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SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-0768-16T4

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IN RE N.J.A.C. 6A:8
STANDARDS AND ASSESSMENTS : Civil Action
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CONSENT ORDER
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WHEREAS this matter was initiated by Appellants Latino Action Network of New Jersey, Latino Coalition of New Jersey, Paterson Education Fund, NAACP New Jersey State Conference and Education Law Center, by their counsel American Civil Liberties Union of New Jersey and Education Law Center, as a challenge to the validity of the regulations proposed and adopted by the Respondents New Jersey

Department of Education and State Board of Education ("State Respondents") at N.J.A.C. 6A:8 that govern the graduation assessments required by N.J.S.A. 18A:7C-1 and 7C-2; and

WHEREAS this Court issued a decision and Judgment on December 31, 2018 finding that the challenged regulations, specifically, N.J.A.C. 6A:8-5.1(a)(6), -5.1(f) and -5.1(g), are invalid and ordering that they be stricken; and

WHEREAS this Court stayed its Judgment for thirty days to provide the State Respondents with the opportunity to seek further review; and

WHEREAS on January 10, 2019, the State Respondents filed a motion for partial reconsideration, requesting that this Court amend its opinion to clarify that its Judgment striking N.J.A.C. 6A:8-5.1(a)(6), -5.1(f) and -5.1(g) will not adversely impact students who, as of December 31, 2018, had already satisfied one or both components of the graduation assessment requirement under those regulations; and

WHEREAS on January 25, 2019, this Court sua sponte extended its stay of the Judgment pending a decision on the motion for reconsideration; and

WHEREAS on January 30, 2019, at the Court's direction, the Appellants filed a response to the State Respondents' motion, requesting that this Court clarify that its ruling will apply

prospectively beginning with the class of 2023, and to provide equitable relief to all current high school students by declaring either: (1) that no student shall be denied a diploma on the basis of failure to fulfill the graduation assessment requirement or (2) that all students currently in high school may satisfy the graduation assessment requirement by fulfilling any of the pathways applicable to the class of 2019; and

WHEREAS on February 6, 2019, this Court directed the State Respondents to reply to Appellants' submission; and

WHEREAS the parties recognize that the State Respondents will be unable to promulgate new regulations under the Administrative Procedures Act in sufficient time to impact the graduating classes of 2019 and 2020; and

WHEREAS the parties agree that it is in the best interests of the students of New Jersey to devise an equitable resolution that provides the State Respondents with sufficient time to adopt appropriate rule amendments to ensure that the graduation assessment requirements are consistent with the statutory mandate and provide fair notice to affected students; and

WHEREAS the parties agree that pending the adoption of such rule amendments by State Respondents, affected students should be permitted to meet the graduation assessment requirements through the pathways and standards delineated in the rules in effect on

the date of this Court's decision of December 31, 2018, and specifically those pathways and standards applicable to the graduating class of 2019 as set forth at N.J.A.C. 6A:8-5.1(a)(6); -5.1(f) and -5.1(f)(1);

IT IS on this day of , 2019;

ORDERED that this Court's Judgment of December 31, 2018 is hereby amended to provide:

1. The portion of the Judgment striking N.J.A.C. 6A:8-5.1(a)(6); -5.1(f); and -5.1(f)(1) is stayed until September 1, 2020; and
2. The pathways and standards for graduation applicable to the graduating class of 2019 set forth in N.J.A.C. 6A:8-5.1(a)(6); -5.1(f) and -5.1(f)(1) shall apply to the graduating classes of 2019 and 2020.

For the Court:

_____ Dated:
Hon. Carmen Messano, P.J.A.D.

We hereby consent to the form and entry of the within Order:

Jessica Levin

Jessica Levin, Esq.
EDUCATION LAW CENTER
Attorney for Appellants

Dated: 2/15/2019

Jeanne LoCicero

Jeanne LoCicero, Esq.
AMERICAN CIVIL LIBERTIES UNION--NJ
Attorney for Appellants

Dated: 2/15/2019

Donna Arons

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Deputy Attorney General
Attorney for State Respondents

Dated: 2/15/19