations of fact:

1. The Public Agency Respondent states that the civic engagement series known as “MyCity Academy” has concluded and is no longer being offered.
2. The Public Agency Respondent states that there are no immediate plans to sponsor further courses.
3. There are no additional facts for the resolution of the issues in this matter.

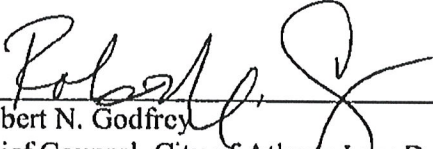
Stipulations of Law

4. NOT APPLICABLE

Based on the above stipulations of fact and supporting affidavits, the Review Panel and the Public Agency Respondent agree that the matter of IERB Complaint No. 2017-02 will be dismissed.

This Stipulation Agreement is entered into this 27th day of February 2018 by the Public Agency Respondent by its undersigned attorney.

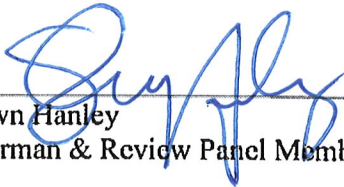
FIRM



Robert N. Godfrey
Chief Counsel, City of Atlanta Law Department
Georgia State Bar Number: 298550
Attorney for the Public Agency Respondent
55 Trinity Avenue SW, Suite 5000
Atlanta, GA 30303
Phone: 404-546-4100
eMail: rgodfrey@atlantaga.gov

This Stipulation Agreement is approved this 28th day of February 2018 by the Review Panel of the Immigration & Enforcement Review Board, and the matter of IERB Complaint No. 2017-02 is hereby dismissed.

IMMIGRATION & ENFORCEMENT REVIEW BOARD



Shawn Hanley
Chairman & Review Panel Member



CITY OF ATLANTA
DEPARTMENT OF LAW

KASIM REED
MAYOR

SUITE 5000 • CITY HALL
55 TRINITY AVENUE, ATLANTA, GEORGIA 30303
OFFICE: (404) 546-4100
DIRECT DIAL: (404) 546-4187

CATHY HAMPTON
CITY ATTORNEY

January 5, 2018

VIA CERTIFIED MAIL – RETURN RECEIPT REQUESTED

Mr. Shawn Hanley
Chairman
Immigration Enforcement Review Board
270 Washington Street, SW, Suite 1-156
Atlanta, Georgia 30334

Re: D. A. King v. City of Atlanta - Office of Revenue
Complaint No.: 2017-14

Mr. Hanley:

Enclosed, please find a copy of the Response of the City of Atlanta and Motion to Dismiss Complaint 2017-14. If you have any questions regarding this matter please don't hesitate to contact my office.

Sincerely,

M. Alexander Hope Jr.
Associate City Attorney

Enclosure(s)

BEFORE THE IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

D. A. KING,)	
)	
Complainant,)	
)	Complaint No.: 2017-14
v.)	
)	
CITY OF ATLANTA - OFFICE OF)	
REVENUE,)	
)	
Respondent.)	
_____)	

RESPONSE OF THE CITY OF ATLANTA AND MOTION TO DISMISS COMPLAINT

COMES NOW Respondent, the City of Atlanta (the “City”), and submits this Response and Motion to Dismiss, on behalf of the City’s Office of Revenue (the “Revenue Office”), to the Complaint of Mr. D.A. King (“Complainant”), submitted on November 8, 2017, and forwarded by the Immigration Enforcement Review Board (the “IERB” or “Board”) to the City’s Law Department for response on December 8, 2017.

I. Introduction

The Complaint at issue asserts two separate causes of action under O.C.G.A. § 50-36-1. First, Complainant alleges the City filed inaccurate compliance reports with the Department of Audits and Accounts (the “Audits Department”) during the years 2012-2016 because the IERB previously found in a separate case that the City committed a single violation of failure to collect one SAVE affidavit.¹ Secondly, Complainant alleges that the City also violated O.C.G.A. § 50-

¹ Complainant appears to be referencing IERB Case No.: 2016-01, although he does not specifically state as much. In such event, it is patently false for Complainant to claim that the City issued and/or renewed business licenses “estimated to number 1400 each year” in violation of the law. In Case 2016-01 the IERB found that the City failed to collect one, sole SAVE affidavit – that of the Atlanta Historical Society (“AHS”) – who had registered their organization with the

36-1 by failing to have SAVE and E-Verify affidavits in its custody for an organization known as La Amistad, Inc.

The City denies Complainant's allegations and moves this Board for an order dismissing Complaint 2017-14 in its entirety. As discussed below, Complainant's first cause of action is barred by the Georgia Constitution and Georgia's doctrine of res judicata. Complainant's second cause of action fails to state a claim or cite sufficient facts to determine if a prima facie case exists for finding a violation or failure to enforce.²

II. Standard of Review

IERB Rule 291-2-.02 outlines the process for Initial Review of all Complaints received by the Board. The purpose of the Initial Review is to make a determination as to whether a Complaint: 1) is legally sufficient; and 2) states sufficient facts to determine whether a violation may have occurred.³ In the event both requirements are met and further proceedings are merited, IERB Rule 291-2-.02 (3) authorizes the Board to schedule an Initial Hearing.

City almost two decades before the applicable statutes came into existence. Following the IERB's Initial Decision, the City not only complied with the Board's request and collected the single missing SAVE affidavit from AHS, but also went *beyond* the Board's mandate and audited all similarly situated non-profit organizations to prevent this issue from arising again. Finally, Complainant's argument also misstates the law's requirements. A secure and verifiable document, such as a SAVE affidavit, need only be collected once, **not** every single year as Complainant attempts to argue here. O.C.G.A. § 50-36-1 (f) (4).

² IERB Rule 291-2-.01 (3) (c); *See also* IERB Rule 291-2-.01 (5) (e).

³ IERB Rule 291-2-.02 (1) and (2).

III. Analysis

A. An Initial Hearing on Count One is not warranted because it is barred by the Georgia Constitution and Georgia's doctrine of res judicata; thus, it is legally insufficient per IERB Rule 291-2-.02(1).

Retroactive application of the law is barred under the Ex Post Facto Clause of the Georgia Constitution.⁴ Furthermore, the principle of res judicata is codified under Georgia law as O.C.G.A. § 9-12-40, which states in full:

A judgment of a court of competent jurisdiction shall be conclusive between the same parties and their privies as to all matters put in issue or which under the rules of law might have been put in issue in the cause wherein the judgment was rendered until the judgment is reversed or set aside.⁵

In applying the principle, the Courts have stated firmly and clearly, “[O]ne must assert all claims for relief concerning the same subject matter in one lawsuit and any claims for relief concerning that same subject matter which are not raised will be res judicata pursuant to O.C.G.A. § 9-12-40.”⁶ Likewise, “Where a judgment has been rendered on the merits, the doctrine of res judicata may not be avoided merely by requesting *different* relief in a subsequent suit.”⁷

Here, in order to grant the relief Complainant seeks, this Board would have to violate the Georgia Constitution and retroactively apply its ruling from a previous case to find a further violation against the City based on the same facts and circumstances as before. Specifically, Complainant has returned to the Board now to seek *different* relief for a violation arising from the

⁴ Ga. Const. Art. I, Sec. 1, Par. X.

⁵ *Bradley v. Georgia Institute of Technology et al.*, 228 Ga. App. 216, 217 (1997).

⁶ *Id.* at 217-18 (*Quoting Fowler v. Vineyard*, 261 Ga. 454, 458 (1991); *Quoting also Lawson v. Watkins*, 261 Ga. 147, 149, (1991); *Citing also Franklin v. Gwinnett County Pub. Schools*, 200 Ga. App. 20, 25 (1991)).

⁷ *Id.* (*Quoting and adding emphasis to Caswell v. Caswell*, 162 Ga. App. 72, 73 (1982); *Quoting also Waggaman v. Franklin Life Ins. Co.*, 265 Ga. 565, 566 (1995)).

same events as case 2016-01 – failure to collect a sole SAVE affidavit from AHS – which the Board has already fully adjudicated on the merits. As the Georgia Court of Appeals reasoned in *Bradley*, Complainant may not come back now and request a second bite of the apple by seeking additional penalties when a judgment and penalty has already been rendered by the Board for the acts of which Complainant complains.⁸ Accordingly, under IERB Rule 291-2-.02 (1), the Board should dismiss Count One of the Complaint for being legally insufficient because it is barred by the Georgia Constitution and under Georgia law.

B. An Initial Hearing on Count Two is not warranted because the City has not administered any public benefit to the organization known as La Amistad, Inc.; thus, Count Two is legally insufficient and fails to state sufficient facts per IERB Rules 291-2-.02 (1) and (2).

The allegations in Count Two of the Complaint stem from an open records request submitted by Complainant on or about October 12, 2017.⁹ Therein, Complainant requested that the City’s Department of Finance (the “Finance Department”) produce “copies of the application for a business license/OTC and all relevant and required affidavits for La Amistad, Inc.” located at an address purportedly within the City.¹⁰ The Finance Department responded to Complainant on or about October 18, 2017 stating it did not have custody of any records responsive to his request.¹¹ As a result, Complainant filed the instant suit against the City; however, his claim appears to be based on a false assumption – that the City has issued a qualifying public benefit¹² to the organization known as La Amistad, Inc in violation of O.C.G.A. § 50-36-1.

⁸ *Id.*

⁹ See generally, *Attachment to Complaint Against the City of Atlanta – D.A. King* (the “Attachment”), p. 1, § 2, ¶ 1; See also Exhibit ‘A’ to the Attachment.

¹⁰ *Id.*

¹¹ *Id.*

¹² As that term is defined under O.C.G.A. § 50-36-1 (a) (3) (i)-(xxiv).


In fact, there is no organization registered with the City Revenue Office by the name La Amistad, Inc.¹³ Consequently, the City has never issued any public benefit to an organization by that name, let alone any license or tax certificate.¹⁴ Thus, this is why the City Finance Department did not possess any records responsive to Complainant's request – not because the City has failed to comply with the law.

As such, an Initial Hearing is not warranted on Count Two and it should be dismissed pursuant to IERB Rule 291-2-.02 (1) as legally insufficient. Because no qualifying public benefit has been administered, it is not possible that any violation of O.C.G.A. § 50-36-1 has occurred. Likewise, an Initial Hearing is further unwarranted pursuant to IERB Rule 291-2-.02 (2) because Count Two also states insufficient facts to determine whether a violation may have occurred.

IV. CONCLUSION

For the reasons set forth above, an Initial Hearing is not warranted under IERB Rules 291-2-.02 (1) and (2) as to each of the Counts asserted by Complainant and the instant Complaint should be dismissed in its entirety.

Respectfully submitted this 5th day of January, 2018.



STEFANIE GRANT
Senior Assistant City Attorney
M. ALEXANDER HOPE JR.
Associate City Attorney

CITY OF ATLANTA
DEPARTMENT OF LAW
55 Trinity Avenue SW, Suite 5000

¹³ *Affidavit of Felicia Daniel*, p. 2, ¶5, attached hereto as Exhibit 1.

¹⁴ *Id.*

Atlanta, Georgia 30303
404-546-4187 (phone)
404-979-7814 (e-fax)
mahope@atlantaga.gov

BEFORE THE IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

D. A. KING,)
)
 Complainant,)
)
 v.) Complaint No.: 2017-14
)
 CITY OF ATLANTA - OFFICE OF)
 REVENUE,)
)
 Respondent.)
 _____)

AFFIDAVIT OF FELICIA DANIEL

COMES NOW Felicia Daniel, who having been duly sworn, deposes and states as follows:

1.

My name is Felicia Daniel. I am over 18 years of age and competent to give this Affidavit.

2.

I am employed by the City of Atlanta (the "City") as the Revenue Chief for the Department of Finance Office of Revenue (the "Revenue Office").

3.

I have been employed in the Revenue Office since January 7, 2013. Based on my years of professional experience and training with the Revenue Office, I have first-hand knowledge of all statements made herein, and obtained the information while serving in my official capacity.




4.

I am familiar with the Open Records Request submitted by D.A. King to the City on or about October 12, 2017, seeking records pertaining to an organization known as La Amistad, Inc.

5.

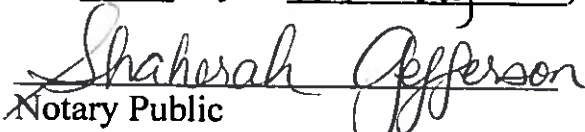
There is no organization by the name of La Amistad, Inc. registered with the Revenue Office. The Revenue Office likewise has not administered any type of service, benefit, or any other form of assistance to any organization by the name of La Amistad, Inc. Accordingly, the Revenue Office does not have any records pertaining to an organization by the name of La Amistad, Inc.

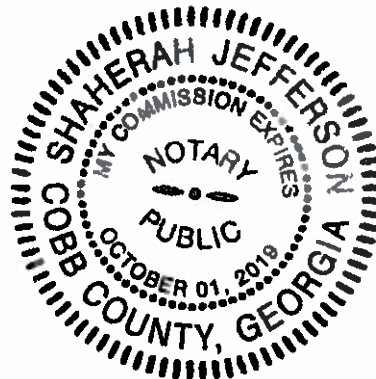
FURTHER AFFIANT SAYETH NOT, this 4th day of January, 2018.


FELICIA DANIEL
 REVENUE CHIEF
 City of Atlanta Department of Finance
 Office of Revenue

Sworn and subscribed to me

this 5th day of January, 2018.


 Notary Public
 My commission expires:



BEFORE THE IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA


D. A. KING,)	
)	
Complainant,)	
)	Complaint No.: 2017-14
v.)	
)	
CITY OF ATLANTA - OFFICE OF)	
REVENUE,)	
)	
Respondent.)	
_____)	

CERTIFICATE OF SERVICE

This is to certify that I have served the foregoing **RESPONSE OF THE CITY OF ATLANTA AND MOTION TO DISMISS COMPLAINT** by depositing the same in the U.S. Mail via Certified Mail with adequate postage affixed thereto, addressed to:

Mr. Shawn Hanley
Chairman
Immigration Enforcement Review Board
270 Washington Street, SW, Suite I-156
Atlanta, GA 30334

This 5th day of January, 2018.



M. Alexander Hope Jr.
Associate City Attorney

CITY OF ATLANTA
DEPARTMENT OF LAW
55 Trinity Avenue, Suite 5000
Atlanta, Georgia 30303
404-546-4187 (phone)
404-979-7814 (e-fax)
mahope@atlantaga.gov

**IMMIGRATION ENFORCEMENT & REVIEW BOARD
STATE OF GEORGIA**

RE: CITY OF ATLANTA
Public Agency Respondent

IERB COMPLAINT NO. 2017-14

D.A. KING
Complainant

STIPULATION AGREEMENT

WHEREAS, the above-referenced Complaint was filed on November 8, 2017 by the Complainant, and the Review Panel of the Immigration Enforcement and Review Board (“Board”) has determined that the Complaint should be heard in an Initial Hearing; and

WHEREAS, in an effort to narrow both legal and factual issues ahead of the Initial Hearing, the Public Agency Respondent and the Review Panel hereby make the following stipulations:

Stipulations of Fact

The Public Agency Respondent and the Review Panel make the following stipulations of fact:

1. The Public Agency Respondent states that no public benefit exists based upon a lack of application for or issuance of a business license by the City of Atlanta to La Amistad, Inc.
2. This position is supported by the affidavit of the City of Atlanta’s Revenue Chief Felicia Daniel, as well as an affidavit from Catrina McAfee, Executive Director of LaAmistad.
3. There are no additional facts for the resolution of the issues in this matter.

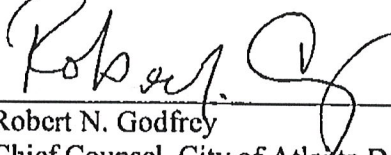
Stipulations of Law

4. NOT APPLICABLE

Based on the above stipulations of fact and supporting affidavits, the Review Panel and the Public Agency Respondent agree that the matter of IERB Complaint No. 2017-14 will be dismissed.

This Stipulation Agreement is entered into this 27th day of February 2018 by the Public Agency Respondent by its undersigned attorney.

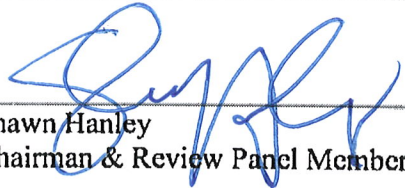
FIRM



Robert N. Godfrey
Chief Counsel, City of Atlanta Department of Law
Georgia State Bar Number: 298550
Attorney for the Public Agency Respondent
55 Trinity Avenue SW, Suite 5000
Atlanta, GA 30303
Phone: 404.546.4100
eMail: rgodfrey@atlantaga.gov

This Stipulation Agreement is approved this 28th day of February 2018 by the Review Panel of the Immigration & Enforcement Review Board, and the matter of IERB Complaint No. 2017-14 is hereby dismissed.

IMMIGRATION & ENFORCEMENT REVIEW BOARD



Shawn Hanley
Chairman & Review Panel Member

March 9, 2017

Mr. Benjamin Vinson, Chair
Georgia Immigration Enforcement Review Board
270 Washington Street, SW, Suite 1-156
Atlanta, Georgia 30334

Re: Complaint against the Cobb County School District

Dear Mr. Vinson,

This firm represents the Cobb County School District (“CCSD”) and on its behalf provides the following in response to the February 23, 2017 letter from the Director of Administration of the Georgia Department of Audits and Accounts, and the complaint dated February 7, 2017 attached thereto (“Complaint”).

1. Adult education program

CCSD believes it has not violated or failed to enforce the requirements of the Secure and Verifiable Identity Document Act (O.C.G.A. §50-36-1, et seq.) (“verification law”). CCSD acknowledges that “adult education” is one of the public benefits specifically covered by the verification law. Residents of Cobb County may receive adult education services from the Cobb/Paulding adult education program, which is operated by CCSD in conjunction with Technical College System of Georgia (“TCSG”) and serves residents of both Cobb and Paulding Counties. Thus, even though the program is operated by CCSD, it also serves adults who reside within the Marietta City and Paulding County school districts. Upon information and belief, neither the Marietta City School District nor the Paulding County School District operates an adult education program in conjunction with TCSG.

The verification law requires applicants for certain public benefits to have their eligibility verified. Specifically, certain individuals must be verified through the federal SAVE Program run by the federal Department of Homeland Security (“DHS”). CCSD complies with the eligibility verification requirements in the verification law in operating the Cobb/Paulding adult education program. Applicants are required to present proper identification and complete a Verification of Eligibility for Public Benefit Affidavit. See exhibit 1, attached. Depending on their status, certain applicants are required to provide an appropriate immigration number issued by DHS or another appropriate federal agency. Their eligibility is then verified through the federal SAVE Program. TCSG facilitates the SAVE Program verification process and provides pertinent information to the Cobb/Paulding adult education program. If an individual’s eligibility

cannot be verified, the individual may not participate in the adult education program. Thus, the CCSD adult education program fully complies with the verification law.

2. Parent and community engagement

Although “adult education” is one of the public benefits specifically covered by the verification law, CCSD notes that K-12 education is *not* included as one of its public benefits. Unrelated to its adult education program, CCSD provides other services such as parent and community engagement, in which adults participate. This is distinct from adult education because the parent and community engagement services are attached to and intended for the benefit of elementary and secondary school students, whereas the adult education services are attached to and intended for the benefit of post-secondary adults.

School districts that receive federal funds are required by federal law to dedicate resources to parent and community engagement to support students in better accessing their education. Some federal programs are specifically intended to benefit disadvantaged students (Title I) and students who are English learners (Title III). Significant federal funding flows to Georgia’s local school districts under these programs. These programs require local school districts to provide parent and community engagement in order to assist and support the students in better accessing their education. Moreover, public schools cannot deny students a free public education on the basis of their immigration status, a legal matter that was established in 1982 by the U.S. Supreme Court decision in Plyler v. Doe. The Plyler decision is expressly codified in at Georgia State Board of Education Rule 160-5-1-.28(2)(b)1(i)I(VII).

Reference is made to recent guidance from Cori Alston, Program Manager, ESOL & Title III Unit at the State Department of Education. See exhibit 2, attached. School districts are not permitted to inquire into the legal status of students or their parents. To the extent that there is an issue regarding the application of the verification law to parent and community engagement services that are mandated by state and federal rules, it would be appropriate to inquire with the state and/or federal departments of education.

3. The Complainant requested records pertaining to the Title III/ESOL program, not the adult education program

The Complaint mentions a request for records made by the Complainant under the Georgia Open Records Act. The request specifically sought records of CCSD’s ESOL program and cited a CCSD webpage related to the Title III/ESOL program. See exhibit 2, attached. The records related to the Title III/ESOL program are confidential under federal law, in particular the Family Educational Rights Privacy Act, 20 U.S.C. 1232g (“FERPA”). The form associated with Title III/ESOL services contains personally identifiable information regarding both students and their families. See exhibit 3, attached. Such personally identifiable information of both students and families is protected under FERPA. Records related to the adult education program, had they been requested, would be protected to a lesser extent. As exhibit 1 shows, the Verification of Eligibility for Public Benefit Affidavit meets the requirements of the verification law. This affidavit is completed by all applicants to the Cobb/Paulding AEP.

If additional information is needed, please do not hesitate to let us know.

Sincerely,
Gregory, Doyle, Calhoun & Rogers, LLC



Michael James Walker
Clem Doyle

MJW/jc

Enc.

CC: Ms. Carol Schwinne, Director, Georgia Department of Audits and Accounts
Superintendent Chris Ragsdale, Cobb County School District

IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

Cobb County School District

Initial Response to IERB – March 9, 2017

Exhibit # 1

Verification of Eligibility for Public Benefit Affidavit

Technical College System of Georgia
Office of Adult Education

Last updated July, 1 2014 -- Complete the form in ink

Last Name: _____ First Name: _____ Age: _____

By executing this affidavit under oath, as an applicant for adult education, as referenced in O.C.G.A. § 50-36-1, from the Technical College System of Georgia Adult Education Program, the undersigned applicant verifies one of the following with respect to my application for a public benefit:

- 1) _____ I am a United States citizen.
- 2) _____ I am a legal permanent resident of the United States.
- 3) _____ I am a qualified alien or non-immigrant under the Federal Immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency.

My Alien Registration Number (A-number), I-94 (Arrival-Departure Record) number, or other immigration number issued by the U.S. Department of Homeland Security or other federal immigration agency is: _____. (For verification through the SAVE program, a front and back copy of the secure and verifiable document and the supporting documentation must be attached.)

The undersigned applicant also hereby verifies that he or she is 18 years of age or older and has provided at least one secure and verifiable document*, as required by O.C.G.A. § 50-36-1(e)(1), with this affidavit.

The secure and verifiable document provided with this affidavit can best be classified as:

In making the above representation under oath, I understand that any person who knowingly and willfully makes a false, fictitious, or fraudulent statement or representation in an affidavit shall be guilty of a violation of O.C.G.A. § 16-10-20, and face criminal penalties as allowed by such criminal statute.

Executed in _____ (city), Georgia.

Signature of Applicant (in ink)

Printed Name of Applicant

*The "List of Secure and Verifiable Documents" can be found at <http://law.ga.gov/immigration-reports>.

SUBSCRIBED AND SWORN BEFORE ME ON THIS THE _____ PRINTED NAME OF NOTARY PUBLIC:

_____ DAY OF _____, 20_____

SIGNATURE OF NOTARY PUBLIC (In Ink):

My Commission Expires: _____

Local Program POC Initials: Date: _____	OAE Reviewer:	Date:		SAVE Date:
	<input type="checkbox"/> Complete and SAVE Ready SV _____ SD _____	<input type="checkbox"/> Incomplete <input type="checkbox"/> SV Doc <input type="checkbox"/> Supporting Doc	<input type="checkbox"/> Restricted Visa _____	Results: <input type="checkbox"/> Verified <input type="checkbox"/> Unverified

Secure and Verifiable Documents under O.C.G.A. § 50-36-2

Issued April 3, 2014 by the Office of the Attorney General, Georgia

“Secure and verifiable document” means a document issued by a state or federal jurisdiction or recognized by the United States government and that is verifiable by federal or state law enforcement, intelligence, or homeland security agencies. **The term “secure and verifiable document” shall not include any foreign passport unless the passport is submitted with a valid United States Homeland Security Form I-94, I-94A, or I-94W, or other federal document specifying an alien’s lawful immigration status, or other proof of lawful presence in the United States under federal immigration law, or a Matricula Consular de Alta Seguridad, matricula consular card, consular matriculation card, consular identification card, or similar identification card issued by a foreign government regardless of the holder’s immigration status.** Only those documents approved and posted by the Georgia Attorney General pursuant to subsection (g) of the Code section shall be considered secure and verifiable documents. [O.C.G.A. § 50-36-2 (b)(3)]

The following list of secure and verifiable documents, published under the authority of O.C.G.A. § 50-36-2, contains documents that are verifiable for identification purposes, and documents on this list may not necessarily be indicative of residency or immigration status.

- **An unexpired United States passport or passport card**
- **An unexpired United States military identification card**
- **An unexpired driver’s license or identification card issued by one of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Commonwealth of the Northern Marianas Islands, the United States Virgin Island, American Samoa, or the Swain Islands, provided that it contains a photograph of the bearer or lists sufficient identifying information regarding the bearer, such as name, date of birth, gender, height, eye color, and address to enable the identification of the bearer**
- **An unexpired tribal identification card of a federally recognized Native American tribe, provided that it contains a photograph of the bearer or lists sufficient identifying information regarding the bearer, such as name, date of birth, gender, height, eye color, and address to enable the identification of the bearer.**
- **An unexpired United States Permanent Resident Card or Alien Registration Receipt Card**
- **An unexpired Employment Authorization Document that contains a photograph of the bearer**
- **An unexpired passport issued by a foreign government, provided that such passport is accompanied by a US Department of Homeland Security Form I-94, I-94A, or I-94W, or other federal form specifying an individual’s lawful immigration status or other proof of lawful presence under federal immigration law**
- **An unexpired Merchant Mariner Document or Merchant Mariner Credential issued by the US Coast Guard**
- **An unexpired FAST card, NEXUS card, or SENTRI card**
- **An unexpired driver’s license issued by a Canadian government authority**
- **A Certificate of Citizenship (Form N-560 or Form N-561) or a Certificate of Naturalization (Form N-550 or Form N-570) issued by the United States Department of Citizenship and Immigration Services (USCIS)**
- **Certification of Report of Birth (Form DS-1350), a Certification of Birth Abroad (Form FS-545), or a Consular Report of Birth Abroad (Form FS-240) issued by the United States Department of State**
- **An original or certified copy of a birth certificate issued by a State, county, municipal authority, or territory of the United States bearing an official seal**

For a more detailed listing of these secure and verifiable documents, including citations, refer to the “List of Secure and Verifiable Documents” posted on the Attorney General of Georgia website at <http://law.ga.gov/immigration-reports>.

**Technical College System of Georgia
Office of Adult Education**

**Verification of Eligibility for Public Benefit Affidavit
Directions**

Last updated June 1, 2015

In accordance with Georgia law (O.C.G.A. § 50-36-1), Office of Adult Education grantees who receive state funds must require every applicant (ages 18 and over) to provide a secure and verifiable document and execute a signed and sworn affidavit verifying his or her lawful presence in the United States in order to be eligible to receive the public benefit of adult education. Applicants who identify themselves as Qualified Aliens/Non-immigrants on the affidavit must be verified through the federal Systematic Alien Verification for Entitlements program (SAVE). Applicants, local programs and the Office of Adult Education each have responsibilities in this process, which are detailed below.

To enroll in a state-funded adult education program, the applicant must:

- Provide at least one secure and verifiable document
- Complete the VOEPB affidavit and select one of three categories:
 1. United States citizen
 2. Legal permanent resident of the United States
 3. Qualified Alien or Non-immigrant under the Federal immigration and Nationality Act with an alien number issued by the Department of Homeland Security or other federal immigration agency
- Provide supporting documentation if presenting a foreign passport or if selecting Qualified Alien/Non-immigrant
- Have the affidavit notarized

Secure and Verifiable Documents

A secure and verifiable document is an approved form of identification that is current and valid. Only certain types of identifying documents are approved by the state of Georgia. The list of secure and verifiable documents from the Georgia Attorney General's office is provided as page two of the affidavit. For a more detailed list, including citations, refer to the "List of Secure and Verifiable Documents" posted at <http://law.ga.gov/immigration-reports>. Some examples of secure and verifiable documents include, but are not limited to:

1. Driver's license or ID issue by a state or territory
2. U.S Permanent Resident card
3. U.S. Passport
4. U.S. Military ID
5. Employment Authorization Card (I-766)
6. Foreign passport with I-94, I-94A or I-94W

Supporting Documentation

Supporting documentation can be any passport, card, or document that is issued by the **United States Department of Homeland Security, Department of State or other federal institution** that provides information to support the category of qualified alien or non-immigrant. Some examples of supporting documentation include, but are not limited to:

1. Foreign passport with I-94, I-94A, or I-94W

2. Employment Authorization Card (I-766)
3. J-1 visa form (DS-2019)

The local adult education program must:

- Print the Verification of Eligibility for Public Benefit Affidavit and the list of secure and verifiable documents in duplex format (front/back)
- Distribute the affidavit to all applicants ages 18 and over at the time of intake or within 30 days after his/her 18th birthday
- Provide a notary public or notaries public, if able
- Collect a copy of the secure and verifiable document from ALL applicants
- Collect a copy of the supporting documentation from all applicants who select the status of Qualified Alien/Non-immigrant
- Run GALIS report AL290 every 30 days to find students who have turned 18
- Review affidavits and submit all Qualified Alien/Non-immigrant affidavits with copies of the secure and verifiable document and the supporting documentation to OAE within 20 days of receipt
- Enter information from ALL affidavits into GALIS under current data deadlines
- Retain the original affidavit and copies of documents in the student permanent record

Applicants will complete the affidavit only once, during his or her initial registration into the program or upon turning 18 years old. For enrollment in subsequent fiscal years, the affidavit should be pulled forward with the student permanent record. Current adult education students who turn 18 during the fiscal year must complete the affidavit within 30 days after their 18th birthday. In compliance with record retention rules, affidavits, photocopies of the secure and verifiable document, and other supporting documentation must be maintained securely in the students' permanent records.

According to state law, as long as the applicant has completed the affidavit, supplied a secure and verifiable document and supporting documentation, the affidavit may be presumed to be proof of lawful presence until eligibility verification is made by OAE and the local program is told to withhold the public benefit. In other words, the student is eligible to enroll and attend class.

Submission Guidelines for Qualified Alien/Non-Immigrant Affidavits

1. A copy of the affidavit, secure and verifiable document, and the supporting documentation must be submitted by the local program to OAE within 20 business days of receipt.
2. Affidavits are accepted in hard copy format in person and via U.S. Mail at:
TCSG Office of Adult Education
Attn: Instructional Services
1800 Century Place, Suite 300
Atlanta, GA 30345-4304
3. Electronic submissions can be made to 404-679-1630 (fax).

Appeals Process for Applicants

1. If the applicant cannot be verified, the local program will be notified and the student is given the opportunity to submit additional documentation for submission. If they student does not submit any new documentation, the program must reject services.

2. Any applicant disputing the denial of the public benefit may appeal in writing to the Office of Adult Education within 10 business days of notification and provide additional supporting documentation or explanation.

The Office of Adult Education must:

- Review all affidavits and copies that are submitted to OAE
- Notify local programs if there are errors that need to be corrected
- Enter required information from Qualified Alien/Non-immigrant affidavits into the Systematic Alien Verification for Entitlements program (SAVE)
- Notify local programs of verification status
- Provide training and technical assistance

2010-2011 Verification of Eligibility Affidavits

Local programs have the option to use the VOE affidavits that were completed by students in 2010 and 2011 to satisfy the requirements of the statute for those particular students, if they are still enrolled. The affidavits and supporting documents should be pulled forward into the current fiscal year student record and maintained there.

Prior Year VOEPB Affidavits

Affidavits completed in prior years may be pulled forward into the current student permanent record. They do not have to be resubmitted to OAE.

Secure and Verifiable Document Extension for Refugees

Applicants who can provide satisfactory documentary evidence from the U.S. Department of Homeland Security that designates that they are refugees who have been in the United States for less than 90 days may be given by the local program a Reasonable Opportunity Period (ROP) to acquire a secure and verifiable document to satisfy the requirement of O.C.G.A. § 50-36-1. The ROP begins on the first day of arrival into the United States and ends after 90 calendar days. Applicants must complete all other requirements of the Verification process. If a student does not provide a secure and verifiable document within the ROP, the student must be dismissed from the program until he/she can provide it.

Secure and Verifiable Documents for Correctional or Institutional Applicants

Applicants in some correctional programs may not have access to typical identification documents. The first step for the adult education program, to ensure all applicants are lawfully present, is to have an agreement with the institution that only inmates who are lawfully present will be referred to the adult education program. Next, the institution must provide the adult education program with evidence of the person's identity that satisfies the criteria for a secure and verifiable document. In some cases that may be a copy of a state or county-issued prison ID card or a correctional wrist ID. It may also be a print out from their official database with a photograph and other identifying information about the applicant. If you have questions about implementing VOEPB in correctional or institutional settings, please contact OAE.

TABE N/S Dates: _____

**Cobb/Paulding Adult Education Program
FY2017 Intake Assessment Form**

Completion of this form is required for all adult learners in all programs. Required data is in bold with an asterisk (*).
Please print legibly. All signatures should be in ink.

***Entry Educational Functioning Level:**

ABE: _____ **ESL:** _____

Class Site:
Cobb County: _____ Paulding County: _____

Other Information: _____

Pre-Test Assessment				T/B	
Date	Subject	TABE SS	FORM	GE	EFL
	R				
	T/M				
	L				

Hard copies of all assessment records must be maintained in the student permanent record.

STUDENT DATA

Today's Date: _____ **Orientation Date:** _____

Social Security Number: _____ - _____ - _____ ***Date of Birth:** ____/____/____ **Age:** _____
Month / Day / Year

***Name:** _____
Last First Middle/Former Name Suffix

***Hispanic/Latino:** No, not Hispanic/Latino
 Yes, Hispanic/Latino

***Gender:** Male
 Female

***Race:** (Select one or more)
 American Indian or Alaska Native
 Asian
 Black or African-American
 Native Hawaiian or Other Pacific Islander
 White

FOR PROGRAM USE ONLY:

Session: AM PM Mon/Wed Tues/Thurs
Cobb Online Program

Institution 1: _____
Institution 2: _____

***Highest School Grade Completed:** (select one)

No School Grade Completed 1st grade 2nd grade 3rd grade 4th grade 5th grade 6th grade 7th grade 8th grade 9th grade 10th grade 11th grade 12th grade

***Highest Educational Certificate/Diploma/Degree Completed:** (select one)

None Certificate of Attendance/Completion Bachelor's degree
 High School Diploma One or more years of Postsecondary Education Master's degree
 High School Equivalency (GED) Postsecondary Technical or Vocational Certificate Specialist's degree
 Associate's degree Doctorate or Professional degree

***Where was your highest level of education completed?** U.S.-Based Schooling Non-U.S.-Based Schooling

How did you hear about the program? Print Media Friend TV Radio Referral Internet Family
 Previous Enrollment Previous Enrollment in another program: If so, which one? _____

If you were referred, select the referring agency:

Georgia Department of Corrections Division of Family and Children's Services/TANF/SNAP
 Georgia Department of Labor Georgia Vocational Rehabilitation Agency
 Georgia Department of Transportation Local Workforce Development Board/Area
 Other _____

***Special Enrollment (if applicable):**

Ability to Benefit
 Dual Enrollment
 ACCUPLACER Test Review
 Banner ID _____
 Other _____

***Correctional/Institutionalized Programs (if applicable):**

Currently Incarcerated in a Correctional Institution
 Currently Participating in a Community Corrections program
 Currently on Probation Supervision
 Currently on Parole Supervision
 Currently attending a recovery/rehabilitation program

STUDENT CONTACT INFORMATION

Address: _____
Street Address/ Apartment Number / PO Box ***City** ***State** ***Zip**

***County of residence:** _____ **Email Address:** _____

Phone 1: (_____) _____ Phone 2: (_____) _____ Phone 3: (_____) _____

EMERGENCY CONTACT INFORMATION

Name: _____
Last First Middle/Former Name

Phone 1: (_____) _____ Phone 2: (_____) _____ Relationship: _____

STUDENT STATUS and SPECIAL POPULATIONS

***Labor Force Status:** *(select one)*

- Employed**
- Employed**, but I have received a notice of termination, facility closure, or I am a transitioning service member.
- Unemployed and looking for work**
 If unemployed, have you been unemployed for 27 weeks or longer? Yes No
- Not working and not looking for work** (e.g. homemaker, retired, incarcerated, etc.)

***Do you receive TANF?** Yes No

If yes, are you within 2 years of exhausting lifetime eligibility? Yes No

***Do you or someone in your household receive SNAP benefits (Food Stamps)?** Yes No

***Special Status Populations:**

<input type="checkbox"/> Yes <input type="checkbox"/> No	Low Income	Do you receive SNAP, TANF, SSI, or local public assistance? Are you a foster child or homeless?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Displaced Homemaker	Did you provide unpaid services in the home and were dependent on the income of another, but you are no longer supported by that income, and are you experiencing difficulty in obtaining or upgrading employment?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Single Parent (or single pregnant woman)	Are you a single, separated, divorced or a widowed individual who has primary responsibility for one or more dependent children under the age of 18? Are you a single, pregnant woman?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Dislocated Worker	Have you been terminated or laid off, or received a notice of termination or layoff, or been notified of a permanent closure of a plant, facility or enterprise where you are employed?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Homeless or Runaway Youth	Do you lack a fixed, regular, and adequate nighttime residence? Have you moved in the last 36 months due to a parent's employment in seasonal farm work? Are you under 18 and leave home without parent permission?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Ex-Offender	Have you been subject to any stage of the criminal justice process for committing an offense or delinquent act? Do you require assistance in overcoming barriers to employment resulting from an arrest or conviction?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Foster Care	Are you currently in the foster care system or have you aged out of the foster care system?
<input type="checkbox"/> Yes <input type="checkbox"/> No	Farmworker (If yes, select a subcategory)	<input type="checkbox"/> Seasonal Farmworker (Were you employed for the last 12 months in agricultural or fish farming labor?) <input type="checkbox"/> Migrant and Seasonal Farmworker (Are you a seasonal farmworker without a permanent residence?) <input type="checkbox"/> Dependent (Are you a dependent of a seasonal or migrant/seasonal farmworker?)
<input type="checkbox"/> Yes <input type="checkbox"/> No	Cultural Barriers	Do you have attitudes, beliefs, customs or practices that influence a way of thinking, acting, or working that are a hindrance to employment?

Language spoken at home: _____ **Home Country:** _____

Special Accommodations Notice (Optional disclosure)

If you have a disability and/or a condition and desire any special accommodation for instruction or testing, it is your responsibility to notify the program administrative office and provide professional documentation of your disability. A disability is a physical or mental impairment that substantially limits one or more of a person's major life activities. If you do not wish to disclose your disability, leave the question below blank.

***Are you an individual with a Disability?:** Yes No **If yes, what type?** Learning Physical Both

Confidentiality Notice

This adult education program may release your student information for only specific reasons allowed under the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99), such as program evaluation purposes. If you do not wish this information to be disclosed, please check this box:

***Student's Signature:** _____ ***Date:** _____
Sign in ink

*Name: _____
Last
First
Middle/Former Name
Suffix

STUDENT GOALS

***What do you want to achieve by attending the adult education program?** (Completed prior to assessment)

Improve Skills in:

- Reading
- Math
- Writing
- Science
- Social Studies

Education Goals:

- Earn a GED diploma
- Enroll in a technical college
- Enroll in a private training program
- Enroll in a 4-year college

Career Goals:

- Find a job
- Keep my job
- Find a better job
- Complete a career assessment
- Pursue an apprenticeship

Improve English Language Skills in:

- Speaking
- Listening
- Reading
- Writing

***Integrated English Literacy/Civics Education (IEL/CE):**

- Achieve citizenship skills
- Achieve U.S. citizenship (Georgia goal)
- Increase involvement in community activities
- Vote or register to vote

FOR PROGRAM USE ONLY: The interviewer should complete this section during an initial conference with the student after his/her pre-assessment.

1. What is the student's primary reason for enrolling?

2. What services will the program provide the student?

3. What are the student's college, career, or other goals?

4. Did the student share any personal barriers that could affect program participation? If yes, please explain.

Additional Notes:

***Student's Signature:**

Sign in ink

***Date:**

***Interviewer's Signature:**

Sign in ink

***Date:**

Please note: Teachers should conference with the student at least once per quarter. Conference notes must be maintained either in hard copy format in the student permanent record or in GALIS. More information is available in the *Intake Assessment Form Directions and Definitions* document.

IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

Cobb County School District

Initial Response to IERB – March 9, 2017

Exhibit # 2

From: Cori Alston <CAston@doe.k12.ga.us>

Date: March 3, 2017 at 7:41:28 AM EST

To: Tammie Smith <tsmith@doe.k12.ga.us>, Dely Roberts <droboterts@doe.k12.ga.us>, Margaret Baker <mbaker@doe.k12.ga.us>, "Jacqueline Ellis" <jellis@doe.k12.ga.us>

Cc: Cori Alston <CAston@doe.k12.ga.us>

Subject: EL parent/family support services, legal considerations

Dear Colleagues:

It has recently come to my attention that a number of districts have been receiving inquiries regarding the language and literacy support services that they may be offering to their students' non-English speaking parents.

I would like to take this opportunity to remind you of your district's obligation to adhere to federal statutes, in particular Titles IV and VI of the Civil Rights Act of 1964, that prohibit practices deemed discriminatory to persons based on their race, color or national origin. To provide further detail on these requirements, I will attach the 2011 Dear Colleague letter co-written by the U.S. Department of Justice and U.S. Department of Education.

In addition, under ESEA Title III, Sec. 3115 "SUBGRANTS TO ELIGIBLE ENTITIES," subsection (d)(6) specifically indicates that LEA recipients of Title III funds may provide "community participation programs, family literacy services and parent and family outreach and training activities to English learners and their families...".

Responses to public inquiries regarding these family support services or the federal and state laws that govern their provision should be directed to your local school district attorney.

With kind regards,

Cori

Cori Alston
Program Manager, ESOL & Title III Unit
Georgia Department of Education
1854 Twin Towers East
205 Jesse Hill Jr. Drive
Atlanta, GA 30533
(404) 656-2067

"Educating Georgia's Future"



U.S. Department of Justice
Civil Rights Division



U.S. Department of Education
Office for Civil Rights
Office of the General Counsel

May 6, 2011

Dear Colleague:

Under Federal law, State and local educational agencies (hereinafter "districts") are required to provide all children with equal access to public education at the elementary and secondary level. Recently, we have become aware of student enrollment practices that may chill or discourage the participation, or lead to the exclusion, of students based on their or their parents' or guardians' actual or perceived citizenship or immigration status. These practices contravene Federal law. Both the United States Department of Justice and the United States Department of Education (Departments) write to remind you of the Federal obligation to provide equal educational opportunities to all children residing within your district and to offer our assistance in ensuring that you comply with the law.

The Departments enforce numerous statutes that prohibit discrimination, including Titles IV and VI of the Civil Rights Act of 1964. Title IV prohibits discrimination on the basis of race, color, or national origin, among other factors, by public elementary and secondary schools. 42 U.S.C. § 2000c-6. Title VI prohibits discrimination by recipients of Federal financial assistance on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Title VI regulations, moreover, prohibit districts from unjustifiably utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of a program for individuals of a particular race, color, or national origin. *See* 28 C.F.R. § 42.104(b)(2) and 34 C.F.R. § 100.3(b)(2).

Additionally, the United States Supreme Court held in the case of *Plyler v. Doe*, 457 U.S. 202 (1982), that a State may not deny access to a basic public education to any child residing in the State, whether present in the United States legally or otherwise. Denying "innocent children" access to a public education, the Court explained, "imposes a lifetime hardship on a discrete class of children not accountable for their disabling status. . . . By denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation." *Plyler*, 457 U.S. at 223. As *Plyler* makes clear, the undocumented or non-citizen status of a student (or his or her parent or guardian) is irrelevant to that student's entitlement to an elementary and secondary public education.

To comply with these Federal civil rights laws, as well as the mandates of the Supreme Court, you must ensure that you do not discriminate on the basis of race, color, or national origin, and that students are not barred from enrolling in public schools at the elementary and secondary level on the basis of their own citizenship or immigration status or that of their parents

or guardians. Moreover, districts may not request information with the purpose or result of denying access to public schools on the basis of race, color, or national origin. To assist you in meeting these obligations, we provide below some examples of permissible enrollment practices, as well as examples of the types of information that may not be used as a basis for denying a student entrance to school.

In order to ensure that its educational services are enjoyed only by residents of the district, a district may require students or their parents to provide proof of residency within the district. *See, e.g., Martinez v. Bynum*, 461 U.S. 321, 328 (1983).¹ For example, a district may require copies of phone and water bills or lease agreements to establish residency. While a district may restrict attendance to district residents, inquiring into students' citizenship or immigration status, or that of their parents or guardians would not be relevant to establishing residency within the district.

A school district may require a birth certificate to ensure that a student falls within district-mandated minimum and maximum age requirements; however, a district may not bar a student from enrolling in its schools based on a foreign birth certificate. Moreover, we recognize that districts have Federal obligations, and in some instances State obligations, to report certain data such as the race and ethnicity of their student population. While the Department of Education requires districts to collect and report such information, districts cannot use the acquired data to discriminate against students; nor should a parent's or guardian's refusal to respond to a request for this data lead to a denial of his or her child's enrollment.

Similarly, we are aware that many districts request a student's social security number at enrollment for use as a student identification number. A district may not deny enrollment to a student if he or she (or his or her parent or guardian) chooses not to provide a social security number. *See* 5 U.S.C. §552a (note).² If a district chooses to request a social security number, it shall inform the individual that the 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. *Id.* In all instances of information collection and review, it is essential that any request be uniformly applied to all students and not applied in a selective manner to specific groups of students.

As the Supreme Court noted in the landmark case of *Brown v. Board of Education*, 347 U.S. 483 (1954), "it is doubtful that any child may reasonably be expected to succeed in life if he [or she] is denied the opportunity of an education." *Id.* at 493. Both Departments are committed to vigorously enforcing the Federal civil rights laws outlined above and to providing any technical assistance that may be helpful to you so that all students are afforded equal educational opportunities. As immediate steps, you first may wish to review the documents your district requires for school enrollment to ensure that the requested documents do not have a chilling effect on a student's enrollment in school. Second, in the process of assessing your compliance with the law, you might review State and district level enrollment data. Precipitous drops in the

¹ Homeless children and youth often do not have the documents ordinarily required for school enrollment such as proof of residency or birth certificates. A school selected for a homeless child must immediately enroll the homeless child, even if the child or the child's parent or guardian is unable to produce the records normally required for enrollment. *See* 42 U.S.C. § 11432(g)(3)(C)(i).

² Federal law provides for certain limited exceptions to this requirement. *See* Pub. L. 93-579 § 7(a)(2)(B).

enrollment of any group of students in a district or school may signal that there are barriers to their attendance that you should further investigate.

Please contact us if you have any questions or if we can provide you with assistance in ensuring that your programs comply with Federal law. You may contact the Department of Justice, Civil Rights Division, Educational Opportunities Section, at (877) 292-3804 or education@usdoj.gov, or the Department of Education Office for Civil Rights (OCR) at (800) 421-3481 or ocr@ed.gov. You may also visit <http://wdcrobcopl01.ed.gov/CFAPPS/OCR/contactus.cfm> for the OCR enforcement office that serves your area. For general information about equal access to public education, please visit our websites at <http://www.justice.gov/crt/edo> and <http://www2.ed.gov/about/offices/list/ocr/index.html>.

We look forward to working with you. Thank you for your attention to this matter and for taking the necessary steps to ensure that no child is denied a public education.

Sincerely,

/s/

Russlynn Ali
Assistant Secretary
Office for Civil Rights
U.S. Department of Education

/s/

Charles P. Rose
General Counsel
U.S. Department of Education

/s/

Thomas E. Perez
Assistant Attorney General
Civil Rights Division
U. S. Department of Justice

IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

Cobb County School District

Initial Response to IERB – March 9, 2017

Exhibit # 3

Cobb County School District

19 January 2017

Open records request
Cobb County School District

Re; Compliance with state Public Benefits law
English Classes for Parents
OCGA 50-36-1

RECEIVED

JAN 19 2017
ORR224
OPEN RECORDS OFFICE

To; Mr. Darryl R. York
Open Records Officer
Cobb County School District
514 Glover Street, Marietta, GA 30060
P: 770-514-3870
F: 678-594-7778
Email: openrecords@cobbk12.org

Mr. York,

Please regard this as my official request for public records under Georgia's open records law.

Please send me copies of any and all documents, including applications, affidavits and Secure ID associated with the administration of the adult education classes for English Classes for Parents conducted by Cobb County School District as described on [this webpage](#) from the CCSD/Cobb County ESOL website.

Also, please include any document that indicates the original start date of these adult education classes.

Please contact me with any questions. I hope for an electronic response.

Thank you,

D.A. King
2984 Lowe Trail
Marietta, Ga. 30066
404-316-6712
Dking1952@comcast.net

IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

Cobb County School District

Initial Response to IERB – March 9, 2017

Exhibit # 4

Form for English Classes

Date: ___ / ___ / ___

Parent Information

Names:					
Last Name:					
Gender:		Masculine	Female		
Marital Status:		Single	Married	Divorced	Widowed Other
Occupation:					
First Language:			Second Language		
Indigenous Language:			Other Language:		
E-mail:					
Telephone:					
Address:					
Date of Birth: Month		Day	Year		
Country of Birth:			State/Province		
Number of Children in: Elementary ___ Middle ___ High ___					

Student Information (your children):

Student Name	Student Age	Student School

Parent Agreement

I, _____ agree to study in the program of Rosetta Stone at least 3 hours at week. I understand that the service has no cost and if I do not meet this requirement, my access to Rosetta Stone will be suspended for the remainder of the 2015-2016 school year.

I, _____ understand that my attendance and commitment to maintain good attendance are essential to my learning. If I miss more than two consecutive classes, I would have to communicate with my teacher to explain my reasons for absence.



Formulario Para Clases de Inglés

Fecha: ____ / ____ / ____

Informacion de los Padres

Nombre(s):					
Apellidos Paterno y Materno:					
Sexo:	Masculino	Femenino			
Estado Civil:	Soltero	Casado	Divorciado	Viudo	Unión Libre
Ocupación:					
Primer Idioma:			Segundo Idioma		
Lengua Indígena:			Otro Idioma:		
Correo Electrónico:					
Teléfono:					
Dirección:					
Fecha de Nacimiento: Mes		Día	Año		
País de Nacimiento:			Estado/Provincia		
Número de Hijos: Primaria (Elementary)		Educación Media (Middle)		Bachillerato (High)	

Información de los estudiantes (hijos):

Nombre del Estudiante	Edad del Estudiante	Nombre de la Escuela

Acuerdo para los Estudiantes Atendiendo las Clases de Inglés

Yo, _____ me comprometo a estudiar en el programa de Rosetta Stone por lo menos 3 horas a la semana. Entiendo que el servicio no tiene ningún costo y que si no cumplo con este requisito, mi acceso a Rosetta Stone será suspendido por lo que resta del año escolar 2015-2016.

Yo, _____ entiendo que mi asistencia es fundamental para mi aprendizaje y me comprometo a asistir a las clases. Si me ausento más de dos veces consecutivas a las clases tendré que comunicarme con mi maestro/a para explicar las razones de mi ausencia.



**IMMIGRATION ENFORCEMENT & REVIEW BOARD
STATE OF GEORGIA**

**RE: COBB COUNTY SCHOOL DISTRICT
Public Agency Respondent**

IERB COMPLAINT No. 2017-06

**D.A. KING
Complainant**

STIPULATION AGREEMENT & DISMISSAL

WHEREAS, the above-referenced Complaint was filed on February 7, 2017 by the Complainant, and the Review Panel of the Immigration Enforcement and Review Board (“Board”) has determined that the Complaint should be heard in an Initial Hearing; and

WHEREAS, in an effort to narrow both legal and factual issues ahead of the Initial Hearing, the Public Agency Respondent and the Review Panel hereby make the following stipulations:

Stipulations of Fact

The Public Agency Respondent and the Review Panel make the following stipulations of fact:

1. Prior to the 2017-2018 school year, the Public Agency Respondent provided “English Classes” to parents with students enrolled in the Cobb County School District (“CCSD”) at Belmont Hills Elementary School to teach them how to speak, read and write in English.
2. Following the receipt and review of Complaint No. 2017-06, CCSD has discontinued the classes described in Paragraph 1 and no longer provides such classes.
3. The Public Agency Respondent has attached an affidavit to this Stipulation Agreement attesting to the above stipulated facts.
4. There are no additional facts for the resolution of the issues in this matter.

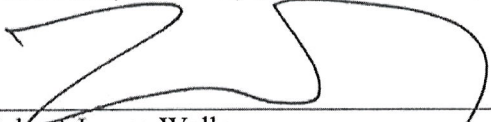
Stipulations of Law

5. NONE

Given the above Stipulated Facts, the Review Panel has determined that IERB Complaint Number 2017-06 should be and is hereby dismissed.

This Stipulation Agreement & Dismissal is entered into this ____ day of February 2018 by the Public Agency Respondent by its undersigned attorney.

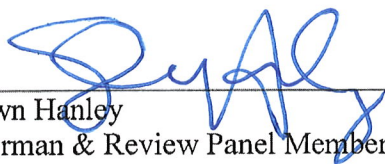
GREGORY, DOYLE, CALHOUN & ROGERS, LLC



Michael James Walker
Attorney for the Public Agency Respondent
Georgia State Bar Number: 732411
49 Atlanta Street
Marietta GA 30060
Phone: (770) 422-1776
eMail: mwalker@gregorydoylefirm.com

This Stipulation Agreement & Dismissal is approved this 28th day of February 2018 by the Review Panel of the Immigration & Enforcement Review Board.

IMMIGRATION & ENFORCEMENT REVIEW BOARD



Shawn Hanley
Chairman & Review Panel Member



March 9, 2017

Mr. Benjamin Vinson, Chair
Georgia Immigration Enforcement Review Board
270 Washington Street, SW, Suite 1-156
Atlanta, Georgia 30334

Re: Complaint against Marietta City Schools

Dear Mr. Vinson,

This firm represents the Marietta City Schools (“MCS”) and on its behalf provides the following in response to the February 23, 2017 letter from the Director of Administration of the Georgia Department of Audits and Accounts, and the complaint dated January 30, 2017 attached thereto (“Complaint”).

1. MCS’s contractor was registered and participating in the federal work authorization program.

MCS complied with the requirement set forth in O.C.G.A. §13-10-91(b)(1) that “A public employer shall not enter into a contract for the physical performance of services unless the contractor registers and participates in the federal work authorization program.” The Complaint alleges MCS contracted with LaAmistad, Inc. to provide services at a cost of \$10,000.00. MCS acknowledges that it had a \$10,000.00 contract with LaAmistad during the 2015-2016 school year. See exhibit 1, attached. (There is no such contract between MCS and LaAmistad for the current school year.) The contract was executed on behalf of MCS on or about March 7, 2016. As part of the contracting process, MCS required LaAmistad to provide written assurance that it complied with the Immigration Reform and Control Act of 1986 and the Georgia Security and Immigration Compliance Act, as amended by the Illegal Immigration Reform Act of 2011, O.C.G.A. §13-10-90, et seq. Indeed, LaAmistad met the requirement and warranted that it had registered with and participates in the federal authorization program. See exhibit 2, attached. Also as part of the contracting process, MCS required LaAmistad to submit a Contractor Affidavit and Agreement. See exhibit 3, attached.

Although the affidavit form itself appears to lack certain information required by O.C.G.A. §13-10-91, LaAmistad was in fact registered with and participating in the federal work authorization program. Upon information and belief, LaAmistad’s E-Verify number (897699)

was issued by DHS on or before July 29, 2015. MCS was aware LaAmistad was registered and participating and subsequently included LaAmistad along with its E-Verify number in its annual report to the Georgia Department of Audits and Accounts on or before December 15, 2016 as required under O.C.G.A. §13-10-91(b)(7)(A). See exhibit 4, attached.

Finally, although the affidavit form used by MCS is not a copy of the model form used by the Georgia Department of Accounts and Audits, it is nevertheless compliant under the law. The Complaint alleges MCS used “an illegal affidavit, as the form they are using is not the official model.” However, the statute does not expressly require public employers to exclusively use the form promulgated by the Georgia Department of Accounts and Audits pursuant to O.C.G.A. §13-10-91(b)(6). The statute requires only that an affidavit be executed and that the affidavit include certain information. The affidavit form used by MCS with LaAmistad contained all the elements required under the statute. MCS has not been able to trace the history of the school district’s use of the form and why it did not initially implement use of the state’s form, and plans to do an update of its forms.

2. MCS does not provide an adult education program.

MCS believes it has not violated or failed to enforce the requirements of the Secure and Verifiable Identity Document Act (O.C.G.A. §50-36-1, et seq.) (“verification law”). MCS acknowledges that “adult education” is one of the public benefits specifically covered by the verification law. (MCS also notes that K-12 education is *not* included as one of its public benefits.) MCS does not offer an adult education program. However, it does provide other services such as parent and community engagement, in which adults participate. This is distinct from adult education because the parent and community engagement services are attached to and intended for the benefit of elementary and secondary school students, whereas the adult education services are attached to and intended for the benefit of post-secondary adults.

School districts that receive federal funds are required by federal law to dedicate resources to parent and community engagement to support students in better accessing their education. Some federal programs are specifically intended to benefit disadvantaged students (Title I) and students who are English learners (Title III). Significant federal funding flows to Georgia’s local school districts under these programs. These programs require local school districts to provide parent and community engagement in order to assist and support the students in better accessing their education. Moreover, public schools cannot deny students a free public education on the basis of their immigration status, a legal matter that was established in 1982 by the U.S. Supreme Court decision in Plyler v. Doe. The Plyler decision is expressly codified in at Georgia State Board of Education Rule 160-5-1-.28(2)(b)1(i)I(VII).

Reference is made to recent guidance from Cori Alston, Program Manager, ESOL & Title III Unit at the State Department of Education. See exhibit 5, attached. School districts are not permitted to inquire into the legal status of students or their parents. If there is an issue regarding the application of the verification law to parent and community engagement services that are mandated by state and federal rules, it would be appropriate to inquire with the state and/or federal departments of education.

If additional information is needed, please do not hesitate to let us know.

Sincerely,
Gregory, Doyle, Calhoun & Rogers, LLC



Michael James Walker
Clem Doyle

MJW/jc
Enc.

CC: Ms. Carol Schwinne, Director, Georgia Department of Audits and Accounts
Superintendent Grant Rivera, Marietta City Schools

IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

Marietta City Schools

Initial Response to IERB – March 9, 2017

Exhibit # 1



CONTRACTOR AGREEMENT

E-Verify # 897699

This agreement is made and entered into this 9th day of Nov in the year 2015 by and between Marietta City Schools of the State of Georgia and LaAmistad

Contractor: LaAmistad Service ESL Parent Program

Location Marietta Sixth Grade Academy Dates: 12/5, 12/19; Jan/9, 16, 23, 30; Feb/6, 13, 27; Mar/5, 12, 19, 26; Apr/2, 16, 23, 30; May/7, 14, 21
Marietta City Schools agrees to pay: 10,000.00



By my signature below, I confirm I have read and understand the following:

- I. I am not an employee of Marietta City Schools and my compensation for services will not be subject to payroll tax deductions nor will fringe benefits be provided. As such, an invoice may be required by the school district to ensure timely payment for services rendered.
- II. I must comply with O.C.G.A § 13-10-91 and Georgia DOL Rule 300-10-1.02 which are conditions for contract award.
- III. I am not a vendor listed on the Excluded Parties List System (EPLS) and Marietta City Schools will terminate this contract if I am included on the EPLS. I understand I am required to disclose in writing to the Superintendent any debarments or suspensions that contractor has received from any entity within ten calendar days of the notification of the debarment or suspension, to produce immediately upon request written documentation of any debarment or suspension and to cooperate fully in any Marietta City Schools' investigation.
- IV. Marietta City Schools may terminate this agreement at any time for cause or without cause.
- V. I must submit invoice for payment, except if employed as athletic event worker.
- VI. If not previously submitted, I must complete in its entirety the Marietta City Schools' [redacted] with IRS form W-9, Request for Taxpayer Identification Number and Certification.
- VII. It is my duty and responsibility to include this compensation as income on my federal and state income tax returns. Marietta City Schools will comply with applicable federal and state laws concerning the reporting of this compensation to the Internal Revenue Service, including the issuance of IRS 1099M miscellaneous income form.

Any equipment, supplies, or materials used in the performance of this service, which are not provided by Marietta City Schools, shall be at the expense of the party providing such service.

This agreement will terminate upon payment in full by Marietta City Schools for the services stated herein.

Contractor Signature: Judy Anne [Signature] Contractor Phone Number: 404-842-5873

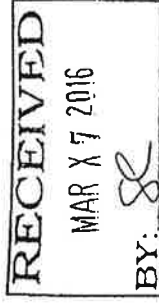
Mailing Address: 3434 Roswell Road NW Atlanta, GA 30305

MCS Asst. Supt./Principal/Director: [Signature] Date: 3/7/16

Director of Finance: _____ Date: _____

Account Number: Title III A UAY 460-6-2900-300.03-1830-01

Original Copy to Marietta City Schools, Finance Department, PO Box 1265, Marietta, GA 30061



IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

Marietta City Schools

Initial Response to IERB – March 9, 2017

Exhibit # 2

TO ALL PROSPECTIVE CONTRACTORS/VENDORS:

Contractor's full compliance with all applicable federal and state security and immigration laws, including without limitation the Georgia Security and Immigration Compliance Act as amended, O.C.G.A. §13-10-90, O.C.G.A. §13-10-91, and Georgia Department of Labor Rule 300-10-1, et. seq. is a condition to the Contractor's bid/proposal/quote and contract.

In order to insure compliance with the Immigration Reform and Control Act of 1986 (IRCA), D.L. 99-603 and the Georgia Security and Immigration Compliance Act, as amended by the Illegal Immigration Reform Act of 2011, OCGA 13-10-90 et. seq., (collectively the "Act") the Vendor ("Contractor") **MUST INITIAL** the statement applicable to Contractor below; and Contractor must immediately notify Marietta City Schools in writing if the affirmations below change:

- (a) MAC (Initial here): Contractor warrants that, Contractor has registered at <https://e-verify.uscis.gov/enroll/> to verify information of all new employees in order to comply with the Act; is authorized to use and uses the federal authorization program; will continue to use the authorization program throughout the contract period; Contractor further warrants and agrees Contractor shall execute and return any and all affidavits required by the Act and the rules and regulations issued by the Georgia Department of Labor as set forth at Rule 300-10-1-.01 et.seq.
- 3) ___ Contractor will not employ or contract with any subcontractor in connection with a covered contract with Marietta City Schools unless the subcontractor is registered, authorized to use, and uses the federal work authorization program; and provides Contractor with all affidavits required by the Act and the rules and regulations issued by the Georgia Department of Labor as set forth at Rule 300-10-1-.01 et.seq.
- 4) ___ Contractor agrees that, if Contractor employs or contracts with any sub-contractor in connection a covered contract with the Marietta City Schools under the Act and DOL Rule 300-10-1-.02, that Contractor will secure from each sub-contractor at the time of the contract the sub-contractor's name and address, the employee-number applicable to the sub-contractor, the date the authorization to use the federal work authorization program was granted to sub-contractor; the subcontractor's attestation of the subcontractor's compliance with the Act and Georgia Department of Labor Rule 300-10-1-.2.; and the subcontractor's agreement not to contract with sub-subcontractors unless the sub-subcontractor is registered, authorized to use, and uses the federal work authorization program; and provides subcontractor with all affidavits required by the Act and the rules and regulations issued by the Georgia Department of Labor as set forth at Rule 300-10-1-.01 et.seq.
- 5) ___ Contractor agrees to provide Marietta City Schools with all affidavits of compliance as required by O.C.G.A. § 13-10-90 *et seq.* and Georgia Department of Labor Rule 300-10-1-.02, 300-10-1-.03, 300-10-1-.07 and 300-10-1-.08 within five (5) business days of receipt.

IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

Marietta City Schools

Initial Response to IERB – March 9, 2017

Exhibit # 3

CONTRACTOR AFFIDAVIT AND AGREEMENT

By executing this affidavit, the undersigned contractor verifies its compliance with O.C.G.A. 13-10-91, and attests under oath that:

(1) the individual, firm, or corporation ("Contractor") which is contracting with the Marietta City Schools has registered with, is authorized to use, uses, and will continue throughout the contract term to use and participate in, a federal work authorization program [any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify information of newly hired employees, pursuant to the Immigration Reform and Control Act of 1986 (IRCA), P.L. 99-603], in accordance with the applicability provisions and deadlines established in O.C.G.A. 13-10-91, as amended. As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

(2) Contractor's correct user identification number and date of authorization is set forth herein below.

(3) Contractor agrees that the Contractor will not employ or contract with any subcontractor(s) in connection with the physical performance of services pursuant to this contract with the Marietta City Schools, unless at the time of the contract said subcontractor (a) is registered with and participates in the federal work authorization program; (b) provides Contractor with a duly executed, notarized affidavit with the same affirmations, agreements, and information as contained herein and in such form as required under applicable law; and (c) agrees to provide Contractor with notice of receipt and a copy of every sub-subcontractor Affidavit or other applicable verification procured by subcontractor at the time of contract with the sub-subcontractor(s) within five (5) business days after receiving the said Affidavit or verification. Contractor agrees to maintain records of such compliance and to provide notice of receipt and a copy of each such subcontractor Affidavit or other applicable verification to the Marietta City Schools at the time the subcontractor(s) is retained to perform such service or within five (5) days after receiving the said Affidavit or verification, whichever first occurs.

(4) Contractor further agrees to and shall provide Marietta City Schools with copies of all other affidavits or other applicable verification received by Contractor (ie: sub-subcontractor affidavits and all other lower tiered affidavits) within five (5) days of receipt.

EEV/Basic Pilot Program User Identification Number _____ Date of Authorization _____

If an applicable Federal work authorization program as described above is used, other than the EEV/Basic Pilot Program, please identify the program.

LaAmistad, Inc.
Company Name / Contractor Name

Shirley Ann Cruz
BY: Signature of Authorized Officer or Agent

03/03/2016
Date

Assistant Director
Title of Authorized Officer or Agent of Contractor

Shirley Ann Cruz
Printed Name of Authorized Officer or Agent

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE
____ DAY OF _____, 20____

Notary Public
My Commission Expires: _____

*As of the effective date of O.C.G.A. 13-10-91, the applicable federal work authorization program is the "EEV/Basic Pilot Program" operated by the U. S. Citizenship and Immigration Services Bureau of the U.S. Department of Homeland Security, in conjunction with the Social Security Administration (SSA).

IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

Marietta City Schools

Initial Response to IERB – March 9, 2017

Exhibit # 4

Name	Address	City	ST	Zip	Verify #	E	Date	Contract #	Contract Amount
Cintas Corporation No. 2	3600 Kennesaw 75 Parkway	Kennesaw	GA	30144	529104	n	3/16/2016	167102	1000.00
Sterling Computers Corporation	600 Stevens Port Drive	Dakota Dunes	SD	57049	634907	n	3/14/2016	809411	1000.00
LaAmistad, Inc.	3434 Roswell Road	Atlanta	GA	30305	897699	n	3/7/2016	495501	10000.00
K & A Specialty Parts, Inc.	107 Ore Mine Road	Taylorsville	GA	30178		y	2/25/2016	480994	2000.00
D & D Fire Protection	770 Kingsbridge Road	Carrollton	GA	30117	131611	n	2/11/2016	229605	1000.00
Expeditionary Learning Education	247 West 35th Street	New York	NY	10001	861087	n	1/25/2016	306897	36500.00
Ellen Katzowitz	2570 Chimney Springs Drive	Marietta	GA	30062		y	1/19/2016	973262	3990.00
Allan Vigil Ford Lincoln, Inc	6790 Mt. Zion Blvd.	Morrow	GA	30260	94460	n	3/9/2016	019206	50000.00
Shriver Mechanical, Inc.	4880 Lake Acworth Drive	Acworth	GA	30101	401978	n	3/21/2016	763107	8500.00
GeoSurvey, Ltd.	1660 Barnes Mill Rd.	Marietta	GA	30062	62053	n	3/24/2016	1635	2750.00
Glassworks of Georgia	3140 Calumet Circle	Kennesaw	GA	30152		y	4/13/2016	372694	5000.00
Simply Zee Imagery	1256 Brownstone Dr.	Marietta	GA	30008		y	4/13/2016	767068	15000.00
Old Mountain Contracting Company	497 Kirk Rd.	Marietta	GA	30060	614101	n	4/13/2016	633285	5000.00
PlaySouth Playground Creators	108 Allenwood Rd.	Fayetteville	GA	30214	942178	n	4/25/2016	669921	20000.00
Dealers Supply	82 Kennedy Dr.	Forest Park	GA	30297		y	4/25/2016	247802	20000.00
Breaux & Associates	5955 Shiloh Rd. East Suite 200	Alpharetta	GA	30005	770296	n	4/26/2016	112982	100000.00
Superior Hardware Products	716 Industry Road Suite A	Longwood	FL	32750		y	4/28/2016	818346	2000.00
Blison & Associates	P O Box 3442	Marietta	GA	30061		y	4/29/2016	976702	3000.00
ServiceWear Apparel, Inc.	7135 Charlotte Pike Suite 100	Nashville	TN	37209		y	5/2/2016	757301	3000.00
Draisen Edwards Music	2902 North Main St.	Anderson	SC	29621	343799	n	5/2/2016	269862	5000.00
F L Graphik	310 West Ave.	Dallas	GA	30157		y	5/5/2016	319875	1500.00
Irrigation Management Services, LLC	348 Josephin St. NE	Atlanta	GA	30307		y	5/6/2016	462854	3000.00
J & M Contractors Inc	4022 Rainbow Dr.	Decatur	GA	30034	PGARS960	n	6/14/2016	463551	5000.00
White Hawk Inc.	1475 Canton Rd. Suite 100	Marietta	GA	30066	273694	n	7/12/2016	890102	10000.00
Gas South	3625 Cumberland Blvd. Suite 1500	Atlanta	GA	30339		y	7/18/2016	339330	50000.00
Turfwell Athletic Fields	P O Box 814	Acworth	GA	30101	161592	n	7/19/2016	851602	66000.00
Glisson Camp & Retreat Center	690 Camp Glisson Road	Dahlonega	GA	30533		n	7/20/2016	373226	10000.00
SSS Plumbing Service	P. O. Box 1909	Dallas	GA	30132	470378	n	7/25/2016	804847	5000.00
Southeast Building Maintenance Tech.	P.O. Box 1687	Loganville	GA	30052	327830	n	8/3/2016	784475	10000.00
Rosetta Stone Ltd.	135 West Market St.	Harrisonburg	VA	22801	19959	n	8/3/2016		5000.00
Classroom Unsquarred, LLC	3449 Whirlaway Court	Marietta	GA	30062	959417	n	8/8/2016		5000.00
Jaxx Pest Control	P.O. Box 440186	Kennesaw	GA	30160	165176	n	8/16/2016	482168	50000.00
Naviance Inc	3033 Wilson Blvd. Suite 500	Arlington	VA	22201		y	8/16/2016	618597	50000.00
Swift Straw	2255 Cumberland Pkwy. Bldg. 1700	Atlanta	GA	30339		y	8/17/2016	819387	50000.00
Synovia Solutions, LLC	9330 Priority Way West Dr.	Indianapolis	IN	46240		y	8/23/2016	819752	10000.00
Hall Rigdon & Associates	231 Washington Ave.	Marietta	GA	30060		y	8/23/2016	396991	20000.00
OSSI, Inc.	1100 Williams Dr. Suite 300	Marietta	GA	30056	289871	n	8/23/2016	633175	5000.00
Sure Supply Inc	P.O. Box 2471	Urburn	GA	30048		y	8/30/2016	819165	1000.00
Georgia Fire Protection Company	P. O. Box 456	Mt. Zion	GA	30150		y	9/27/2016	356369	5000.00
Playworx Playsets LLC	2550 Sandy Plains Rd. Suite 225 #348	Marietta	GA	30066		y	9/29/2016	669976	10000.00
K Mike Whittle Designs	156 Church St.	Marietta	GA	30060		y	10/12/2016	1497	5000.00
R. K. Redding Construction	412 Sangamore Rd	Bremen	GA	30110	23043	n	10/12/2016	1477	120000.00
Georgia Turf Irrigation, Inc.	5445 Priest Rd.	Acworth	GA	30102		y	10/31/2016	1607	5000.00
Mingledorff's, Inc.	6675 Jones Mill Court	Norcross	GA	30548		y	10/31/2016	1615	25000.00
Complete Painting Contractors	17888 Soutny Road B7	Woodland	AL	36280	429747	n	11/8/2016	1640	5000.00
All Star Field Restoration and Construction	4130 Haralson Mill Rd.	Conyers	GA	30012	825493	n	11/8/2016	1654	5500.00

IMMIGRATION ENFORCEMENT REVIEW BOARD

STATE OF GEORGIA

Marietta City Schools

Initial Response to IERB – March 9, 2017

Exhibit # 5

From: Cori Alston <CALston@doe.k12.ga.us>

Date: March 3, 2017 at 7:41:28 AM EST

To: Tammie Smlth <tsmith@doe.k12.ga.us>, Dely Roberts <droboterts@doe.k12.ga.us>, Margaret Baker <mbaker@doe.k12.ga.us>, "Jacqueline Ellis" <jellls@doe.k12.ga.us>

Cc: Cori Alston <CALston@doe.k12.ga.us>

Subject: EL parent/family support services, legal considerations

Dear Colleagues:

It has recently come to my attention that a number of districts have been receiving inquiries regarding the language and literacy support services that they may be offering to their students' non-English speaking parents.

I would like to take this opportunity to remind you of your district's obligation to adhere to federal statutes, in particular Titles IV and VI of the Civil Rights Act of 1964, that prohibit practices deemed discriminatory to persons based on their race, color or national origin. To provide further detail on these requirements, I will attach the 2011 Dear Colleague letter co-written by the U.S. Department of Justice and U.S. Department of Education.

In addition, under ESEA Title III, Sec. 3115 "SUBGRANTS TO ELIGIBLE ENTITIES," subsection (d)(6) specifically indicates that LEA recipients of Title III funds may provide "community participation programs, family literacy services and parent and family outreach and training activities to English learners and their families...".

Responses to public inquiries regarding these family support services or the federal and state laws that govern their provision should be directed to your local school district attorney.

With kind regards,

Cori

Cori Alston
Program Manager, ESOL & Title III Unit
Georgia Department of Education
1854 Twin Towers East
205 Jesse Hill Jr. Drive
Atlanta, GA 30533
(404) 656-2067

"Educating Georgia's Future"



U.S. Department of Justice
Civil Rights Division



U.S. Department of Education
Office for Civil Rights
Office of the General Counsel

May 6, 2011

Dear Colleague:

Under Federal law, State and local educational agencies (hereinafter "districts") are required to provide all children with equal access to public education at the elementary and secondary level. Recently, we have become aware of student enrollment practices that may chill or discourage the participation, or lead to the exclusion, of students based on their or their parents' or guardians' actual or perceived citizenship or immigration status. These practices contravene Federal law. Both the United States Department of Justice and the United States Department of Education (Departments) write to remind you of the Federal obligation to provide equal educational opportunities to all children residing within your district and to offer our assistance in ensuring that you comply with the law.

The Departments enforce numerous statutes that prohibit discrimination, including Titles IV and VI of the Civil Rights Act of 1964. Title IV prohibits discrimination on the basis of race, color, or national origin, among other factors, by public elementary and secondary schools. 42 U.S.C. § 2000c-6. Title VI prohibits discrimination by recipients of Federal financial assistance on the basis of race, color, or national origin. 42 U.S.C. § 2000d. Title VI regulations, moreover, prohibit districts from unjustifiably utilizing criteria or methods of administration that have the effect of subjecting individuals to discrimination because of their race, color, or national origin, or have the effect of defeating or substantially impairing accomplishment of the objectives of a program for individuals of a particular race, color, or national origin. *See* 28 C.F.R. § 42.104(b)(2) and 34 C.F.R. § 100.3(b)(2).

Additionally, the United States Supreme Court held in the case of *Plyler v. Doe*, 457 U.S. 202 (1982), that a State may not deny access to a basic public education to any child residing in the State, whether present in the United States legally or otherwise. Denying "innocent children" access to a public education, the Court explained, "imposes a lifetime hardship on a discrete class of children not accountable for their disabling status. . . . By denying these children a basic education, we deny them the ability to live within the structure of our civic institutions, and foreclose any realistic possibility that they will contribute in even the smallest way to the progress of our Nation." *Plyler*, 457 U.S. at 223. As *Plyler* makes clear, the undocumented or non-citizen status of a student (or his or her parent or guardian) is irrelevant to that student's entitlement to an elementary and secondary public education.

To comply with these Federal civil rights laws, as well as the mandates of the Supreme Court, you must ensure that you do not discriminate on the basis of race, color, or national origin, and that students are not barred from enrolling in public schools at the elementary and secondary level on the basis of their own citizenship or immigration status or that of their parents

or guardians. Moreover, districts may not request information with the purpose or result of denying access to public schools on the basis of race, color, or national origin. To assist you in meeting these obligations, we provide below some examples of permissible enrollment practices, as well as examples of the types of information that may not be used as a basis for denying a student entrance to school.

In order to ensure that its educational services are enjoyed only by residents of the district, a district may require students or their parents to provide proof of residency within the district. *See, e.g., Martinez v. Bynum*, 461 U.S. 321, 328 (1983).¹ For example, a district may require copies of phone and water bills or lease agreements to establish residency. While a district may restrict attendance to district residents, inquiring into students' citizenship or immigration status, or that of their parents or guardians would not be relevant to establishing residency within the district.

A school district may require a birth certificate to ensure that a student falls within district-mandated minimum and maximum age requirements; however, a district may not bar a student from enrolling in its schools based on a foreign birth certificate. Moreover, we recognize that districts have Federal obligations, and in some instances State obligations, to report certain data such as the race and ethnicity of their student population. While the Department of Education requires districts to collect and report such information, districts cannot use the acquired data to discriminate against students; nor should a parent's or guardian's refusal to respond to a request for this data lead to a denial of his or her child's enrollment.

Similarly, we are aware that many districts request a student's social security number at enrollment for use as a student identification number. A district may not deny enrollment to a student if he or she (or his or her parent or guardian) chooses not to provide a social security number. *See* 5 U.S.C. §552a (note).² If a district chooses to request a social security number, it shall inform the individual that the 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. *Id.* In all instances of information collection and review, it is essential that any request be uniformly applied to all students and not applied in a selective manner to specific groups of students.

As the Supreme Court noted in the landmark case of *Brown v. Board of Education*, 347 U.S. 483 (1954), "it is doubtful that any child may reasonably be expected to succeed in life if he [or she] is denied the opportunity of an education." *Id.* at 493. Both Departments are committed to vigorously enforcing the Federal civil rights laws outlined above and to providing any technical assistance that may be helpful to you so that all students are afforded equal educational opportunities. As immediate steps, you first may wish to review the documents your district requires for school enrollment to ensure that the requested documents do not have a chilling effect on a student's enrollment in school. Second, in the process of assessing your compliance with the law, you might review State and district level enrollment data. Precipitous drops in the

¹ Homeless children and youth often do not have the documents ordinarily required for school enrollment such as proof of residency or birth certificates. A school selected for a homeless child must immediately enroll the homeless child, even if the child or the child's parent or guardian is unable to produce the records normally required for enrollment. *See* 42 U.S.C. § 11432(g)(3)(C)(i).

² Federal law provides for certain limited exceptions to this requirement. *See* Pub. L. 93-579 § 7(a)(2)(B).

enrollment of any group of students in a district or school may signal that there are barriers to their attendance that you should further investigate.

Please contact us if you have any questions or if we can provide you with assistance in ensuring that your programs comply with Federal law. You may contact the Department of Justice, Civil Rights Division, Educational Opportunities Section, at (877) 292-3804 or education@usdoj.gov, or the Department of Education Office for Civil Rights (OCR) at (800) 421-3481 or ocr@ed.gov. You may also visit <http://wdcrobcopl01.ed.gov/CFAPPS/OCR/contactus.cfm> for the OCR enforcement office that serves your area. For general information about equal access to public education, please visit our websites at <http://www.justice.gov/crt/edo> and <http://www2.ed.gov/about/offices/list/ocr/index.html>.

We look forward to working with you. Thank you for your attention to this matter and for taking the necessary steps to ensure that no child is denied a public education.

Sincerely,

/s/

Russlynn Ali
Assistant Secretary
Office for Civil Rights
U.S. Department of Education

/s/

Charles P. Rose
General Counsel
U.S. Department of Education

/s/

Thomas E. Perez
Assistant Attorney General
Civil Rights Division
U. S. Department of Justice

**IMMIGRATION ENFORCEMENT & REVIEW BOARD
STATE OF GEORGIA**

**RE: MARIETTA CITY SCHOOLS
Public Agency Respondent**

IERB COMPLAINT No. 2017-05

**D.A. KING
Complainant**

STIPULATION AGREEMENT & DISMISSAL

WHEREAS, the above-referenced Complaint was filed on January 30, 2017 by the Complainant, and the Review Panel of the Immigration Enforcement and Review Board (“Board”) has determined that the Complaint should be heard in an Initial Hearing; and

WHEREAS, in an effort to narrow both legal and factual issues ahead of the Initial Hearing, the Public Agency Respondent and the Review Panel hereby make the following stipulations:

Stipulations of Fact

The Public Agency Respondent and the Review Panel make the following stipulations of fact:

1. The Public Agency Respondent hired a contractor known as La Amistad, Inc. to provide ESL Parent Program services for parents of students enrolled in the Marietta City Schools for the 2015-2016 school year.
2. The Public Agency Respondent required La Amistad Inc. to provide written assurance that it complied with the Immigration Reform and Control Act of 1986 and the Georgia Security and Immigration Compliance Act as amended by the Illegal Reform Act of 2011.
3. La Amistad Inc. did comply with that request.
4. The Public Agency Respondent required La Amistad Inc. to submit a Contractor Affidavit and Agreement.
5. The Public Agency Respondent has provided the E-Verify number of La Amistad Inc.

6. The affidavit used by the Public Agency Respondent is not the model form, but contains all provisions required by law.
7. La Amistad Inc. is no longer providing services to the Public Agency Respondent pursuant to a contract governed by the Immigration Reform and Control Act of 1986 and the Georgia Security and Immigration Compliance Act as amended by the Illegal Reform Act of 2011.
8. The Public Agency Respondent has attached an affidavit to this Stipulation Agreement attesting to the above stipulated facts.
9. There are no additional facts for the resolution of the issues in this matter.

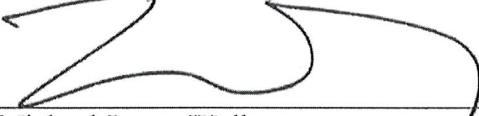
Stipulations of Law

10. NONE

Given the above Stipulated Facts, the Review Panel has determined that IERB Complaint Number 2017-05 should be and is hereby dismissed.

This Stipulation Agreement & Dismissal is entered into this ____ day of February 2018 by the Public Agency Respondent by its undersigned attorney.

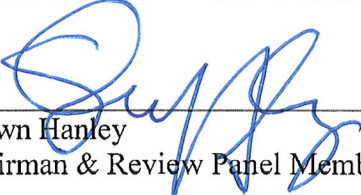
GREGORY DOYLE, CALHOUN & ROGERS, LLC



Michael James Walker
Attorney for the Public Agency Respondent
State Bar of Georgia Number: 732411
49 Atlanta Street
Marietta GA 30060
Phone: (770) 422-1776
eMail: mwalker@gregorydoylefirm.com

This Stipulation Agreement & Dismissal is approved this 28th day of February 2018 by the Review Panel of the Immigration & Enforcement Review Board.

IMMIGRATION & ENFORCEMENT REVIEW BOARD



Shawn Hanley
Chairman & Review Panel Member



1701 Mountain Industrial Boulevard
Stone Mountain, GA 30083-1027
678-676-1200

Board of Education
Dr. Melvin Johnson, *Chair*
Dr. Michael A. Erwin, *Vice Chair*
Mr. Stan O. Jester
Mr. James L. "Jim" McMahan
Dr. Joyce Morley
Mr. Marshall D. Orson
Mrs. Vickie B. Turner

Superintendent
Dr. R. Stephen Green

January 5, 2018

Mr. Shawn Hanley, Chairman
Immigration Enforcement Review Board
270 Washington Street, SW, Suite 1-156
Atlanta, Georgia 30334

Re: Complaint No. 2017 – 10/Filed by D.A. King
Date of Complaint – June 16, 2017

Honorable Chairman Hanley:

The DeKalb County School District ("DCSD") is in receipt of the December 8, 2017 letter from Carol O. Schwinne regarding the June 16, 2017 second complaint filed by Mr. D.A. King. Similar to his first complaint against DCSD, Mr. King attacks the program administered by Literacy Action, Inc. at Cross Keys High School.

In short, Mr. King claims that DCSD violated the law by not obtaining E-Verify affidavits from Literacy Action. DCSD, however, has not violated the law as E-Verify affidavits are not required in this instance. The basis for the dismissal of Mr. King's second complaint is outlined in my September 22, 2017, letter to the former Chairman, Mr. Benjamin Vinson. A copy of my September 22, 2017, letter and enclosures is attached hereto for your easy reference.

Should the Immigration Enforcement Review Board ("Board") decide not to dismiss the second complaint filed by Mr. King, then DCSD requests that its Motion for Subpoenas to Compel the Production of Documents filed pursuant to Board Rule 291-2-.03(3) be granted. DCSD respectfully seeks the issuance of the subpoenas prior to the scheduling of any hearing by the Board.

Thank you for your consideration in this matter. You may contact me directly at (678) 676-0420. Glinton_Darien@dekalbschoolsga.org is my email address. My fax number is (678) 676-1350.

Respectfully submitted,

A handwritten signature in blue ink that reads "Glinton R. Darien, Jr." with a stylized flourish at the end.

Glinton R. Darien, Jr.
Assistant Legal Officer
Office of Legal Affairs



DeKalb County
School District

1701 Mountain Industrial Boulevard
Stone Mountain, GA 30083-1027
678-676-1200

Board of Education
Dr. Melvin Johnson, *Chair*
Dr. Michael A. Erwin, *Vice Chair*
Mr. Stan O. Jester
Mr. James L. "Jim" McMahan
Dr. Joyce Morley
Mr. Marshall D. Orson
Mrs. Vickie B. Turner

Superintendent
Dr. R. Stephen Green

September 22, 2017

Mr. Benjamin Vinson, Chairman
Immigration Enforcement Review Board
270 Washington Street, SW, Suite 1-156
Atlanta, Georgia 30334

Re: Complaint No. 2017 – 03/filed by D.A. King
Date of Complaint – January 17, 2017

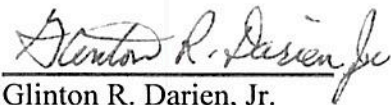
Honorable Chairman Vinson:

During the public comments portion of the last meeting of the Immigration Enforcement Review Board ("Board"), I stated that I would provide the Board with additional information regarding the Complaint filed by D. A. King. Although not contained in Mr. King's written Complaint, during the last meeting of the Board Mr. King implied that the DeKalb County School District ("DCSD") violated the law by not obtaining E-Verify affidavits from Literacy Action. The law, however, does not require that E-Verify affidavits be obtained in this instance. A copy of the agreement between DCSD and Literacy Action is attached hereto as Exhibit "E." As you will note, no monetary consideration or payment is made to Literacy Action by DCSD. Pursuant to O.C.G.A. § 13-10-90 (4), an E-Verify affidavit is needed only when "the labor or services exceed \$2,499.99." A copy of this statute is attached hereto as Exhibit "F."

As I mentioned during the last meeting of the Board, should the Board decide not to dismiss the Complaint, then DCSD requests that its Motion for Subpoenas to Compel the Production of Documents filed pursuant to Board Rule 291-2-.03(3) be granted. DCSD respectfully seeks the issuance of the subpoenas prior to the scheduling of any hearing.

Thank you for your consideration in this matter. You may contact me directly at (678) 676-0420. Glinton_Darien@dekalbschoolsga.org is my email address. My fax number is (678) 676-1350.

Respectfully submitted,



Glinton R. Darien, Jr.
Assistant Legal Officer
Office of Legal Affairs

EXHIBIT

E



Literacy Action and DeKalb County School's Family Engagement Center Partnership Agreement

This Program Partnership Agreement establishes a formal programmatic relationship between Literacy Action and DeKalb County School's Family Engagement Center. This collaborative relationship will provide adult literacy classes, known hereafter as the Program, to benefit parents with children enrolled in DeKalb County Schools. The goal of the program is to increase a parent's literacy and language skills in order to better support their child's academic development. To ensure programmatic success, the following guidelines have been created and agreed upon by both organizations.

Program Branding: A collaborative marketing approach will be taken to effectively highlight the programmatic partnership and will adhere to the following guidelines:

- When referencing the program for new participant recruitment, the program will be referred to as "Parent Engagement Class." When referencing the program in the media and for media purposes, it will be referred to as the "Family Literacy Initiative."
- All program collateral will utilize both organization's approved logos and reference the partnership by name. Collateral includes, but is not limited to: flyers, websites, social media and video
- Both organizations will leverage their respective staff, as needed, to coordinate media outreach and program testimonials.

Program Scope: The program will blend adult learning principles and terminology on school culture, norms and standard information to frame a curriculum designed to increase parent engagement. Parents with improved literacy skills are more equipped to support and engage in their child's academic development.

The programmatic framework includes 2, 14 week sessions with classes meeting for 90 minutes, twice a week. Each session can serve a max of 15 families.

Program Goals: The following programmatic goals have been created and agreed upon by both organizations:

- Through measurable progress, parents will improve their literacy skills.
- Parents will increase time spent reading with their child/children by 15%.
- Parents will increase their engagement within the school by 15%.
- Parents will be confident in supporting their child/children academically.

Program Management: Both organizations will be responsible for a set of programmatic components, as well as shared responsibilities, outlined below:

- **Shared Responsibilities**
 - Marketing strategy and branding
 - Data collection and reporting, includes but not limited to program intake and survey materials
 - Monthly program check-ins

- **Family Engagement Centers**
 - Recruit participants
 - Participant intake and orientation
 - Provide a space conducive to student centric learning
 - Assist with data collection and assessments, as needed.
 - Coordinate childcare for participants, if needed.
 - Participant commitment and attendance. Follow up with participants as needed.

- **Literacy Action**
 - Program design, including but not limited to curriculum and lesson plans.
 - Assessment tools and implementation schedule
 - Adult Literacy classroom instruction
 - Develop, schedule and administer self-efficacy surveys
 - Participant data management and progress reporting
 - Attendance data management
 - Semester program update reports
 - Explore additional joint funding opportunities

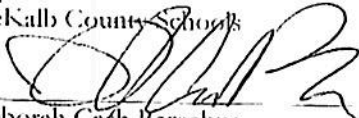
All communications about this partnership will transpire between Literacy Action's Director of Programs, Deborah Cash Bargabus and DeKalb County Schools District Family Engagement Liaison, Marcia Coward.



Dr. R. Stephen Green
Superintendent
DeKalb County Schools

Date

5/19/17



Deborah Cash Bargabus
Director of Programs
Literacy Action

Date

5/30/17

EXHIBIT

F

O.C.G.A. § 13-10-90

Current through the 2017 Regular Session of the General Assembly.

Official Code of Georgia Annotated > TITLE 13. CONTRACTS > CHAPTER 10. CONTRACTS FOR PUBLIC WORKS > ARTICLE 3. SECURITY AND IMMIGRATION COMPLIANCE

§ 13-10-90. Definitions

As used in this article, the term:

- (1) "Commissioner" means the Commissioner of Labor.
- (2) "Contractor" means a person or entity that enters into a contract for the physical performance of services.
- (3) "Federal work authorization program" means any of the electronic verification of work authorization programs operated by the United States Department of Homeland Security or any equivalent federal work authorization program operated by the United States Department of Homeland Security to verify employment eligibility information of newly hired employees, commonly known as E-Verify, or any subsequent replacement program.
- (4) "Physical performance of services" means any performance of labor or services for a public employer using a bidding process or by contract wherein the labor or services exceed \$2,499.99; provided, however, that such term shall not include any contract between a public employer and an individual who is licensed pursuant to Title 26 or Title 43 or by the State Bar of Georgia and is in good standing when such contract is for services to be rendered by such individual.
- (5) "Public employer" means every department, agency, or instrumentality of this state or a political subdivision of this state.
- (6) "Subcontractor" means a person or entity having privity of contract with a contractor, subcontractor, or sub-subcontractor and includes a contract employee or staffing agency.
- (7) "Sub-subcontractor" means a person or entity having privity of contract with a subcontractor or privity of contract with another person or entity contracting with a subcontractor or sub-subcontractor.

History

Code 1981, § 13-10-90, enacted by Ga. L. 2006, p. 105, § 2/SB 529; Ga. L. 2010, p. 308, § 2/SB 447; Ga. L. 2011, p. 794, § 2/HB 87; Ga. L. 2013, p. 111, § 1/SB 160.

Annotations

Notes

THE 2010 AMENDMENT, effective July 1, 2010, added paragraph (2.1). See Editor's notes for applicability.

THE 2011 AMENDMENT, effective July 1, 2011, deleted "the Georgia Department of" following "Commissioner of" in paragraph (1); added paragraph (2); redesignated former paragraphs (2) through (4) as present paragraphs (3) through (6), respectively; in paragraph (3), inserted "employment eligibility" near the end and substituted "commonly known as E-Verify, or any subsequent replacement program" for "pursuant to the Immigration Reform and Control

Act of 1986 (IRCA), D.L. 99-603" at the end; in paragraph (4), inserted "within this state" in two places; added "with more than one employee" at the end of paragraph (5); rewrote paragraph (6); and added paragraph (7). See Editor's notes for applicability.

THE 2013 AMENDMENT, effective July 1, 2013, deleted "with a public employer" at the end of paragraph (2); rewrote paragraph (4), which read: "'Physical performance of services' means the building, altering, repairing, improving, or demolishing of any public structure or building or other public improvements of any kind to public real property within this state, including the construction, reconstruction, or maintenance of all or part of a public road; or any other performance of labor for a public employer within this state under a contract or other bidding process."; in paragraph (5), substituted "this state or a political subdivision of this state" for "the state or a political subdivision of the state with more than one employee"; and in paragraph (6), inserted ", subcontractor, or sub-subcontractor".

EDITOR'S NOTES. --

Ga. L. 2010, p. 308, § 4, not codified by the General Assembly, provides, in part, that the amendment to this Code section shall apply to contracts which are first advertised or otherwise given public notice on or after July 1, 2010.

Ga. L. 2011, p. 794, § 1, not codified by the General Assembly, provides that: "This Act shall be known and may be cited as the 'Illegal Immigration Reform and Enforcement Act of 2011.'"

Ga. L. 2011, p. 794, § 21, not codified by the General Assembly, provides that: "(a) If any provision or part of any provision of this Act or the application of the same is held invalid or unconstitutional, the invalidity shall not affect the other provisions or applications of this Act or any other part of this Act than can be given effect without the invalid provision or application, and to this end, the provisions of this Act are severable.

"(b) The terms of this Act regarding immigration shall be construed to have the meanings consistent with such terms under federal immigration law.

"(c) The provisions of this Act shall be implemented in a manner consistent with federal laws governing immigration and civil rights."

Ga. L. 2011, p. 794, § 22, not codified by the General Assembly, provides, in part, that the amendment by that Act shall apply to offenses and violations occurring on or after July 1, 2011.

Ga. L. 2013, p. 111, § 2/SB 160, not codified by the General Assembly, provides that: "It is the intent of the General Assembly that all public employers and contractors at every tier and level use the federal work authorization program on all projects, jobs, and work resulting from any bid or contract and that every public employer and contractor working for a public employer take all possible steps to ensure that a legal and eligible workforce is utilized in accordance with federal immigration and employment."

Research References & Practice Aids

LAW REVIEWS. --

For annual survey of labor and employment law, see *58 Mercer L. Rev. 211 (2006)*. For article, "The Georgia Security and Immigration Compliance Act: Comprehensive Immigration Reform in Georgia --'Think Globally ... Act Locally,'" see *13 Ga. St. B.J. 14 (2007)*. For article on the 2011 amendment of this Code section, see *28 Ga. St. U.L. Rev. 35 (2011)*. For article, "State Government: Illegal Immigration Reform and Enforcement Act of 2011," see *28 Ga. St. U.L. Rev. 51 (2011)*. For article on the 2013 amendment of this Code section, see *30 Ga. St. U.L. Rev. 173 (2013)*.

Hierarchy Notes:

Title Note

Hierarchy Notes:

Chapter Note

Hierarchy Notes:

Article Note

OFFICIAL CODE OF GEORGIA ANNOTATED
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End of Document

**IMMIGRATION ENFORCEMENT & REVIEW BOARD
STATE OF GEORGIA**

**RE: DEKALB COUNTY SCHOOL
DISTRICT
Public Agency Respondent**

IERB COMPLAINT NO. 2017-10

**D.A. KING
Complainant**

STIPULATION AGREEMENT

WHEREAS, the above-referenced Complaint was filed on June 17, 2017 by the Complainant and the Review Panel of the Immigration Enforcement and Review Board ("Board") has determined that the Complaint should be heard in an Initial Hearing; and

WHEREAS, in an effort to narrow both legal and factual issues ahead of the Initial Hearing, the Public Agency Respondent and the Review Panel hereby make the following stipulations:

Stipulations of Fact

The Public Agency Respondent and the Review Panel make the following stipulations of fact:

1. Literacy Action, Inc. entered into an agreement with the Public Agency Respondent through which Literacy Action, Inc. provided certain services.
2. For the services, Literacy Action, Inc., the Public Agency Respondent paid no compensation (less than \$2,499.99) thus not triggering the E-Verify requirements pursuant to O.C.G.A. §13-10-90(4). The agreement with Literacy Action, Inc. is attached to this stipulation.
3. There are no additional facts for the resolution of the issues in this matter.

Stipulations of Law


4. NOT APPLICABLE



Based on the above stipulations of fact and supporting affidavits, the Review Panel and the Public Agency Respondent agree that the matter of IERB Complaint No. 2017-10 will be dismissed.

This Stipulation Agreement is entered into this 28th day of February 2018 by the Public Agency Respondent by its undersigned attorney.

DEKALB COUNTY SCHOOL DISTRICT



Mr. Ginton R. Darien, Jr.
Assistant Legal Officer
Attorney for the Public Agency Respondent
Georgia State Bar Number: 684676
DeKalb County School District
Office of Legal Affairs
1701 Mountain Industrial Blvd.
Stone Mountain, GA 30083
Phone: 678-676-0420
eMail: glinton_darien@dekalbschoolsga.org

This Stipulation Agreement is approved this 28th day of February 2018 by the Review Panel of the Immigration & Enforcement Review Board, and the matter of IERB Complaint No. 2017-10 is hereby dismissed.

IMMIGRATION & ENFORCEMENT REVIEW BOARD



Shawn Hanley
Chairman & Review Panel Member

[Handwritten signature]



Literacy Action and DeKalb County School's Family Engagement Center Partnership Agreement

This Program Partnership Agreement establishes a formal programmatic relationship between Literacy Action and DeKalb County School's Family Engagement Center. This collaborative relationship will provide adult literacy classes, known hereafter as the Program, to benefit parents with children enrolled in DeKalb County Schools. The goal of the program is to increase a parent's literacy and language skills in order to better support their child's academic development. To ensure programmatic success, the following guidelines have been created and agreed upon by both organizations.

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 - Attendance data management
 - Semester program update reports
 - Explore additional joint funding opportunities

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Dr. R. Stephen Green
Superintendent
DeKalb County Schools

5/19/17
Date



Deborah Cash Bargabus
Director of Programs
Literacy Action

5/30/17
Date



OFFICE OF LEGAL AFFAIRS
POST OFFICE BOX 8020
STATESBORO, GEORGIA 30460-8020
TELEPHONE (912) 478-7481
FAX (912) 478-7488

January 19, 2018

The Immigration Enforcement Review Board
Mr. Shawn Hanley, Chairman
270 Washington Street, SW
Room 1-156
Atlanta, Georgia 30334

Re: Complaint 2017-12
Our File No. 180556

Dear Mr. Hanley:

Please find herein the agency's response to complaint number 2017-12, against Georgia Southern University ("University"), Dr. Jaimie Hebert, and Mrs. Amy Perry, filed on July 12, 2017.

Factual Background

On Mondays and Wednesdays between May 1, 2017 and May 24, 2017, from the hours of 11:30 AM until 1:00 PM, the Georgia Southern University Department of Continuing Education held a total of eight (8) "Lunch and Learn" sessions designed for attendees to practice English language skills. The sessions were facilitated by Mrs. Amy Perry, an instructor employed by the University. The sessions were attended by eight (8) regular attendees and one (1) one-day attendee. Each regular attendee paid sixty-five dollars (\$65.00) for the course and the one-day attendee paid twenty-five dollars (\$25.00) for the course. A small credit card convenience fee was also collected, bringing the total revenue for the course to five hundred and fifty dollars and thirty-six cents (\$550.36).

Mrs. Perry's annual salary equates to nineteen dollars and thirty-seven cents (\$19.37) per hour. For the total course time of twelve (12) hours, she would have received two hundred and thirty-two dollars and forty-four cents (\$232.44). Other course expenses totaled two hundred and forty dollars and six cents (\$240.06), for total expenses of four hundred and seventy-two dollars and fifty cents (\$472.50). The expenses include a substantial fee of one hundred and eighty dollars (\$180.00) paid back to the University's Department of Continuing Education itself. Even considering that retained fee as an "expense," the program made a net profit of seventy-seven dollars and eighty-six cents (\$77.86).

Georgia Southern University follows the policies of the University System of Georgia to conduct rigorous verification of lawful presence for all admitted students seeking in-state tuition. Following those policies ensures that no lawfully present student is ever refused admission to the institution because of the presence of an undocumented student and that no undocumented student receives the public benefit of a state-subsidized education. These policies further ensure that the institution remains in compliance with federal immigration regulations. Regarding the course in question, consistent with established verification practices, the University did not expend state resources in order to verify lawful presence of attendees because they were not seeking admission to a program that would provide a diploma, certificate, license, or any other credential or benefit and because each attendee paid more than enough money to cover the costs of presenting the sessions.

Question Presented

The complaint filed with the IERB on July 12, 2017 alleges that the University failed to collect affidavits from attendees being administered public benefits, as required by O.C.G.A. §50-36-1. It is the University's position that federal and Georgia law, including O.C.G.A. §50-36-1, does not require that affidavits be collected in this situation, as no "public benefit" was administered.

Supporting Law and Application

O.C.G.A. §50-36-1(f) requires that an agency or political subdivision administering any public benefit collect a signed and sworn affidavit verifying each benefit applicant's lawful presence in the United States. It is not disputed that the University is an agency or political subdivision of the State of Georgia. However, the lunch and learn sessions in question do not meet the definition of "public benefit."

O.C.G.A. §50-36-1(a)(3)(A)(i) defines "public benefit" to include "a state or local benefit as defined in 8 U.S.C. Section 1621 . . . which shall include the following: (i) Adult education . . ." There is no further definition of the term "Adult education." However, in the Report of the Attorney General on Public Benefits dated August 1, 2012, the Attorney General clarifies as follows:

Adult education [O.C.G.A. § 50-36-1(a)(4)(A)(i)]

The Technical College System of Georgia (formerly known as the Department of Technical and Adult Education) is required to set forth policies so as to comply with federal law, but verification by that agency is not otherwise required under the Act. See O.C.G.A. § 50-36-1(d)(7). Other public entities, however, certainly could offer such benefit and should examine those offerings to see if participants should verify their lawful presence. (emphasis added).

O.C.G.A. § 50-36-1(d)(7), referenced in the Attorney General's report also specifically excepts the Board of Regents of the University System of Georgia (which the University is a part of) from the verification provisions elsewhere in O.C.G.A. 50-36-1. See O.C. G. A. § 50-36-1(b) (describing subsection (d) as the provision that governs those entities or activities described therein as opposed to the more general requirement in subsection (b)). O.C.G.A. § 50-36-1(d)(7) reads: "Verification of lawful presence in the United States under federal immigration law under this Code section shall not be required: . . . For postsecondary education, whereby the Board of Regents of the University System of Georgia, the State Board of the Technical College System of Georgia, the board of commissioners of the Georgia Student Finance Commission, and the board of directors of the Georgia Student Finance Authority shall set forth, or cause to be set forth, policies or regulations, or both, regarding postsecondary benefits that comply with all federal law including but not limited to public benefits as described in 8 U.S.C. Section 1611, 1621, or 1623."

The Board of Regents of the University System of Georgia, as one of the "[o]ther public entities" contemplated in the Attorney General's report, is obligated to determine whether it must verify lawful presence in connection with its adult education offerings. Based on the Attorney General's assessment of O.C.G.A. § 50-36-1(d)(7) as not requiring verification by the Technical College System for adult education beyond setting policies to comply with federal law, it follows that verification is likewise not required by the Board of Regents and the other two agencies listed in that Code section, so long as those agencies are complying with federal law.


This interpretation is consistent with the definition of “state or local benefit” found in federal law. Georgia Code section 50-36-1(d)(7) points the four listed agencies and political subdivisions to 8 U.S.C. §§1611, 1621, or 1623 for guidance. 8 U.S.C. § 1621(c)(1)(B) defines “state or local benefit” as, “any retirement, welfare, health, disability, public or assisted housing, postsecondary education, food assistance, unemployment benefit, or any other similar benefit for which payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.” (emphasis added). While “adult education” is not specifically mentioned by name, other benefits listed alongside adult education in O.C.G.A. §50-36-1(a)(3)(A) are included in 8 U.S.C. § 1621(c)(1)(B), including welfare, health, and disability assistance. In addition, adult education is a “similar benefit” to postsecondary education, which is specifically included. As such, adult education would qualify as a state or local benefit only if, as described in 8 U.S.C. § 1621(c)(1)(B), “payments or assistance are provided to an individual, household, or family eligibility unit by an agency of a State or local government or by appropriated funds of a State or local government.” In other words, O.C.G.A. § 50-36-1 provides that the University’s verification requirements are set forth in federal law.

In this case, no payments or assistance were provided to any individuals, households, or family eligibility units by the University. As described in the factual background above, session participants were required to pay a fee that more than covered all expenses associated with hosting the sessions. The University made a profit, albeit a small one, from the fees paid for participation. Because no State resources and/or appropriated funds were used to support the sessions (and certainly no assistance was provided to an individual, household, or family unit), these sessions do not meet the definition of “state or local benefit” under federal law, and are therefore excluded from the definition of “public benefit” in O.C.G.A. §50-36-1(a)(3)(A)(i).

Because the University is a unit of the University System of Georgia, its obligations under O.C.G.A. § 50-36-1(d)(7) are to follow the System policies put in place to ensure that to the University complies with federal law, and “verification by [the University] is not otherwise required under the Act.” With regard to the lunch and learn, the University was not administering a public benefit under federal law and was following the System policies on verification that comply with federal law. The University was therefore not required to verify lawful presence of attendees and has complied with state law on this issue.

Please do not hesitate to contact me should you require further information regarding this matter.

Sincerely,



Maura C. Copeland
Executive Counsel