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State of New Jersey



Report to Governor

Jon S. Corzine

Submitted by:

The Governor's Blue Ribbon Advisory Panel on Immigrant Policy

**Recommendations for a comprehensive and
strategic statewide approach to successfully
integrate the rapidly growing immigrant
population in New Jersey**





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Governor's Blue Ribbon Advisory Panel on Immigrant Policy

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March 16, 2009

Dear Governor Corzine:

Pursuant to Executive Order 78, I have the honor to transmit to you the final report of your Blue Ribbon Advisory Panel on Immigrant Policy.

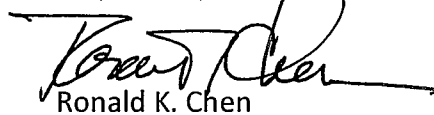
The Advisory Panel was charged by you "with developing recommendations for a comprehensive and strategic statewide approach to successfully integrate the rapidly growing immigrant population in New Jersey." This instruction constituted the defining element of the Panel's work. The individual recommendations span a wide range of subjects, focused on workplace and economic growth issues, education issues (primary, secondary, and higher education), social services such as health and child protection, and state and local government interaction with the immigrant communities, but in all they are directed towards the ultimate goal expressed in the Executive Order. I hope that you will find that the Panel's report is responsive to its charge, and particularly that the recommendations are both comprehensive and strategic.

The Panel is of course mindful of the fact that our function was facially limited to developing recommendations designed to promote the successful integration of immigrants in New Jersey. As Governor, we know that you must take a number of perspectives into account in determining the best public policy for New Jersey, including setting difficult resource allocation priorities in difficult economic times. The Advisory Panel unanimously believes, however, that the goal of successfully integrating our immigrant population into our larger community is coterminous with the goal of promoting economic prosperity for all New Jerseyans. Immigrants constitute such a large portion of our state's workforce, at every income bracket and every level of education, skill and training, that facilitating the path by which immigrants become full and formal participants in the economic, cultural and social fabric of our state is a functional prerequisite to achieving growth and prosperity for the entire State.

The Panel that you selected represents a truly diverse representation of all components of the community. In addition to representatives of seven state departments whose functions require regular interaction with immigrant communities, members of the Panel also included local elected officials, members of the Legislature, immigrant advocates, community-based organizations, academic experts, the business community, organized labor, private sector employers, and philanthropic entities. Such diverse representation is a strength in any deliberative body, and some differences of opinion would naturally be expected. Nevertheless, while not every specific recommendation garnered a unanimous vote among all 35 members of the Advisory Panel, the final vote to approve the report as a whole was unanimous. This is a testament to the clarity with which all members of the Panel, regardless of their background, perceived the transcendent value of successful integration embodied in our charge.

May I close on a personal note in thanking each and every member of the Panel for his or her individual contributions. The Panel's work of the last 15 months has been intense, and in the best traditions of deliberative and consultative discussion. I would also be remiss if I did not particularly thank the volunteer consultants and advisors, including Dr. Christine Brenner from Rutgers University and the law firm of Lowenstein Sandler, without whose pro bono assistance this final report would not have been possible.

Respectfully submitted,



Ronald K. Chen

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Please note a copy of this report, the executive summary, and the appendix is available at the following website:

http://www.state.nj.us/publicadvocate/home/immigrant_panel.html

Final Report of Governor Corzine's Blue Ribbon Advisory Panel on Immigrant Policy

The Panel wishes to thank the following authors and contributors who volunteered their time and expertise:

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In addition, the Program on Immigration and Democracy at the Eagleton Institute of Politics, Rutgers University (New Brunswick, NJ) hosted three statewide conferences, which provided forums for discussion of the issues.

- Local Government and Immigrant Integration: Challenges and Opportunities, April 29, 2008
- State Government and Immigrant Integration: Goals, Models and Programs, June 9, 2008
- Immigrant Civic Participation: A Challenge for New Jersey and the Nation, October 20, 2008

Introduction and Background

On August 6, 2007, Governor Corzine signed Executive Order 78 creating the Governor's Blue Ribbon Advisory Panel on Immigrant Policy. The principal charge of the Panel was to make "recommendations for a comprehensive and strategic statewide approach to successfully integrate the rapidly growing immigrant population in New Jersey." The state is presented with significant challenges in immigrant policy and integration.¹ The Governor therefore further instructed the Panel to recommend "how the State can better prepare immigrants to become fully productive and self-sufficient members of society by addressing the need for greater access in the following areas: civil rights, citizenship status, education, employment/workforce training, fair housing, healthcare, language proficiency and other key areas." The principal focus of the Immigrant Policy Panel was therefore to examine and assess how New Jersey was addressing the burgeoning immigrant population, which comprises over 20 percent of the state's total population.²

In the weeks leading up to and following the signing of the executive order, the Panel's Chairman, New Jersey Public Advocate Ronald K. Chen, held extensive discussions with public and ex-officio members to identify the issues and areas of study the Panel should undertake. Based on these discussions, the Panel's work focused broadly on the following themes: immigrant workforce and labor; the role of the state in the delivery of social services and public benefits to the immigrant population; state and local government best practices; and education issues involving children in early childhood settings, primary and secondary schools and college. The full Panel also identified two issues that fell beyond the scope

of an individual subcommittee: in-state tuition at post-secondary institutions for immigrant students and the establishment of an Office of Immigrant Affairs.

The Panel also held separate meetings with representatives from the following Departments: the Attorney General's Office, Children and Families, Education, Health and Senior Services, Human Services, and Labor and Workforce Development. The Departments were asked to conduct a Departmental self-assessment and to develop recommendations on how their Departments could become more accessible and efficient in providing services to the immigrant community.

The Immigrant Advisory Panel and its subcommittees conducted needs assessments through research, public hearings and forums. The Panel held three public hearings arranged geographically (North, Central and South), which served as an avenue to elicit input and testimony from individuals, community groups and other interested parties. The Panel conducted outreach and solicited input by reaching out to relevant stakeholders, activists and legislators. Individuals not able to appear in person were able to forward their testimony by mail or by internet to the Panel.

On December 10, 2007 the Panel held the first of its three public hearings. Held in New Brunswick, more than 250 people attended and 71 individuals testified at the hearing. Those attending represented diverse communities, including the Latino, Haitian/Caribbean, South Asian, Polish, Ukrainian, and Filipino communities. Witnesses also provided testimony from a diverse range of professional fields and viewpoints, which included advocates for

immigrant rights, immigrants (both authorized and unauthorized), students, laborers, groups both supporting and opposing immigrant rights, and leaders within the faith-based community.

The Panel heard testimony on a broad range of issues, including: the implementation of in-state tuition rates for undocumented students; education fairness and quality; access to health care; driving privileges; concerns with the enforcement of federal immigration laws by local governments; economic concerns and workforce issues.

The second public hearing took place on Tuesday March 11, 2008 at Bridgeton Senior High School. The hearing featured 52 testimonies and drew 121 attendees. Those attending represented Latino, Haitian and South Asian immigrant community. Given the location, deep in the heart of southern New Jersey farm country, issues relating to migrant/farm workers – including workplace rights, issues confronting day laborers working from muster zones and English as a Second Language Training for workers – were paramount. The Panel also heard expert testimony from Keith Talbot, a senior attorney at NJ Legal Services for their Workers' Legal Rights Project and Farm Worker Rights Project, and from Louis Marino, Senior Manager-Director for the Center for Human Services (CHS) in New Jersey.

The third and final public hearing took place at New Jersey City University in Jersey City on June 1, 2008. The hearing featured 72 testimonies and drew about 120 attendees. The Panel also heard testimonies from three experts and one dignitary. Issues raised by community members included access to and outreach for local services, law enforcement, labor centers, access to health care, and driving privileges. Speakers hailed from many different immigrant backgrounds, including

the Latino, Haitian, Nigerian, Polish, Ukrainian, Filipino, Sikh, and other South Asian, Arab and Muslim communities.

In this report, the Panel addresses the myriad of issues raised during this assessment process, which is informed by the desire to achieve two principal goals: 1. advancing the political, social, civic, and economic integration of immigrants in New Jersey, and 2. ensuring that New Jersey maintains an equitable, just, and fair environment for people who are immigrants to this country.

The report begins with a discussion of the demographic, social and economic characteristics of New Jersey immigrants. This is followed by the reports from the four subcommittees: Social Services, Education, Labor and Workforce, and State and Local Government. Each subcommittee report is framed by overarching priorities, which shaped their research and recommendations.

New Jersey's Immigrant Population

New Jersey, home to approximately 8.7 million persons, is a gateway state for new immigrants, ranking with Texas, California, Illinois, Florida, and New York as the states that welcome the greatest number of immigrant newcomers. **One in five New Jersey residents is foreign-born**, as shown in Table 1.³ New Jersey has the highest population density of the 50 states and is clearly linked with neighboring states of New York, Pennsylvania, and Delaware.⁴

The distribution of New Jersey's immigrant population⁵ can be seen in Tables 1 and 3. Hudson County has the highest percentage of foreign-born residents, 41 percent of the total county population. Thirty percent of Union County's population is immigrants, as are 28 percent of Bergen, Passaic, and Middlesex Counties.

Table 1
New Jersey State and County Foreign Born Population, 2000 and 2006

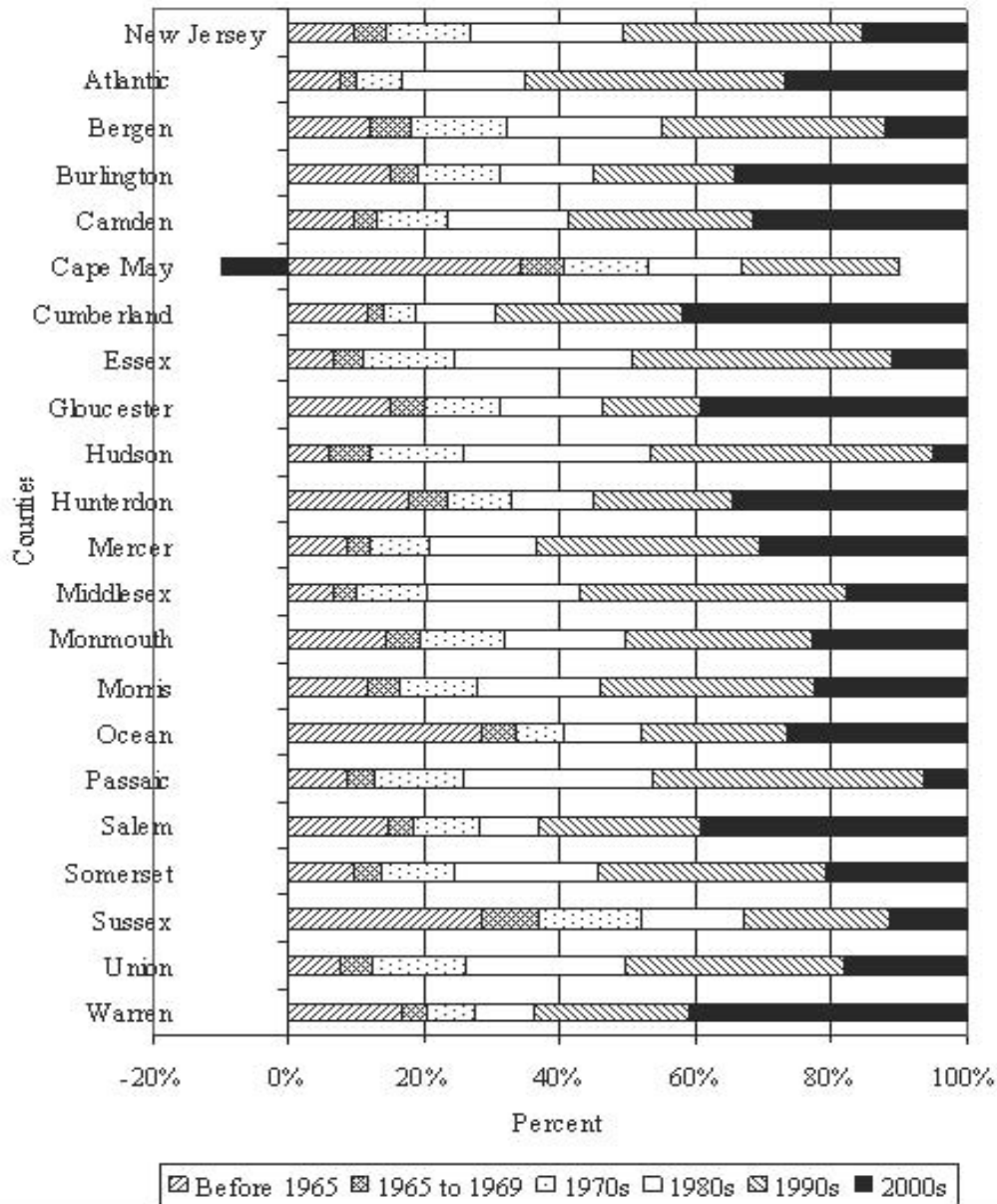
Geography in rank order percent foreign born 2000	Total population, 2000	Foreign- born population 2000	Percent foreign born 2000	Geography in rank order percent foreign born 2006	Total Population 2006	Percent foreign born 2006	Percent Foreign Born 2006
Hudson	644,674	234,597	36	Hudson	601,146	246,470	41
Passaic	509,525	130,291	26	Union	531,088	159,326	30
Bergen	905,222	222,301	25	Bergen	904,037	253,130	28
Union	540,283	130,916	24	Middlesex	786,971	220,352	28
Middlesex	770,712	181,761	24	Passaic	497,093	139,186	28
Essex	822,318	168,165	20	Essex	786,147	188,675	24
Somerset	303,262	53,937	18	Somerset	324,186	68,079	21
New Jersey	8,639,989	1,476,327	17	New Jersey	8,724,560	1,744,912	20
Morris	477,865	72,638	15	Mercer	367,605	69,845	19
Mercer	358,822	48,659	14	Morris	493,160	93,700	19
Atlantic	259,489	29,795	11	Atlantic	271,620	40,743	15
Monmouth	626,290	63,807	10	Monmouth	635,285	82,587	13
Camden	519,581	35,350	7	Camden	517,001	51,700	10
Ocean	517,850	33,152	6	Cumberland	154,823	15,482	10
Hunterdon	123,299	7,708	6	Burlington	450,627	40,556	9
Burlington	433,062	26,681	6	Hunterdon	130,783	11,770	9
Cumberland	150,940	9,007	6	Warren	110,919	9,983	9
Warren	103,774	5,917	6	Ocean	562,335	44,987	8
Sussex	145,897	8,171	6	Sussex	153,384	9,203	6
Gloucester	258,233	8,566	3	Gloucester	282,031	14,102	5
Cape May	103,596	3,288	3	Salem	66,595	2,664	4
Salem	65,295	1,620	2	Cape May	97,724	2,932	3

Source: U.S. Census 2000 and American Community Survey 2006.

A majority of the immigrants living in New Jersey in 2006 were relative newcomers having entered the United States in the past 20 years, as shown in Table 2. Of the total foreign-born population in New Jersey, 21.6 percent entered during the 1980s, 30.7 percent entered during the 1990s, and 24.5 percent entered in 2000 or later.⁶ Approximately 40 percent of the foreign-born residents of Warren, Salem, Gloucester and Cumberland Counties entered the United States since 2000; whereas Bergen, Essex, Hudson and Passaic

Counties received relatively few new immigrants during the same time period. The immigrant population in those counties grew primarily in the 1990s. Cape May County experienced a net decrease in foreign-born immigrants from 2000 to 2006. In the ten-year period from 1995 to 2005, international immigration was the primary driver of New Jersey's population growth.⁷ Furthermore, "in the absence of positive net international migration (279,595 persons), New Jersey would have had a net population loss of 26,997 persons between 2002 and 2006."⁸

Table 2
Foreign-born Period of Entry to the United States,
New Jersey Counties, 2006



Source: Analysis of U.S. Census Bureau 2000 Decennial and American Community Survey, 2006, data.

Eleven of New Jersey's 20 most populous municipalities had a higher percentage of foreign-born residents than the statewide average, as shown in Table 3. Almost 60 percent of Union City residents were foreign-born, the highest percentage of

immigrants in a large municipality. Of smaller communities, only West New York had a higher percentage with 65 percent. More than half of the population in Palisades Park, Bergen County, and the Town of Harrison and the Borough of East

Newark, Hudson County, were foreign-born. Communities in Northern New Jersey experienced in-migration from New York City, whereas Southern New Jersey communities received their in-migration primarily from Philadelphia and Camden.⁹ Newark's International Airport is also a primary point of origin for international migration, as are the many bridges, ports, tunnels, and transit routes that connect New Jersey with Philadelphia, New York City and the State of Delaware.

In January 2006, there were approximately 29.1 million foreign-born individuals living in the United States who entered the country between 1980 and 2005. About 16.3 million (56 %) of them were legally resident (including lawful permanent residents, refugees, and asylees), about 1.3 million (4 %) had temporary or other immigrant status, and approximately 11.6 million (40 %) were unauthorized. The unauthorized population was estimated to be growing at 515,000 people per year in 2006.¹⁰

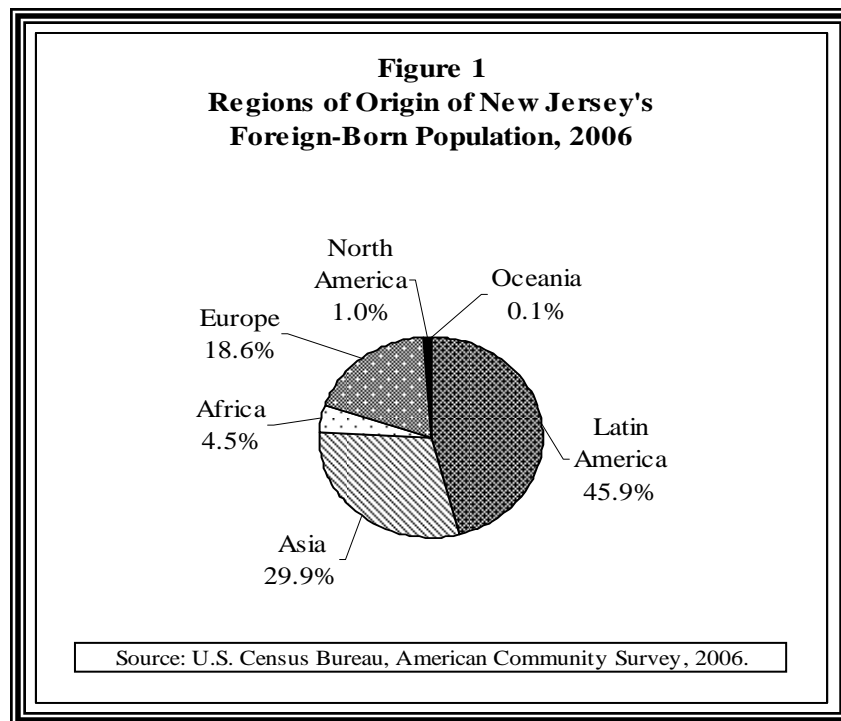
Table 3
Percent Foreign-born in New Jersey's 20 Most Populous Municipalities, 2000

Geographic area		Total	
		Number	Percent foreign born
New Jersey		8,414,350	17.5
Place	County		
Union City	Hudson	67,088	58.7
Passaic	Passaic	67,861	45.8
Elizabeth	Union	120,568	43.9
Jersey City	Hudson	240,055	34.0
Edison township	Middlesex	97,687	33.1
Paterson	Passaic	149,222	32.8
Clifton	Passaic	78,672	29.2
Newark	Essex	273,546	24.1
Woodbridge township	Middlesex	97,203	21.5
Bayonne	Hudson	61,842	20.2
East Orange	Essex	69,904	18.3
Trenton	Mercer	85,258	14.1
Cherry Hill township	Camden	69,965	12.5
Hamilton township	Mercer	87,254	9.5
Camden	Camden	79,904	8.9
Toms River	Ocean	86,452	7.1
Dover township	Ocean	89,767	7.0
Middletown township	Monmouth	66,327	6.4
Brick township	Ocean	76,119	5.7
Gloucester township	Camden	64,315	4.9

GCT-P10: Place of Birth, Year of Entry and Citizenship Status of the Foreign Born, and Residence in 1995: 2000, Census 2000 Summary File 3 (SF 3) - Sample data.

The U.S. Department of Homeland Security estimated there were 430,000 unauthorized immigrant residents in New Jersey in 2006. This represents four percent of all unauthorized immigrants estimated to be residing in the United States that year and ranks New Jersey between Georgia and North Carolina nationally for size of unauthorized immigrant population.¹¹ This estimate of New Jersey's unauthorized immigrant population is in line with other independent assessments.¹² The Pew Hispanic Center estimated that 11.9 million unauthorized immigrants were living in the United States in March 2008; however, they note a decreasing trend nationally in unauthorized immigration in the period 2005 to 2008.¹³ Nationally, unauthorized immigrants comprise 30 percent of all foreign-born residents.¹⁴

Latin Americans comprise the largest percentage (45.9%) of immigrants to New Jersey, which includes countries in South and Central America, Mexico and the Spanish-speaking Caribbean, as shown in Figure 1.¹⁵ Thirty percent of New Jersey immigrants are from Asia, and 18.6 percent are from Europe, although European immigration dropped by 7.6 percentage points from 2000 to 2006. While representing a smaller share of the New Jersey's total foreign-born population, Africa (4.5%), Northern America (1%), and Oceania (0.1%) contribute to New Jersey's immigrant diversity. When compared to the total U.S. foreign-born population, New Jersey has fewer Latin American immigrants (7.6 percentage points less) and a larger share of immigrants from Europe (5.3 percentage points more), Asia (3.1 percentage points more), and Africa (0.8 percentage points more).



New Jersey experienced a 137 percent increase in African immigrants in the 1990s; however, the pace of immigration from Africa moderated in the 2000s. In the 16-year period from 1990 to 2006, African immigration increased by 211 percent, Latin American immigration by 147.8 percent and Asian immigration by 142.6 percent. During the same time period, immigrants from Oceania and North America increased by 16.1 and 15.1 percent, respectively, and European immigration fell by 4.4 percent.¹⁶ So while New Jersey has long been an immigrant gateway state, the demographic composition of more recent immigrants has changed, mirroring a national trend.

India (9.9% of total NJ foreign-born), Mexico (7.2 %), China and the Philippines (4.7% each), and Columbia (4.1%) are the top five countries of origin for New Jersey's foreign-born immigrant population. This differs from the United States overall, which receives the greatest number of immigrants from Mexico, China and the Philippines.¹⁷

New Jersey immigrants naturalize and become United States citizens at a faster rate than foreign-born residents do nationally. Forty-eight percent of foreign-born residents in New Jersey were U.S. citizens in 2006, as compared to 42 percent nationally.¹⁸ Many others are actively engaged in the lengthy process of acquiring U.S. citizenship. Length of time in the United States correlates positively with naturalization rates, as evidenced by the fact that 86 percent of New Jersey immigrants who entered in before 1980 are now naturalized citizens; whereas only 78.2 percent of foreign-born persons entering in the same period across the United States had become citizens.

Immigrants are more likely to be living in poverty than natives; however, naturalized citizens are less likely to be living in poverty than natives.¹⁹ In 2006, 9.9 percent of the foreign-born living in New Jersey earned less than the federal poverty threshold, compared to 8.4 percent of U.S.-born residents. Of immigrants who naturalize and become U.S. citizens, only 6.3 percent live in poverty.²⁰

Immigrant households tend to be larger than native households. Native renter households averaged 2.18 persons, while foreign-born renters were slightly larger at 2.97 persons. Similarly, the households of native homeowners averaged 2.76 persons, while immigrant homeowners averaged 3.3 persons in their abode.²¹ A small portion of both native and foreign-born householders live in overcrowded situations where there are more people than rooms in the dwelling, 1.1 percent and 7.4 percent respectively.²² This will be discussed more fully in the section on affordable housing.

Children in New Jersey immigrant families whether both parents are present or in a female-headed household, are more likely to live in poverty than in native-born New Jersey families. Twice as many foreign-born families with children under the age of 18 lived in poverty than native-born families, 10.7 percent compared to 5.8 percent, respectively. Married couples with children were 2.4 times more likely to be in poverty than their native counterparts (6.1% compared to 2.5%). This may be attributable to the fact that “many women in international immigrant families are homemakers rather than paid workers,”²³ or they may participate in the informal/barter economy and not be counted in formal government statistics.²⁴ Both foreign-born and native-born families who have female heads of households with children under 18 years of age are significantly more likely to

live in poverty, 29.8 percent and 26.6 percent, respectively, than their counterpart families consisting of married couples with children.²⁵

Sixty percent of New Jersey's foreign-born residents are working age.²⁶ A study undertaken by Eagleton Institute of Politics' Program on Immigration and Democracy at Rutgers University, discusses the current economic contributions of New Jersey immigrants and correlates their labor force engagement with such factors as skill sets and educational attainment. Highlights of Ira N. Gang and Anne Morrison Piehl's study show:

- **“Immigrants make up 28 percent of the New Jersey workforce.** The state's 1.7 million foreign-born represent 21 percent of the state's population. But because immigrants are more likely to be of working age, they are a larger fraction of the workforce.
- **“Foreign-born workers are over-represented in critical occupations at both ends of the earnings distribution.** For example, more than 40 percent of chemists, nursing aids, physicians, and janitors are foreign-born. Without them, significant segments of the economy would be totally transformed.
- **“The foreign-born are critical to New Jersey as a center of innovation. Over 40 percent of the state's scientists and engineers with higher degrees are foreign-born.**
- **“According to the best analysis by economists, nationally, immigrants have a negligible effect on the earnings of the native born.** More than in other states, immigrants to New Jersey tend to be highly

educated, making it likely that the impact is actually positive.

- **“Immigrants bring in almost 1/4 or 23 percent of all earnings statewide. Foreign-born entrepreneurs own 1/5 of the businesses in the state.** They are key contributors to New Jersey's economic output, and hence critical to the state's tax base.
- **“The best estimates indicate that immigrants yield a modest positive fiscal impact on the state budget.** Generally, skilled immigrants have a substantial positive impact. Over time, immigrants and their families generally have a positive impact on government budgets.
- **“Just as immigrants are more likely to be employed, they are less likely to depend on public assistance or to be incarcerated.** Evidence indicates that immigrants rely on welfare programs substantially less than native-born individuals.
- **“Immigrants to New Jersey are strikingly diverse.** Hailing from nearly 100 nations and speaking more than 165 languages, these individuals make the state a truly global microcosm. More than half (54 percent) of the state's foreign-born report speaking English 'very well.'
- **“Nearly 1/3 of all children in New Jersey live in immigrant families,** that is, families where at least one member (usually a parent) is foreign-born.

- **“Unemployment rates for immigrants are similar to those of the native born, but on average, immigrant workers earn less.** In the current economic climate, foreign- and native-born workers both face high levels of uncertainty.”²⁷

Educational attainment influences a person’s employment prospects, and higher levels of education lead to higher lifetime earnings.

Credentialing of foreign professionals, adult basic education, and workplace literacy as gateways to full economic participation in New Jersey are discussed more fully in later sections of this report.

The report now turns to consideration of the research findings and recommendations of the four advisory panel subcommittees.

Endnotes

¹ Pew Hispanic Center, “Estimates of the Unauthorized Migrant Population for States based on the March 2005 CPS,” Pew Research Center, April 26, 2006, <http://pewhispanic.org>

² US Census Bureau, 2006 American Community Survey.

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⁴ Woodrow Wilson School of Public and International Affairs. 2008. Integrating Immigrants in New Jersey: Local perspectives. Princeton, NJ: Princeton University, p. 2.

⁵ Ibid, p. 5.

⁶ Migration Policy Institute. Fact Sheet on the Foreign Born: Demographic and Social Characteristics.

⁷ Tim Evans, New Jersey Future, presentation to the NJ State League of Municipalities annual conference, Atlantic city, November 14, 2006.

⁸ James W. Hughes, Joseph J. Seneca and Will Irving, Where Have All the Dollars Gone? An analysis of New Jersey Migration Patterns, (New Brunswick, NJ: Edward J. Bloustein School of Planning and Public Policy, Rutgers University, October 2007), p. 7. <http://policy.rutgers.edu/reports/rrr/rroct07.pdf>

⁹ Ibid., p. 15.

¹⁰ Aaron Terrazas, Jeanne Batalova, Velma Fan. October 2007. Frequently Requested Statistics on Immigrant in the United States. Migration Policy Institute. <http://www.migrationinformation.org/feature/display.cfm?ID=649#7>

¹¹ Michael Hoeffler, Nancy Rytina and Christopher Campbell. Estimates of the Unauthorized Immigrant Population Residing in the United States: January 2006. Office of Immigration Statistics, U.S. Department of Homeland Security. California, Texas, Florida, Illinois, New York, Arizona and Georgia have larger numbers of resident unauthorized immigrants than New Jersey.

¹² See Passel, Jeffrey S et. al. “Estimates of the Legal and Unauthorized Foreign-born Population for the United States and Selected States, Based on Census 2000,” *Sabre System, Inc.* 46pp. (2004) 13 May 2008 <http://members.aol.com/copafs/Passel.pdf>

¹³ Jeffrey S. Passel and D’Vera Cohn. *Trends in Unauthorized Immigration: Undocumented inflow now trails legal inflow.* Washington, DC: Pew Hispanic Center, October 2008. <http://pewhispanic.org/files/reports/94.pdf>

¹⁴ Ibid.

¹⁵ Puerto Ricans are not counted as immigrants. They have U.S. citizenship status.

¹⁶ Migration Policy Institute. Fact Sheet on the Foreign Born: Demographic and Social Characteristics.

<http://www.migrationinformation.org/datahub/acscensus.cfm#>

¹⁷ Ibid.

¹⁸ Ibid.

¹⁹ The U.S. Office of Management and Budget sets the federal poverty level each year based on family size. The average poverty threshold for a family of four was \$20,614 in 2006.

²⁰ Migration Policy Institute, Fact Sheet on Foreign Born: Income and poverty characteristics. <http://www.migrationinformation.org/datahub/acscensus.cfm#>

²¹ Migration Policy Institute. Fact Sheet on the Foreign Born: Demographic and Social Characteristics. <http://www.migrationinformation.org/datahub/acscensus.cfm#>

²² Ibid.

²³ Cristobal Young, Charles Varner, Douglas S. Massey, *Trends in New Jersey Migration: Housing, Employment and Taxation*, (Princeton, NJ: Policy Research Institute for the Region, Princeton University, September 2008), p. 25.

²⁴ Christine Thurlow Brenner and Irasema Coronado, *Mujeres y trabajo: Participación femenina en la fuerza en la frontera de Texas y México*. In *Juntos Pero No Revueltos: Estudios sobre la frontera Texas-Chihuahua*, eds. Hector Padilla and Irasema Coronado, 155-200. (Ciudad Juárez, Chihuahua, México: Universidad Autónoma de Ciudad Juárez, 2006).

²⁵ Migration Policy Institute, Fact Sheet on Foreign Born: Income and poverty characteristics. <http://www.migrationinformation.org/datahub/acscensus.cfm#>

²⁶ Ibid. Seven percent of foreign-born residents are minor children and 24 percent are seniors.

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Social Services Recommendations

The Panel agreed upon the following overarching priorities:

- Ensuring access to needed social and health services for every person residing in New Jersey.
- Ensuring those services are delivered in a culturally and linguistically competent manner.

The Panel has developed a number of specific recommendations to further these overarching priorities.

I. OVERVIEW

In these tough budget times, the Panel understands that there are not many available funds that can be used to expand state-funded social services in New Jersey. However, the Panel has found that the lack of immigrant access to services can sometimes be attributed to *barriers to accessing available services*.

Both published research and the public testimony reviewed by the Social Services subcommittee demonstrate that immigrants in New Jersey are vulnerable in almost all facets of life, facing particular challenges in the spheres of health, access to available services and domestic violence in their own families. The Panel learned of serious poverty and healthcare issues that immigrant families, especially immigrant children, experience: almost a third of NJ immigrant children did not visit a doctor at all in the past year, even though immigrant parents are three times more likely to have a child one or more days in bed with an illness.¹

Despite their disproportionate need, the Panel found that immigrants tended not to use the resources available to them.² To

highlight one notable example, the NJ FamilyCare program provides quality free or low-cost health coverage for uninsured



children 18 and younger and low-income parents. Children in immigrant families are often eligible for FamilyCare as citizens or qualified immigrants regardless of their parents' immigration status.³

Immigrants in New Jersey are more likely to be without health insurance than the native-born population. While 12.9 percent of the total native-born population in the state is uninsured, 35.0 percent of foreign-born residents are uninsured. In New Jersey, 11 percent of children are uninsured.⁴ Immigrant children in the United States face a double challenge in their attempts to navigate and utilize the health care system. Not only are children in immigrant households less likely to be covered through privately purchased or employment-based insurance programs, they are also less likely to be enrolled in government-sponsored public health insurance programs. Lack of insurance coverage puts immigrant children at increased risk for poor health outcomes.⁵

In a study of the efficacy of NJ FamilyCare, the New Jersey program which administers the federal Children's Health Insurance Program (SCHIP), researchers found that "enrollment in NJ FamilyCare significantly increases the likelihood that children will have a medical home, will receive preventative care and prompt access to healthcare when ill, and that financial barriers will be less likely to prevent children from receiving medication."⁶

In spite of this, few immigrant families have signed up for NJ FamilyCare. This raises the obvious question of why eligible immigrants are underutilizing social services



and aid available to them when they are so obviously in need. What are the factors that have an impact on immigrant participation in social service programs?

II. RESEARCH FINDINGS

The Panel found that the following factors have played a significant role in limiting immigrant access to necessary social services:

1. Language Barriers

One barrier that foreign-born New Jersey residents face in accessing services is that social service providers do not sufficiently account for immigrants' limited English proficiency. According to the 2005 American Community Survey, almost one-fifth of all NJ

residents are foreign-born, and they constitute a highly diverse group, coming from virtually every region and country of the world and speaking more than 200 languages.⁷ In addition to this diversity, NJ's foreign-born population is characterized by relatively low proficiency in English: 35.4 percent of foreign-born who are naturalized U.S. citizens and 56.6 percent of foreign-born who are not citizens reported that they spoke English less than "very well" in 2006, as compared to the 11.8 percent of natives.⁸

Current social service providers are often ill-equipped to deal with linguistically and culturally diverse populations. According to the NJ Hispanic Directors Association, "effective communication is the biggest barrier to immigrants accessing human services".⁹ Although there has been considerable effort by individual organizations in New Jersey to provide immigrants with social services in a linguistically and culturally competent manner—that is, in ways that have the capacity to address people of different languages and cultures—there has not been a comprehensive and coordinated effort to support cultural and linguistic competency in the delivery of social service. Cultural and linguistic competence is particularly crucial in healthcare and is an essential skill for providing quality health care to a diverse patient population, as any kind of miscommunication between physician and patient has the potential to become life-threatening.

Based on the need to provide linguistically appropriate health care services, the New Jersey Legislature on March 24, 2005, required physicians to undergo cultural competency training as a condition of licensure in the State of New Jersey.¹⁰ The New Jersey State Board of Medical Examiners was charged with developing the regulations that would satisfy the requirements of the law and recently unanimously agreed to require an additional six continuing medical education

credits specifically focused on cultural and linguistic competency.

2. Fear of Jeopardizing U.S. Residency

Another barrier that prevents foreign-born New Jerseyans from taking advantage of social services for which they are eligible is fear of legal consequences: fear of deportation for undocumented immigrants and, for legal immigrants, fear that acceptance of social services would affect their legal status in the United States.

Compounding the problem are the various myths common in the immigrant community as to the possible consequences of utilizing publicly-funded health care. Legal immigrants worry about jeopardizing their legal status in the country or threatening the solvency of their sponsors, who might be asked to pay back the cost of their medical care. Many also fear that all family members, even if some are illegal, will have to verify their status to establish eligibility...some worry about the stigma associated with associated publicly funded health care. These concerns keep thousands of otherwise eligible children from enrolling in New Jersey's FamilyCare program.¹¹

Another study conducted by the National Council on La Raza in the aftermath of immigrant raids in three Massachusetts neighborhoods found that immigrants rarely sought public assistance in any of the three sites despite outreach efforts and eligibility for a wide range of public benefits and services due to severe trust issues that they had developed regarding any government

entity, an extreme example of a broader phenomenon.¹² In New Jersey, the Kalusugan Coalition found similar fears described above were also prevalent among immigrants in everyday life: "Fear of status disclosure creates barriers for undocumented immigrants; ... documented immigrants fear that accessing subsidized care will threaten their residency status, citizenship applications, or ability to sponsor relatives."¹³

Public testimony presented before the Panel showed that immigrant women stay in abusive living situations because they do not feel that it is safe to ask for help given their immigration status. Maneesha Kelkar, testifying for the non-profit organization Manavi, presented evidence that South Asian women in the U.S. are especially vulnerable to domestic abuse due to their cultural socialization, recent immigration, and subsequent isolation.¹⁴ Furthermore, loss of traditional household environments and the complexities of negotiating life without English language proficiency keep many South Asian women captive in their abuse situations.

3. Lack of Knowledge of Available Services

Immigrants often do not know about social services for which they are eligible and also do not understand the rights to which they are entitled (e.g. right to be treated respectfully or right to be informed of medical procedures and the possible health complications that may arise to their full understanding before they give consent and undergo medical treatment). This prevents immigrants from easily accessing services and often leads to the violation of immigrants' human rights.¹⁵ Some immigrants may also be concerned that they earn too much money to qualify for programs like NJ FamilyCare, which is available for children in households earning up to 200 percent of the federal poverty level are eligible for FamilyCare.¹⁶

4. Lack of Medical Interpreters

For many healthcare providers, translation and interpretation is conducted on an ad hoc basis. However, because medical issues are often sensitive and/or technical in nature, simple fluency in a language is insufficient to assure accurate interpretation abilities. Medical interpretation is now a recognized discipline with training, certification and job opportunities in many medical settings. The Bureau of Labor Statistics reports a significant shortfall in the number of medical interpreters, however. New Jersey needs both to support the staffing of trained medical interpreters and to support the training and certification process itself.¹⁷

5. Gaps in the Medical Safety Net

Although community health centers and clinics offer primary care services for uninsured immigrants and other uninsured persons, there remain major gaps in the basic provision of primary and specialist care to the uninsured. As the Panel learned



in its public testimony process, many safety net providers cannot currently provide comprehensive ambulatory care. Gaps include: the provision of specialist care; diagnostic testing including radiology, pathology and blood testing; and nursing assessments that require registered nurses.

III. RECOMMENDATIONS

In proposing the following recommendations, the Panel sought to develop ways to maximize access to and use of existing services by immigrant communities by eliminating—or, at least, mitigating—the barriers identified in the previous “research findings” section.

The recommendations are as follows:

1. CULTURAL AND LINGUISTIC COMPETENCY IN THE SOCIAL SERVICES SECTOR

As described above, a lack of linguistically and culturally competent services often prevents effective communication between the social service provider and immigrant clients. Currently, social service providers are not always prepared to address the cultural diversity and linguistic needs of immigrants and LEP residents. The Panel recommendations would ensure that all social services funded through state contracts would be provided in a culturally and linguistically competent manner.

1.1 Define Cultural/Linguistic Competency and Establish Performance Standards

- The state should establish a resource website or guide that contains an established definition of cultural and linguistic competency, and that includes baseline standards developed by the state and all resources identified and available (i.e. training curriculum) to assist and guide contract agencies and state agencies in carrying out their cultural and linguistic competency mandates.

1.2 Expand RFP Requirements Regarding Cultural and Linguistic Competency

- The state should require that all Request for Proposals (RFP) issued by the state for social services require the vendors

document the following: ability and commitment to deliver services in a culturally and linguistically competent manner based on a particular community they serve; a documented understanding of the cultural diversity of the community to be served through the contract; and diversity in the applicant organization and its leadership. Vendors should be required to document any relationships with partner organizations or sub-contractors who will be providing translation or related services.

1.3 Standard Contract Language

- The state should develop contract language that will be approved by the Treasurer's Office and required in all state social service third-party contracts to require all state funded social services are provided in a culturally and linguistically competent manner.

1.4 Establish a State Cultural and Linguistic Competency Mandate

- The State of New Jersey should mandate that all state agencies provide services in a culturally and linguistically competent manner and that all state employees who provide direct public services receive cultural competency training. The mandate should further require that public notices, in accordance with all other aspects of a state language access mandate, be posted in such agencies informing the public of its right to access state services in languages other than English.

In the state's effort to ensure state representatives and programs are culturally competent and accessible to persons with limited English proficiency, the state should assess the need within each state

agency for translation services and Certified Translators based on the volume and nature of public contacts at each agency.

The United States has a long legislative history of addressing the rights of linguistic minorities.¹⁸ Title VI of the Civil Rights Act of 1964 is considered the key law governing access to public services by limited-English proficient (LEP) persons. Section 601 of Title VI states that no person shall "on the grounds of race, color or national origin be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance." In addition to federal laws, a number of states have adopted or are now considering adopting their own laws regarding spoken interpretation to LEP clients of public services and/or the certification of interpreters.

2. ALLEVIATE IMMIGRANT FEARS BY USE OF A "CULTURAL NAVIGATOR"

As described above, many immigrants do not access services they need and for which they are eligible out of their fear of deportation or some other negative legal consequence. The Panel believes that a good way to dispel such fears and distrust of the government, and enable immigrants to get the services they need is to use community navigators/cultural brokers.

The cultural navigator proposal represents a combination of two concepts. First, "patient navigators" are traditionally used in health care settings, specifically in cancer care and treatment, to help newly diagnosed patients navigate their multiple specialists, health insurance hurdles and other issues and concerns. Second, the term "cultural broker" is a broader concept used to denote individuals

whose roles range from a basic ability to negotiate two or more cultures to more involved mediation and negotiation between and within organizations, government, and communities.¹⁹

Patient navigators were first used in 1990 to help reduce disparities in cancer treatment and care.²⁰ A major literature review of patient navigator programs found an increase in participation in cancer screening programs and an increase in follow up after detecting an abnormality.²¹ Other studies have found that patient navigator programs have effectively reduced disparities related to race, ethnicity and socio-economic status when they use paid hospital staff with understanding of clinical care needs, but were also members of the same community or cultural background as their patients.²² Many of these programs are funded by private foundations or by federal grants. Patient navigator programs acknowledge that because “health care is fragmented and there is limited support for patients and their families, there is a need to explore ways to assist patients and their families in negotiating the health care system, especially among underserved populations.”²³

“Cultural brokers” refers broadly to people with an understanding of multiple cultures and can act as a negotiator or facilitator of communication between two cultures. They can range from ad hoc roles, including children of immigrant parents translating a doctor’s instructions, to more formal, including a social worker specially trained to cultural brokers who work in health care or other formal settings.²⁴ Formal cultural broker programs are aimed specifically at immigrants, recognizing that it can be difficult for new immigrants to even know where to look for medical care and that immigrants might not access services in the fear that they will jeopardize their residency status or have to disclose their undocumented status.

A recent study of a formal cultural brokering pilot in the health care setting found several benefits, including: 1) a greater likelihood to continue to access services in the future; 2) recognition, on the part of the consumer, of the provider’s commitment to deliver services; 3) consumer motivation to seek aid/services because they know that providers understand and respect their cultural values; and 4) greater ability to express their needs.²⁵

Our proposal involves community-based cultural navigators who could help immigrants find appropriate and available medical resources, while reassuring them that this will not jeopardize their citizenship status. Two similar programs, one in Nova Scotia and the other in Minnesota, can provide useful models. The Nova Scotia program, “Immigration Information Navigator,” helps immigrants in three counties find appropriate information. There is also an immigration resource network in Minnesota that links new immigrants to organizations that provide services including interpreter and translation.²⁶

The Panel, understanding that cultural brokers/community navigators are effective in the healthcare setting, believes that using this cultural brokering approach to support access to and navigation of social services as a whole (instead of just in healthcare) could be an efficient way to alleviate immigrant fear and distrust of using social services or approaching government entities for those services. The Social Services committee also believes that individuals best suited to become community navigators/cultural brokers are those that already hold a position of trust in their respective neighborhoods.²⁷ Development of a community navigator program focusing on health and social services for immigrants would involve not only funding but development of training regarding available social services and how to access them.

2.1 Develop Community Navigators/Cultural Brokers

- The state should explore supporting, through funding and training, the development of “community navigators” within existing local and neighborhood organizations working with immigrant communities and families across the state. This will help empower organizations/leaders that already have an established sense of trust and a working relationship with immigrants.

3. IMPROVE IMMIGRANT ACCESS TO HEALTH INSURANCE AND CULTURALLY AND LINGUISTICALLY COMPETENT HEALTH SERVICES

The New Jersey Legislature and Governor Corzine enacted new legislation expanding NJ FamilyCare and establishing mandates for health care coverage of all eligible children. This very positive expansion of the state’s health care insurance program brings with it a greater opportunity to increase enrollment of immigrant families and their children. The legislation calls for a \$1 million increase in funds dedicated to outreach and public awareness about NJ FamilyCare.

The legislation further called for the establishment of a *New Jersey FamilyCare Expansion Work Group* to develop a comprehensive outreach plan to ensure that New Jersey’s children and families who are eligible for the NJ FamilyCare are aware of this important health insurance program and sign up for the benefits, particularly eligible children.

The work of the NJ FamilyCare Expansion Workgroup is overseen by the NJ Department of Human Services and includes representatives for several state agencies as

well as public members. The Workgroup is made up of several subcommittees, including Overcoming Barriers to Immigrant and Minority Access, which is focusing on the development of targeted and culturally/linguistically appropriate outreach efforts to reach immigrant, limited English proficient, and minority residents to enroll this widely under insured and vulnerable population in NJ FamilyCare.

3.1 Enhance Targeted Outreach to Immigrant Communities and Families with Limited English Proficiency to Increase Enrollment in NJ FamilyCare

- The state should develop a targeted outreach plan and dedicate a significant portion of the increased outreach and public awareness funds provided for NJ FamilyCare to reach immigrant families and communities including conducting the outreach in diverse languages.

3.2 Promote Training and Certification of Health Care Interpreters

Title VI of the U. S. Civil Rights Act of 1964 prohibits discrimination based on national origin by those who receive federal funding. The federal Office of Civil Rights (OCR) of the Department of Health and Human Services issued a policy guidance in August 2000 stating that recipients of federal assistance must provide translation services at no cost to people whose ability to read, speak, or understand English is limited. This means that health care providers who accept Medicare and Medicaid payment for their services to limited English proficient patients should provide them with effective language assistance. Furthermore, the consequence of not providing translation services creates a barrier to and diminishes the quality of health care for LEP patients.

Training and certification of healthcare interpreters is an important component of assuring language access to accurate medical information and quality of health care. Beginning in one facility in 2002, the New Jersey Department of Health and Senior Services (DHSS) developed the Healthcare Interpreter Training Program for Hospital Staff, which is designed to improve the quality of communication between healthcare providers and patients with limited English proficiency by increasing the pool of trained healthcare interpreters and promoting their use. Working in partnership with the Health Research and Educational Trust of New Jersey (a nonprofit affiliate of the New Jersey Hospital Association), DHSS expanded and piloted this program in the southern region of the state. The program resulted in significantly increasing the number of medical interpreters trained on a standardized curriculum based on national best practice models, and certification test scores improved by about 40 percent through the training. The program continues to receive many requests for more training in the southern region as well as other regions in the state.

- Drawing on Healthcare Interpreter Training Program materials as described above, the state should promote training and certification to providers and provider organizations and should disseminate resources and best practices in this area.
- The state should also explore new models for the provision of medical interpreter services and examine alternatives to facility-based interpreters. Two promising possibilities include: the development of community interpreter banks by hospitals and other community stakeholders; and the training of community-based interpreters, particularly for smaller linguistic minorities, through train-the-trainer programs and interpreter training

activities in coordination with community-based organizations.

3.3 Explore Direct Reimbursement for Health Care Interpreter Services by Government-Contracted Health Plans and Government Agencies, Including Research on the Cost of Interpreter Services

New Jersey's Medicaid program is primarily delivered through contracted managed care plans. The plans are now contractually required to ensure adequate translation services in their network providers for LEP members. This can provide a foundation for using Medicaid to promote the development



of medical interpretation capacity in the state. Twelve states and the District of Columbia allow direct Medicaid billing of healthcare interpreter services for Medicaid fee-for-service enrollees.²⁸ Some states have used Medicaid administrative claiming as a way to provide a separate funding stream to hospitals for interpretation services that supplements diagnosis-based or per diem reimbursement. Furthermore, several states directly contract with language service organizations to provide interpreters.

- The state should explore the financial and administrative aspects of allowing coding and billing for medical interpretation and translation services.

- The state should continue and build upon the use of Medicaid managed care contracting to support the provision of medical interpretation services.

3.4 Enhance Treatment Capacity for Uninsured Persons

New Jersey is in the midst of a major multi-year effort to provide comprehensive health care access for all residents regardless of where they live or their economic condition. Undocumented and/or uninsured immigrants represent a critical piece of the universal health care agenda for the state. Although community health centers and clinics offer primary care services for uninsured immigrants and other uninsured persons, there remain major gaps in the basic provision of primary and specialist care to the uninsured. As the Panel learned in its public testimony process, many safety net providers cannot currently provide comprehensive ambulatory care. Gaps include: the provision of specialist care; diagnostic testing including radiology, pathology and blood testing; and nursing assessments that require registered nurses.

The state should explore more structural ways to address these gaps while pursuing incremental steps to ameliorate them. More specifically, the following steps should be taken:

- *Convene a workgroup to examine what can be done to provide more comprehensive primary care in safety net settings:* The state should work with provider associations representing Community Health Centers, hospital outpatient clinics and other safety net ambulatory care providers to identify effective techniques or more structural policy changes that would help assure adequate levels of specialist physician services, diagnostic services, and nursing staff.

- *Develop better protections for physicians volunteering time to care for the uninsured:* For several years, Federal legislators and regulators have actively considered which mechanism is appropriate to extend to volunteers the protection from personal malpractice liability currently enjoyed by community health center staff and contractors. New Jersey safety net providers report that this issue is a significant barrier to recruiting physician volunteers who are otherwise willing to contribute their time and expertise. The state should move to provide its own liability protection to physician volunteers. The state should also work with the New Jersey congressional delegation to come to an appropriate Federal resolution that protects both volunteer physicians and patients.
- *Continue to expand health insurance coverage:* Recent legislation significantly expanded FamilyCare coverage and broadened health coverage in other important ways. As health insurance coverage is expanded, it will change the payer mix for safety net providers, enabling those providers to focus charity care resources on a smaller population of uninsured patients.

3.5 Better Public Health Data Collection Regarding Immigrant Populations

- The state should institute the necessary policies and procedures to standardize racial, ethnicity and primary language data collection in order to more systematically address issues of disparity. This can be accomplished in part by adopting the standard data collection guidelines based on the Federal Office of Management and

Budget (OMB) Statistical Policy Directive No. 15. The Policy Directive revises standards for the classification of federal data on race and ethnicity. The state can better inform policy regarding immigrants by adding a requirement to this directive to collect primary language as a variable.

4. INFORM IMMIGRANTS OF THEIR RIGHTS AND AVAILABLE SOCIAL SERVICES

4.1 Expand use of 2-1-1 by New Jersey immigrant communities

- The state should support outreach to immigrant and limited English proficient residents to expand awareness and use of 2-1-1 as a one-stop information resource for all social services available in New Jersey.

2-1-1 is a state-wide resource that can be accessed by simply dialing 2-1-1 or logging on to the website to obtain information about all available social service resources and other services. It offers guided navigation and information support aimed at identifying and addressing each individual's specific needs. 2-1-1 already contracts with a language access line, and provides interpreter services to any limited English proficient caller. The state-wide director for 2-1-1 supports addressing the specific needs of immigrants identified through the Governor's Blue Ribbon Advisory Panel on Immigrant Policy.

4.2 Special Immigrant Juveniles Status (SIJS)

- The state should establish a consistent internal process within New Jersey's Division of Youth and Family Services (DYFS) to ensure that all undocumented children eligible to petition the federal government for lawful permanent residency under the Special Immigrant

Juvenile Status are identified and fully supported in processing their petition before they reach the age of 21.

The Immigration and Nationality Act gives undocumented immigrant children who are abused, neglected, or abandoned and in state custody the ability to self-petition for lawful permanent residence, if a family court judge determines it would not be in the child's best interest to be returned to the child's birth parents, last residence, or country of nationality. DYFS in the past has not consistently included in its policies, training, or internal communication a provision for eligible children to be identified and connected with an appropriate entity that can process this legal petition.

Allan Daul, Executive Director of Newark Catholic Charities, raised this issue with the panel and offered to support DYFS and eligible children with the legal services of his organization to ensure permanent residency is established. Daul highlights that attaining permanent residence status is pivotal in determining the future of children who are in this country without authorization and are on the path of aging out of the state's child welfare system. Without it, the majority will be unable to continue their education, work legally, live without fear of deportation, or otherwise lead productive lives.

As this issue came to the attention of the Department of Children and Families (DCF) and DYFS leadership, the state decided to move quickly to establish an internal process to identify juveniles in the state's care who may be eligible for SIJS status so that their paperwork can be appropriately processed in a timely manner. Working with Allan Daul, DCF

also distributed information to DYFS staff about the SIJS program, the criteria for eligibility, and the steps DYFS staff should take to move the SIJS process forward for any eligible children in their caseload.

4.3 Domestic Violence Affecting Immigrant Women

- The state, working with the statewide network of state-funded domestic violence (DV) shelters and agencies, which are located in every county, should develop a comprehensive multi-lingual educational campaign to reach immigrant women of diverse ethnicities who are victims of domestic violence. The goal is to ensure that the women are aware of their legal right to confidentially access DV services, regardless of immigration status. The state should also support an assessment and review of best practices to reach immigrant women in a culturally and linguistically competent and effective manner.

Like all women, immigrant women are at high risk for domestic violence, but due to their immigration status, they may face a bigger challenge to escape it. Immigrant women often feel trapped in abusive relationships because of immigration laws, language barriers, social isolation, and lack of financial resources. Despite recent federal legislation that has opened new and safe routes to immigration status for some immigrant women who are victims of domestic violence, abuse is still a significant problem for immigrant women, as it is for all women in the United States. Some recent studies show that forty eight percent (48%) of Latina women have stated that their partners' violence has increased since coming to the United

States. While sixty percent (60%) of Korean women have been battered by their husbands.²⁹

The subcommittee found that New Jersey is making some significant strides in their efforts to help these women. For example, the NJ Coalition for Battered Women through its Women of Diversity Task Force developed "Inclusion and Access: Tools to Support Culturally Competent Domestic Violence Programs." The state is working closely with this group, along with consultants funded through a Violence against Women Act (VAWA) federal grant, to support each of the state's domestic violence community agencies develop and implement a locally-tailored cultural competency plan. There is an established Cultural Competency Working Group that oversees this effort. Domestic violence advocates agree that cultural barriers are very hard to overcome when trying to connect with immigrant women who are victims of domestic violence, especially when there is the added fear of deportation and any contact with police.

State-funded domestic violence programs all have access to and use the AT&T language access line to serve limited English proficiency clients who cannot communicate with any of the agencies' own staff. Further, some DV agencies are taking a very proactive role to reach out to immigrant women. For example, Passaic County Women's Center outposts a DV advocate in the Hispanic Multi-Purpose Center, located in the city of Passaic, two days a week and has recruited several Arabic speaking women for their domestic violence response teams (DVRT). Further, Manavi, an organization of South Asian Women that is internationally recognized, along with the NJ Coalition for Battered Women and American Friends Service, works with DV agencies

in Newark to help battered immigrant women file for lawful permanent residency under VAWA.

4.4 Address Risk of Children Being Left Alone as A Result of a U.S. Immigration and Customs Enforcement (ICE) Raid

- The state should take preemptive action to plan for and work with ICE to ensure that any immigration enforcement conducted in New Jersey does not result in children being left behind or abandoned.

While New Jersey has not experienced documented cases of children being left abandoned after a mass ICE raid, federal immigration enforcement actions in other states resulted in the children being left alone as a result of their parent(s) being detained and held for deportation. DCF is working with the Office of Attorney General to request a formal process whereby ICE would notify the state in advance of any enforcement raid in New Jersey so that DCF can prepare to step in and ensure that any impacted children receive the care and services they need.³⁰

5. MAXIMIZE ACCESS TO FUNDS TO SUPPORT IMMIGRANT SERVICES

5.1 Federal Funding Available to Support States with Large Immigrant Populations

- The state should conduct ongoing research to identify and apply for all viable federal funding sources which New Jersey may be eligible for to help defer rising health care costs to hospitals and other providers when servicing immigrant communities.

Congress took a step to give uninsured individuals better access to medical care by assisting hospitals and other service providers across the nation. They appropriated \$1 billion, under the Section 1011 of the Medicare Modernization Act, for federal reimbursement of emergency health services furnished to undocumented aliens.

Another federal funding source identified was the *2007 Farm Bill Proposals*, which provided a total of \$1.6 billion in loans to support all current “Rural Critical Access Hospitals” (CAHs), as well as \$500 million in grants and loans for rural communities to decrease the backlog of infrastructure projects for CAHs. A rural critical access hospital is a hospital certified to receive cost-based reimbursement from Medicare.³¹

Despite the fact that in New Jersey, 159 municipalities have approximately 164,606 acres of Preserved Farmland and a substantial farming and migrant farm worker community, not one New Jersey hospital was listed as a critical access hospital in the United States.³²

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¹⁷ See appendix for expanded discussion of this issue. Kimberly Hill and Lisa Capano-Wehrle, "Language Interpretation in the Healthcare Setting" (paper presented at the Immigrant Policy Symposium of Student Research, Rutgers University, Camden, NJ, December 9, 2008).

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Labor and Workforce Issues Recommendations

The Panel agreed on the following priorities:

- Opposition to requiring use of E-Verify under state law.
- Addressing worker exploitation and misclassification in the state which has a particular impact on vulnerable immigrant workers.
- Ensuring that Labor Standards and Worker Protection laws are followed and enforced for all workers in the state.
- Improving English as a Second Language and Adult Education training options.

The Panel has developed a number of specific recommendations to further these overarching priorities.

I. OVERVIEW

Immigrants are a vital and indispensable component of New Jersey's workforce. The Census Bureau's 2006 American Community Survey reports that there are 1,099,480 foreign-born workers in the State of New Jersey. In 2006, foreign immigrants accounted for more than one quarter (26.5%) of the state's labor force.

New Jersey's population of 1.75 million foreign-born individuals in 2006 was the sixth largest in the nation, after California, New York, Texas, Florida, and Illinois. Foreign-born individuals accounted for 20.1 percent of the state's total population. Only two other states (California and New York) had a higher proportion of foreign-born population than New Jersey. New Jersey's foreign immigrants had a higher labor force participation rate (69.8%) than the state's total population (66.3%). The median income of foreign immigrants (\$26,373) was

about 16 percent lower than that of the total population (\$30,529). The state's immigrants consisted of a higher proportion of college graduates (34.6%) than the total population (33.4%), but also included a larger portion of the "less than high school" educated persons (22.3%) than the general public (13.9%).

In the United States and in New Jersey immigrants provide leadership and labor for the expansion of growing economic sectors — from telecommunications and information technology to health services and housing construction. Immigrants accounted for almost half of the increase in the labor force in the U.S. between 1990 and 2000.¹ Immigrants are more likely to be employed in construction, manufacturing, professional and business services, and leisure and hospitality industries than their native counterparts. New Jersey's foreign-born labor force was overrepresented in service, construction and extraction, production, and transportation and material moving occupations. Approximately 73 percent of the state's Asian and 47 percent of its Hispanic population were foreign born. They constitute the state's two largest immigrant groups.²

Recent research found that immigrant workers have a "sizable beneficial effect on the wages of U.S. born workers." Wages are boosted "because immigrants stimulate investment, have skills sets and educational levels that complement those of natives, and do not compete for the same jobs as most natives."³ The Pew Hispanic Center also found that "[t]he relative youth and low levels of education among foreign workers appear to have no bearing on the employment outcomes of native-born workers of similar schooling and age."⁴

Immigrant workers are a vital part of the United States' economy. A recent article by the Associated Press reported that "the Social Security Administration estimates that about three-quarters of illegal workers pay taxes that contribute to the economy as well as the overall solvency of Social Security and Medicare. The agency estimates that for 2005, the last year for which figures are available, about \$9 billion in taxes was paid on about \$75 billion in wages from people who filed W2 forms with incorrect or mismatched data, which would include illegal immigrants who drew paychecks under fake names and Social Security numbers."⁵

- A 1997 study by the National Academy of Sciences found that tax payments generated by immigrants outweigh any costs associated with services used by immigrants.⁶
- The U.S. Internal Revenue Service determined that undocumented immigrants paid almost \$50 billion in federal taxes from 1996 to 2003.⁷
- Over the past 15 years, immigrants started 25 percent of U.S. public companies that were venture-backed, a high percentage of the most innovative companies in America. New Jersey is the third leading state in prevalence of immigrant-founded, venture-backed firms, totaling 6 percent of all companies.⁸
- In the U.S., 37.6 percent of companies which were established by immigrant key founders are in New Jersey. Among engineering and technology companies founded by immigrants from 1995 to 2005, New Jersey ranked third among all states, with 7.3 percent of these engineering and technology companies.⁹

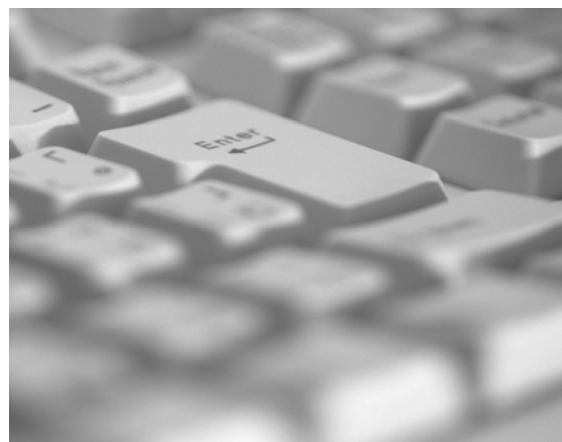
These immigrant workers, however, face various obstacles and difficulties when working and/or searching for work. At the same time, New Jersey has many laws in place to protect all workers, without regard to their immigration status. The state should take steps to maximize its effectiveness in protecting the state's workers, providing a level playing field to employers and promoting economic growth.

Another issue facing the immigrant community in New Jersey is that of Limited English Proficiency (LEP). Eighty-nine percent of the foreign-born Asians and 95 percent of Latino immigrants speak languages other than English at home. More than two-thirds (71%) of foreign-born Latinos and nearly one-half (49%) of foreign-born Asians do not speak English "very well."¹⁰

II. RESEARCH FINDINGS

1. E-Verify

E-Verify is a federal pilot program operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) that allows employers to electronically verify the employment eligibility of their newly hired employees. Since its inception, E-Verify



experienced many problems, including concerns about the accuracy of data; increased burdens to employers; discrimination and profiling against legal workers and naturalized citizens; risks of identity theft; and the opportunity to fuel the growth of a cash underground economy.

One of the major issues with E-Verify is the accuracy of records that it uses to determine whether a person can legally work in the United States. In 2006, the SSA issued a report showing that almost 18 million of the 435 million records in its database contained errors. This four percent error rate may be attributable to name changes due to marriages or divorces, but still adversely affects the results from E-Verify.¹¹

A federal government report found that erroneous tentative non-confirmation rates for employees, later found to be authorized for work, is approximately 30 times higher for foreign-born employees than for U.S.-born employees (0.1 % versus 3.0 %).¹² These errors could have a major impact on New Jersey's workforce, where, according to the Census Bureau's 2006 American Community Survey, there are 1,099,480 foreign-born workers in New Jersey. Among them, 538,348 are naturalized citizens.

The report further demonstrated that the system severely impacts foreign-born citizens – who are clearly legally authorized to work — thus causing disruption in the employment of these individuals. Half a million New Jersey workers who are naturalized U.S. citizens could be adversely affected by E-Verify. Since large differences in the error rates for U.S.-born and foreign-born employees remained in the Web Basic Pilot System, foreign-born citizens are more likely than noncitizens to have erroneous tentative nonconfirmations. The erroneous tentative nonconfirmation rate for work authorized

foreign-born citizens between October 2004 and 2007 is approximately 10 percent.¹³

These reports demonstrate that mandating the state's businesses to enroll in an optional federal pilot program does not solve the problem of employers hiring undocumented workers, but worsens conditions for all workers.

2. Misclassification and Exploitation of Workers

The State of New Jersey recognizes legitimate independent contractors who choose not to work long term, year-round, full time with a single employer. But when workers are purposefully misclassified as independent contractors or paid in unreported cash wages, they are deprived of their proper coverage for social insurance, including Social Security, Unemployment, Workers Compensation and Disability benefits. Employers who misclassify workers are able to evade state and federal taxes and can violate wage-and-hour and other worker protections.

Under the "ABC test" set forth under the New Jersey unemployment compensation law, an individual paid for services is presumed to be an employee unless he or she meets all three characteristics of a self-employed, independent contractor. These are: (A) that the individual has been and will continue to be free from control or direction over the performance of such service, both under his or her contract of service and in fact; (B) the service provided is either outside the usual course of the business for which service is performed, or that the service is performed outside of all the places of business of the enterprise for which such service is performed; and (C) the individual is customarily engaged in an independently established trade, occupation, profession, or business, so that the individual would not routinely become unemployed when his or

her relationship with this particular employer ended.

A study conducted by the Government Accountability Office (GAO) shows that 15 percent of employers misclassify workers as independent contractors.¹⁴ Notably, the practice of misclassifying workers as independent contractors is disproportionately common among immigrant workers.¹⁵ In 2007, the New Jersey Department of Labor and Workforce Development (LWD) identified more than 31,000 misclassified or non-reported workers, more than \$482 million in underreported wages and more than \$17 million in unpaid payroll taxes.¹⁶

Under Governor Corzine's initiative to prevent the misclassification of workers, five different agencies in three different Departments are now sharing audit information to cooperatively and efficiently ensure compliance with state law. The LWD also shares data with the IRS and benefited greatly from this data-sharing. Investigations initiated as the result of analysis of 1099 information provided by the IRS since 2003 resulted in findings of non-compliance in 75 percent of cases (111 cases, 84 assessments). The new Questionable Employment Tax Practices (QETP) agreement provides for the first time a centralized and uniform mechanism for the IRS and state employment tax data exchanges, which in turn will help increase the collection of employment and unemployment tax debts.¹⁷

3. Labor Standards

The LWD Division of Wage and Hour Compliance enforce labor laws dealing with conditions of employment and the payment of wages. The Division's primary function is to serve New Jersey workers by investigating complaints about the underpayment of wages, the late payment of wages, or possible violations of wage and

hour laws and regulations. Through worker misclassification or other labor standards violations, a growing population of workers is denied the employment-related benefits and protections to which these workers are entitled, including undocumented workers, workers with limited English proficiency, and workers who have low skill levels. The LWD Division of Wage and Hour Compliance, collected \$5,559,260 in back wages during fiscal year 2007, processing 7,406 complaints and securing back wages for 8,511 workers. The Division also cited 6,205 employers for various types of violations and performed 400-500 inspections per month throughout New Jersey.¹⁸

On a national level, the Wage and Hour Division (WHD) of the U.S. Department of Labor reported that it collected a record \$220 million in back wages for more than 341,000 employees in fiscal year 2007, exceeding the record levels collected in fiscal year 2003 by 3.8 percent. More than 311,000 employees received a total of \$180.7 million in minimum wage and overtime back wages as a result of Fair Labor Standards Act (FLSA) violations. WHD collected \$163 million in back wages for FLSA overtime violations and more than \$17 million for FLSA minimum wage violations. Notably, the agency collected \$52.7 million in back wages for approximately 86,500 workers in low-wage industries that frequently employ young and immigrant workers, an increase of over 33 percent of back wages collected during fiscal year 2003 for violations in this group of low-wage industries. These low wage industries are shown in Table 1.



Table 1
Back Wages Collected by Type of Low Wage Industry and
Number of Cases and Employees Affected, 2007

Low-Wage Industry	Cases	Back Wages	Employees
Agriculture	1,667	\$3,186,854	8,671
Day Care	711	\$1,181,539	3,191
Restaurants	4,469	\$17,432,805	27,661
Garment Manufacturing	676	\$2,891,475	3,449
Guard Services	729	\$7,545,704	11,584
Health Care	1,431	\$9,899,417	17,488
Hotels and Motels	880	\$2,125,797	4,246
Janitorial Services	464	\$6,972,362	8,420
Temporary Help	355	\$1,486,728	1,850
Total Low-Wage Industries	11,382	\$52,722,681	86,560

Source: Wage and Hour Division, U.S. Department of Labor, 2007.

Immigrants comprise approximately 15 percent of the nation's overall workforce but comprise 20 percent of its low-wage workforce.¹⁹ Thus, immigrants are over-represented in low-wage industries.

The Department of Labor and Workforce Development's Division of Wage and Hour Compliance changed many of its practices to better serve workers. Wage and Hour collection hearings were decentralized to Newark, Morristown, Vineland, Pleasantville, and Camden, to help ensure that claimants have more accessibility to services while reducing travel expenses and lessening the number of postponements that are requested by the interested parties because of the difficulties in coming to Trenton.

In addition, the Division changed the handling of wage claims. Other than claims for fringe benefits (vacation/holiday/sick pay, commissions, bonus, severance, etc.), all claims are investigated prior to determining the need for a Wage Collection proceeding. Legal Services of New Jersey representatives and Workers' Rights Community Group representatives will be listed as either "Attorney of Record" or "Representatives of Record" and will be permitted to assist in presenting claims before Wage Collection Referees or Hearing and Review Officers.

The Division also changed the wage collection complaint form to facilitate the naming of additional individuals or companies who may be held responsible for unpaid wages. The Division's staff is trained to investigate and hold for joint-employer liability. Currently, staff training includes basic employment foundations that workers can provide to shift proof requirements to the employer.

Supervisors conduct monthly observations of Wage Collection proceedings and are required to submit written evaluations; this

helps ensure acceptable standards of professionalism, court room protocol, and accurate interpretation/application of the laws including the "joint employer doctrine" and "burden of proof" concepts. LWD agreed to cooperatively work with local community-based organizations to strategically target and support joint employment cases in order to develop case law. LWD also provided the cell phone number of Wage and Hour field staff to community-based organizations so that workers can initiate wage collection claims at third-party organizations that they trust.

The Division took several steps to serve individuals with limited English proficiency. A number of LWD publications and educational materials are issued in Spanish, including the Unpaid Wage Claim form. The Division continues to develop additional forms in Spanish and plans to expand the translations to other languages in the near future. The Division of Wage and Hour Compliance works to ensure that Wage Collection Referees and field staff use the Language Line capabilities that were provided to them. Staff from the Division of Wage and Hour Compliance is aware of the need to offer and provide off-site alternatives to interviewing workers; this protocol will continue to be used as needed. The Division also plans to amplify the current information available to workers about retaliation.

The Division website includes employer posters, forms and brochures, the following notices in English and Spanish: *The New Jersey Department of Labor and Workforce Development does not investigate or inquire into the legal status of any worker. The Department applies New Jersey's Labor Laws without regards to a worker's legal status. The Department's Division of Wage and Hour Compliance does not share information with "Immigration".* All staff

are trained and reminded that it is improper to inquire into or discuss immigration status and that all workers have a right to be paid. The Division's staff recognizes that employer threats to call Immigration and Customs Enforcement (ICE) are a form of retaliation.

4. English-as-a-Second Language Training (ESL) and Adult Education

The State of New Jersey recognizes the importance of making ESL training more accessible in order to strengthen employees' language skills on the job, increase their productivity, and enhance their career growth. This is especially important in light of the fact that 89 percent of the foreign-born Asians and 95 percent of Latino immigrants speak foreign languages at home. More than two-thirds (71%) of foreign-born Latinos and nearly one-half (49%) of foreign-born Asians do not speak English "very well."²⁰

The New Jersey Department of Labor and Workforce Development administers state and federal funding for English-as-a-Second Language Instruction. Federal funds are authorized under Title II of the Workforce Investment Act (Title II). Title II is also commonly referred to as the Adult Education and Family Literacy Act of 1998.²¹ The intention of the program is to help New Jersey residents demonstrate improvements in literacy skill levels in reading, writing, and speaking the English language, numeracy, problem solving, English language acquisition, and other literacy skills by providing grants to local consortia of literacy providers designated by Workforce Investment Board areas. Federal funding includes a set-aside for integrated English language/civics education.

State funds are authorized by the Supplemental Workforce Funds for Basic

Skills.²² This dedicated funding was established to provide basic skills training to qualified displaced, disadvantaged, and employed workers, or others seeking to enter apprenticeship training through the One-Stop Career Center system. Grants are available for employers, employer organizations, labor organizations, community-based organizations or educational institutions. State funds support a network of more than 50 Workforce Learning Links in the One-Stop Career Center system. The Workforce Learning Link program complements the Title II program by focusing on the work-directed literacy needs of individuals appropriate for a learning environment that relies more on technology-driven instruction rather than teacher-driven instruction.

The Workforce Investment Act Title II program served the adult basic skills, adult secondary education, English-as-a-Second language (ESL), and English language/civics education needs of 35,374 New Jersey residents during the fiscal year ending in June 2007, and the Workforce Learning Links centers located in the state's One-Stop Career Centers assisted 6,402 customers.²³ The New Jersey LWD awarded \$4.5 million dollars in competitive grants to companies in New Jersey to train 6,752 incumbent employees in ESL skills in Fiscal Year 2007.²⁴ ESL initiatives and training by local community organizations may be found on the state's Resource Guide for Adult English.²⁵

5. Day Laborers

Day labor is defined as labor that is sporadic and irregular and does not include professional or

clerical employment. In the State of New Jersey, this type of labor is covered by labor standards that apply to all workers; however,



these workers may not be aware of their rights and protections.

Certain de facto employment agencies that place day laborers with third parties have engaged in practices that are detrimental to the workers, including but not limited to deducting transportation costs from their wages. The New Jersey Department of Labor and Workforce Development's Division of Wage and Hour Compliance cited 6,205 employers for various types of violations, including but not limited to violations by employers of day laborers.²⁶

Existing state law at N.J.S.A.34:8-43 provides that "The director [of the Division of Consumer Affairs in the Department of Law and Public Safety or his designee] shall have the authority to determine, from time to time, that a particular employment agency or career-related service or product, not otherwise expressly subject to the provisions of this act, is subject to whichever requirements of this act he deems appropriate." Other states provide greater protections for day laborers. For instance, the Illinois Day and Temporary Labor Services Act protects day laborers against illegal wage deductions and other abuses, and imposes penalties against violators.²⁷

6. Domestic Workers

In the State of New Jersey, employment placement agencies for domestic workers are not specifically licensed by the Department of Law and Public Safety's Division of Consumer Affairs.

As is the case with day laborers, state law N.J.S.A.34:8-43 provides that the Division of Consumer Affairs in the Department of Law and Public Safety has oversight in this area. However, while domestic workers in New Jersey are covered by labor standards applicable to all other workers, these

workers also may not be aware of their rights and protections.

7. Farm Laborers

The State of New Jersey depends upon the estimated 15,000-18,000 migrant farm workers for seasonal labor and for the operation of the 9,924 farms.²⁸ In 2008, the



New Jersey LWD Division of Wage and Hour Compliance conducted 247 pre-occupancy housing inspections at farm labor camp sites in order to ensure compliance with farm labor housing requirements.²⁹ During the same time period, the Division found 58 violations at farm labor camp sites including crew leader/agent registrations, unpaid wages, minimum wage, and record keeping requirements.³⁰ New Jersey Wage and Hour Laws, N.J.S.A. 34:11-56a4, states "the payment to an employee of not less than 1 1/2 times such employee's regular hourly rate for each hour of working time in excess of 40 hours in any week shall not apply to employees engaged to labor on a farm."

New Jersey agricultural employers apply to the H2A program to recruit foreign workers through the Employment and Training Administration (ETA) of the United States Department of Labor. The H-2A temporary agricultural visa is a nonimmigrant visa which allows foreign nationals to enter the U.S. to carry out temporary or seasonal agricultural labor or services. All pre-occupancy housing inspections required by the H2A program are conducted by New Jersey Department of Labor and Workforce Development under contract with the ETA. Under the New Jersey Seasonal Farm Labor Act, the New Jersey Department of Labor and Workforce Development currently conduct all pre-occupancy inspections for

both H2A and non-H2A migrant farm labor housing. The New Jersey Department of Labor and Workforce Development can refuse to approve housing that does not meet standards but has only limited authority to issue administrative penalties for violations in larger farm worker housing camps. Complaints and violations in larger sites are referred to the United States Department of Labor's Wage and Hour Division. Migrant farm worker housing for 10 or fewer occupants is under the exclusive jurisdiction of the state.

The United States Department of Labor's Wage and Hour Division signed a Memorandum of Understanding with the New Jersey Department of Labor and Workforce Development agreeing to work together to protect the rights of agricultural workers in the State of New Jersey through the enforcement of the New Jersey Crew Leader Registration Act, Migrant and Seasonal Agricultural Worker Protection Act (MSPA), and Field Sanitation and Temporary Labor Camp Regulations. Camps built before 1980 are inspected using the Wagner-Peyser Act and all camps built after 1980 are inspected under the Occupational Safety and Health Administration's Migrant Labor Housing regulations.

III. RECOMMENDATIONS

1. E-Verify

- 1.1 The state should not mandate that employers enroll in the optional federal E-verify program or any other similar mandate.**

2. Misclassification and Exploitation of Workers

- 2.1 The recently enacted Construction Industry Independent Contractor Reform Law (N.J.S.A. 34:20-1 et**

seq.) should be expanded by deleting the term "construction" so that it applies to all industries.

- 2.2 The state should enact administrative penalties to address the worker misclassification problem and curtail the underground cash economy as follows: enact legislation providing a penalty of up to 10 percent of wages paid in cash or estimated to have been paid in cash where the employer fails to properly account for and report these wages and a penalty of up to 5 percent of wages improperly classified as being paid to subcontractors following a determination that the correct employment classification should be that of an employee.**

- 2.3 The state Legislature should enact a law to provide for the revocation of the business charter of an employer found to have knowingly misclassified their workers or paid cash off-the-books.**

- 2.4 The New Jersey Department of Labor and Workforce Development should clarify that employers must pay into the Temporary Disability Insurance (TDI) system for all covered workers so that TDI benefits are available to all covered individuals.**

3. Labor Standards

- 3.1 The state should form industry task forces, focused on problem industries where there are both tax violations and labor standards compliance violations, with a priority in industries with high complaint rates and high incidence**

of violations, in order to maximize the enforcement of labor standards.

- 3.2 The New Jersey Department of Labor and Workforce Development should take a targeted approach in the investigation of industries with high incidences of labor standards violations but low complaint rates, including but not limited to low-wage industries employing large percentages of immigrants.

4. English as a Second Language Training (ESL) and Adult Education

- 4.1 The Department of Labor and Workforce Development should require its local WIA partners to develop benchmarks and report on their efforts to improve flexibility in instructional delivery, responsiveness to shifting demographics, and recruitment strategies targeted at underserved communities in the delivery of English-as-a-Second language instructional delivery. The panel recommends that the Department take appropriate action in the local WIA areas where ESL delivery is found to be misaligned with the needs of the local population.
- 4.2 Community-based organizations that would like to offer English-as-a-Second language or other training to their constituencies should be encouraged and assisted by the state in contacting their local area's Workforce Investment Board (WIB) to become partners in their local WIA Title II consortia.

5. Day Laborers

- 5.1 The New Jersey Department of Labor and Workforce Development

should conduct a public education and awareness campaign to educate the public that day laborers are covered by all the same labor standards and protections that apply to other workers in New Jersey.

- 5.2 The state of New Jersey should use its existing authority to license day labor employment agencies under N.J.S.A 34:8-43 to provide greater protections and safeguards to day laborers. In designing such protections, the state should be guided by the provisions of the Illinois Day and Temporary Labor Services Act, which provides for the regulation of day labor service agencies.

6. Domestic Workers

- 6.1 The New Jersey Department of Labor and Workforce Development should publish two guides in multiple languages, one for employers hiring domestic workers and one for domestic workers, that inform both the employer and the employee about their rights and obligations, including New Jersey's Labor laws and regulations, tax information, federal laws, and other information, such as civil rights protections.
- 6.2 The State of New Jersey should use its existing authority to license domestic worker employment agencies under N.J.S.A 34:8-43 to provide greater protections and safeguards to domestic workers, in order to prevent such agencies from subjecting these workers to abuse and exploitation.

7. Farm Laborers

- 7.1 The State of New Jersey should conduct regular farm inspections to improve enforcement of farm labor laws.**
- 7.2 The New Jersey Department of Labor and Workforce Development should increase enforcement of migrant farm worker housing requirements, and if these inspections reveal that standards are not met, penalties should be administered by the Wage and Hour Division of the U.S. Department of Labor.**
- 7.3 The State should consider amending the Wage and Hour Law to provide farm workers with the same overtime pay protections as most other workers have.**

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²³ New Jersey Department of Labor and Workforce Development.

²⁴ Ibid.

²⁵ “Resource Guide for Adult English: Language Learners of New Jersey,” http://state.nj.us/education/bilingual/esl/resource_guide_adult_english.pdf.

²⁶ New Jersey Department of Labor and Workforce Development, Wage and Hour Division.

²⁷ Illinois Day and Temporary Labor Services Act, [http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2417&ChapAct=820 ILCS 175/&ChapterID=68&ChapterName=EMPLOYMENT&ActName=Day+and+Temporary+Labor+Services+Act%2E](http://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=2417&ChapAct=820&ChapterID=68&ChapterName=EMPLOYMENT&ActName=Day+and+Temporary+Labor+Services+Act%2E).

²⁸ New Jersey Department of Labor and Workforce Development, Wage and Hour Division.

²⁹ Ibid.

³⁰ Ibid.

Education Recommendations

The Panel has identified the following priorities:

- Enhance the effectiveness of bilingual and English as a Second Language (ESL) programs for limited English proficient (LEP) students by identifying successful evidence-based program models and implementing evidence-based best practices;
- Eliminate discrimination in education by enforcing laws prohibiting school districts from using illegal methods to inquire into a person's immigration status. Also, provide the necessary protections within state government to assure complaints of discrimination in education are heard and addressed appropriately.
- Permit New Jersey immigrant students to benefit from the reduced tuition rate offered to students who are residents of New Jersey and who attend state two- and four-year colleges and universities.
- Improve the state's process for credentialing foreign professionals who were educated and certified in their fields in their countries of origin and are seeking to become credentialed in New Jersey.
- Ensure that high-quality academic resources are available for children of preschool age who may be English language learners.

I. OVERVIEW

New Jersey has one of the largest immigrant populations in the United States and is one of six states that account for two-thirds of all immigrants. More than 20 percent of all public school students come from homes where a language other than English is

spoken. During the 2007-08 school year, 475 New Jersey public school districts enrolled approximately 62,000 students who have limited proficiency in English, an enrollment that has almost doubled in the past 20 years. Students, who are English language learners, come from 168 different language backgrounds. School districts in New Jersey offer language assistance programs to help immigrant and US-born children of immigrant students learn English, bridge gaps in their past schooling, and gain access to academic subjects.

The students come from homes with diverse languages, cultures and educational backgrounds, and they enroll in schools in urban, suburban and rural communities. Limited English proficiency presents a barrier to effective participation in school for most of these children. Upon entry to schools, immigrant children and youth must acquire the English language competencies that are typical of native English speakers of the same age and must concurrently learn academic content and meet grade level academic standards. During the 2007-08 school year, 79 school districts offered full or part-time bilingual instruction, and an additional 228 districts offered ESL-only programs. One hundred forty-four districts that enrolled fewer than 10 English language learners provided "English language services" students for those students. The language services are designed to help students acquire English language skills and are taught by a certified teacher; however, the teacher is not necessarily certified in ESL.

There is a need to more widely disseminate information on evidence-based characteristics found in effective bilingual and ESL programs and the practices that make these programs successful. The primary question that needs

to be addressed is: What factors contribute to the success of bilingual and ESL programs as evidenced by LEP student academic achievement and acquisition of English language skills? How can programs make the best use of district and community resources to provide LEP students with the instruction necessary to allow them to progress through school at the rate expected of their native English speaking peers?

All districts in New Jersey should be made aware of and knowledgeable about the common characteristics of successful bilingual and ESL programs within the state, as well as evidence-based best practices and programs. This information can be used by districts to assess their programs and recognize their areas of strength and the areas that need improvement. Ultimately, the goal is to empower all New Jersey schools that enroll immigrant students with limited English skills, to provide well-informed, deliberate, high-quality language assistance instructional programs for immigrant newcomer students.

In New Jersey, all children are entitled to a thorough and efficient public education through the state's public school system. Two years ago, the state issued a reminder to all school districts that they are not allowed to ask for certain documents when students are being registered for school, such as a Social Security number. This year, a study showed that many school districts in the state continue the practice, which has the effect of preventing some students from registering in their respective districts. It is imperative to not only ensure that school districts cease the practice of requiring certain unnecessary documentation during the registration process, but also to educate parents and guardians of school-aged children of their rights to an efficient public education.

Recent research shows that undocumented students are rarely able to attend college, due to substantial legal barriers and limited access to public services.¹ Providing unauthorized immigrant students with affordable, in-state tuition status would lower barriers somewhat - although by no means completely -- and, in turn, give individuals the opportunity to regularize their immigration status and legally participate in the formal economy.

A substantial number of immigrants who come to the United States have already achieved high levels of education. More than 6.1 million immigrants over the age of 25 had a bachelors' degree or higher as of 2006.² A recent report from the Migration Policy Institute estimates that more than half of these immigrants received their education abroad.³ Transferring those credentials for United States equivalency is a difficult and confusing process, with no nationally



recognized or standardized method for evaluating foreign credentials. Unlike countries such as Australia or Canada, which have government agencies that oversee foreign credentialing, the United States utilizes a free market approach that relies on private credentialing services and professional organizations to sort out foreign equivalencies, and there is no clear market leader.⁴

Foreign educated workers represent 14 percent of New Jersey's skilled workforce. According to the Census Bureau's American Community Survey (ACS), of the 83,243

foreign-educated immigrants in New Jersey, 53.1 percent are in “high skilled” positions, 20.8 are in “skilled technical” positions and 26.2 percent are in “unskilled positions.”

New Jersey does not appear to be doing any more or less than other states with regard to professional credentialing of foreign graduates/applicants. There is no central information depository, and no universal process for the evaluation of foreign credentials. Rather, prospective licensees must seek out and determine professional licensing requirements on their own. While there are some community organizations that may provide guidance in this process, foreign graduates are typically on their own to navigate the process.⁵ Additionally, the state should be concerned about the quality of private evaluation services to ensure that an evaluation-model of “diploma-mills” does not develop.

An important aid to early childhood development is early education programs. These programs are vital, because they help to build social and communication skills, as well as place children in structured environments at an early age. Early childhood education addresses issues of school readiness and language acquisition for immigrants and children of immigrants. They are less likely than children of U.S.-born citizens to participate in pre-school or other center-based care.⁶ One of the challenges with these programs, however, is that they are not widely publicized, and many parents do not know they can take advantage of early childhood development programs. Other concerns center on whether the pre-school experience provides a culturally supportive environment and the linguistic ability of pre-school teachers.⁷ On the occasions that these programs are well publicized, the publicity is rarely available in languages other than English, thus not reaching many non-English

speaking individuals because of the presumptive language barrier.

II. RESEARCH FINDINGS

1. Bilingual/ESL Programs

School districts in New Jersey offer language assistance programs to help immigrant students learn English to bridge any gaps in their past schooling and gain access to academic subjects. Two types of programs are most common: bilingual programs and ESL-only programs.

Bilingual education programs aim to ensure that students continue to learn subject matters in their native language while learning English, so they can meet grade level academic standards and gradually transition to mainstream classrooms with their English speaking peers. English as a Second Language or ESL-only programs aim to develop the English language skills of students so that they can access the curriculum in English. Students are provided up to two periods of ESL instruction daily taught by an ESL-certified teacher and receive subject instruction in English. ESL instruction is required in bilingual education programs.

New Jersey law and code mandates a program of bilingual/ESL education when a school district enrolls 20 or more limited English proficient (LEP) students of any single language. For those districts that enroll LEP students of diverse language backgrounds, with no concentration of students of a particular language, a program of English as a second language (ESL) instruction is required. New Jersey code also requires districts with bilingual programs to have Bilingual Parent Advisory Committees composed primarily of parents whose children receive bilingual education

services. The New Jersey Immigration Policy Network (NJPIN) conducted a survey

in 2007, which found that these parental advisory committees are underutilized.

Student Testimony: Ihuoma

My experience with ESL programs was something new and interesting. I was born in Nigeria. I came to the U.S at the age of 10. I spoke more English in Nigeria than my native language Igbo but when I started middle school here in the United States, I was placed in an ESL program. The kind of ESL program I had is the ESL “pull out”. In ESL “pull out”, students spend part of the school day in a mainstream class room, but are pulled out for a portion of each day to receive instruction in English as a second language. I had an ESL teacher that traveled from one school to another. Although I already knew how to speak English, the ESL program helped me improve in both in English and academically. I was in the program for about a year and half. I remember my ESL teacher used to make me read lots of novels and made me write papers about my readings. ESL programs are really beneficial. In programs such as ESL, it’s all about learning and acquiring new things. I really don’t think there’s any disadvantages in ESL programs. Some immigrants might think they know English well enough that they don’t need ESL programs, but the truth is you can become better both in English skills and your social life. I know some immigrants might be ashamed to be in a program such as ESL, because they think it is going to make them look like they don’t know English at all. The point is that I benefited from the ESL program. Hopefully other kids that are immigrants will get the chance that I had as a young girl trying to adjust to a new culture, become better and feel good about themselves.

The New Jersey Department of Education (NJDOE) offers a number of professional development programs and resources to assist districts to develop effective language assistance programs. One of these is the Second Language Model Programs Initiative. Every two years since 2004, the NJDOE identified districts with exemplary evidence-based bilingual and ESL programs. The goal of the initiative is to showcase practices and programs that can serve as models for other schools. These exemplary programs are identified through a rigorous process that includes extensive program reviews and site visits conducted by a committee of NJDOE and school district professionals. Schools in districts that are designated as model programs serve as regional resource centers for other districts. Educators may visit these centers to observe the practices in bilingual and ESL programs and to discuss areas of mutual concern with staff from the centers.

In addition to programs selected by the NJDOE as model programs, other new types of bilingual education programs have been established in New Jersey. For example, Atlantic City High School was awarded a four-year grant from No Child Left Behind (NCLB) Title III funds, to develop a model regional secondary program for newcomer immigrant students. Currently in its third year, the Regional Immigrant Newcomer Student Center Program at Atlantic City High School educates recently arrived immigrant students from all the secondary schools in Atlantic County who have limited English language skills and, in some cases, are not academically at U.S.-grade level standards. The goal of the program is to prepare immigrant newcomer students for success in academic programs by acquiring proficiency in English language skills and the content knowledge appropriate for high school graduation as well as to give them career awareness and job training. Similar newcomer

programs for secondary LEP immigrant students are becoming more widespread in New Jersey, as the enrollment of adolescent LEP students with limited formal schooling in their country of origin and below-grade-level literacy grows.

Another approach to bilingual education implemented by districts in New Jersey is the dual language program. Dual language programs integrate LEP students of a particular language and English-dominant students for all or most of the school day and provide academic instruction in both English and the native language of the LEP students (usually Spanish). While traditional bilingual programs aim solely to develop the English language and academic skills of LEP students, the goal of dual language programs is to develop bilingualism and biculturalism in both LEP students and native speakers of English. Academic content is taught in both languages, sometimes on alternating days or weeks. Current evaluation and research studies suggest that these programs can simultaneously meet the needs of language minority and language majority students.⁸

Research has clearly demonstrated that these different types of program options for LEP students vary in their effectiveness. Studies have found that [*heritage language*] maintenance programs (Ramirez 1992; Thomas and Collier 1996, 1997 and 2002) and dual bilingual programs (Thomas and Collier 1996, 1997 and 2002) are effective. However, these two instructional program options are the least used and/or are often not available to LEP students. The other three instructional programs (immersion, ESL, transitional) are used most frequently with LEP students, but these programs have been shown to be less effective than maintenance and/or dual

two-way programs (Ramirez 1992; Thomas and Collier 1996, 1997 and 2002).⁹

2. Discrimination in Education

All children who live in New Jersey are entitled to a thorough and efficient public education, and we must make every effort to ensure that their rights—and their parents' rights to participate in education decision-making—are preserved. The true number



and scope of cases resulting in a person being denied access to public education is unknown. It is safe to assume that given immigrants' fear of retaliation; it is likely that more instances occur than are reported. More information about the types of cases and their prevalence would be a major step in helping to prevent them. Immigrants should not only have a means of reporting such cases, but it is crucial that they be able to report them in a confidential manner without fear of retaliation.

The 1982 U.S. Supreme Court decision *Plyler v. Doe*¹⁰ established the right of immigrant students, regardless of their immigration status, to a free public education in the school districts in which they live. Among other restrictions, public schools are prohibited from requiring Social Security numbers as a prerequisite for enrollment.¹¹ In New Jersey, *N.J.A.C. 6A:22-3.4* reiterates that prohibition as follows:

A district board of education shall not require or request, as a condition of enrollment in school, any information or document protected from disclosure by law, or pertaining to criteria which are not legitimate bases for determining eligibility to attend school. These include:

1. Income tax returns;
2. Documentation or information relating to citizenship or immigration/visa status, except as set forth in *N.J.A.C. 6A:22-3.3(b)*¹²;
3. Documentation or information relating to compliance with local housing ordinances or conditions of tenancy; and
4. Social security numbers. *N.J.A.C. 6A:22-3.4(d)*.

While the law that prohibits schools from requiring, or even requesting, this information is explicit, the implementation of the law has been far less than complete. A nine-month American Civil Liberties Union-NJ (ACLU-NJ) survey of schools from December 2005 to August 2006 revealed that one in four New Jersey public school districts illegally requested Social Security numbers or asked for other information that would reveal the immigration status of children seeking to enroll in school.¹³ Of the 57 noncompliant schools, nearly two-thirds responded by saying they would amend their forms or retrain staff. Thirteen schools (23 %) denied ever asking for Social Security numbers, and another eight (14 %) did not respond to ACLU-NJ letters.¹⁴ A number of schools also had information posted on their Web sites that was inconsistent with their responses to the ACLU-NJ.¹⁵

The principal approach to addressing the widespread issue of schools improperly

requesting information about enrolling students is to inform parents of their rights (through fact sheets, handbooks prepared by non-profit organizations, etc.) and to re-inform schools of the law. As an example, in the midst of its survey, the ACLU-NJ sent letters to the noncompliant school districts to remind them of the law and to request that they no longer request prohibited information and remove requests for prohibited information from their enrollment forms.¹⁶

In response to its survey, the ACLU of New Jersey sent a letter to the NJDOE in August 2006 to inform the department of the pervasive illegal practice and to demand corrective action. Specifically, the ACLU-NJ asked the Department of Education to

...issue a formal written directive to all school superintendents in New Jersey reminding them of the law; monitor compliance; require school districts to train frontline school personnel who handle such inquiries from parents of perspective students; and require school districts to revise all registration forms, including information posted on Web sites, so they comply with the law.¹⁷

Because families turned away from schools are often unaware of their rights or how to assert them, the ACLU of New Jersey also requested that the Department of Education require that school districts provide parents with a bilingual (English/Spanish) fact sheet by no later than the next school year (2007-2008).¹⁸

In September 2006, the Department of Education sent a memorandum to the superintendents of all districts, reminding them that schools cannot require Social Security information as a prerequisite for

enrollment.¹⁹ Specifically, the memo asserted that district and school leaders must:

- Directly remind staff members whose work involved enrollment issues that they cannot ask parents for Social Security numbers when registering children for school;
- Review their web sites to make sure there is no indication that a Social Security number is requested or required as part of enrolling a child, and remove any such references that may be found;
- Review their enrollment and registration forms to make sure there are no spaces labeled to indicate that a Social Security number should be provided, and delete any such references if they are found.²⁰

The ACLU-NJ continues to monitor any complaints from parents who report being required or requested to produce Social Security numbers or other information revealing immigrant status in order to enroll their children in public schools but it is important that the state take a role as well.²¹

While the efforts described above are positive, they are also passive. Informing schools and parents of the law may prevent some schools from breaking it, but schools and districts that are well aware of the law (as all of them should be) and that have willfully broken it in the past, are not likely to be deterred by memos and fact sheets. In the absence of clear and established sanctions for violations of the law, schools that knowingly violate the law may continue to do so, assuming that parents either are unaware of the law or that they will be reluctant or unwilling to report the violation.

In the event that a school district refuses to correct violations of the law, a family who is familiar with the law can file litigation and bring the dispute before the Commissioner of Education. School law matters, other than those involving special education, are generally heard and determined in the first instance by the Commissioner of Education, in accordance with the Administrative Procedure Act, N.J.S.A. 52:14B-1 et seq. (The process is described on the State of New Jersey Department of Education website. See chart detailing the procedure on the opposite page).

Generally speaking, although an agency head may hear a matter personally and individually, once a contested case is initiated, if facts are in dispute or legal issues are complex, the case is transmitted to the Office of Administrative Law (OAL). There an administrative law judge (ALJ) will conduct a hearing and issue a report called an "initial decision," recommending findings of fact and conclusions of law to the agency head transmitting the case. The agency head then makes the final decision in the matter, following review of the record and consideration of the parties' exceptions to the recommendations of the ALJ. [. . .] Appeals from final decisions of the Commissioner are heard and decided by the State Board of Education, which issues a final administrative agency decision appealable to the Appellate Division of the Superior Court.²²

The time period in which to bring a claim varies for different types of cases. If a child is denied admission to a school or district because of a failure to provide Social Security information, a parent, guardian, or caregiver has the right to appeal the denial within 21 days of the date of the denial notice, and the case can be heard before an Administrative Law Judge, where the petitioner will have to show that the student is eligible for a free

public education in the district. N.J.A.C. 6A:22-5.1. The student(s) will be permitted to attend school during the 21 day period and to continue in attendance while the appeal is pending. N.J.A.C. 6A:22-4.2. If the parent succeeds in his or her claim, the student will be enrolled in the school.²³ However, under N.J.A.C. 6A: 22-6.2:

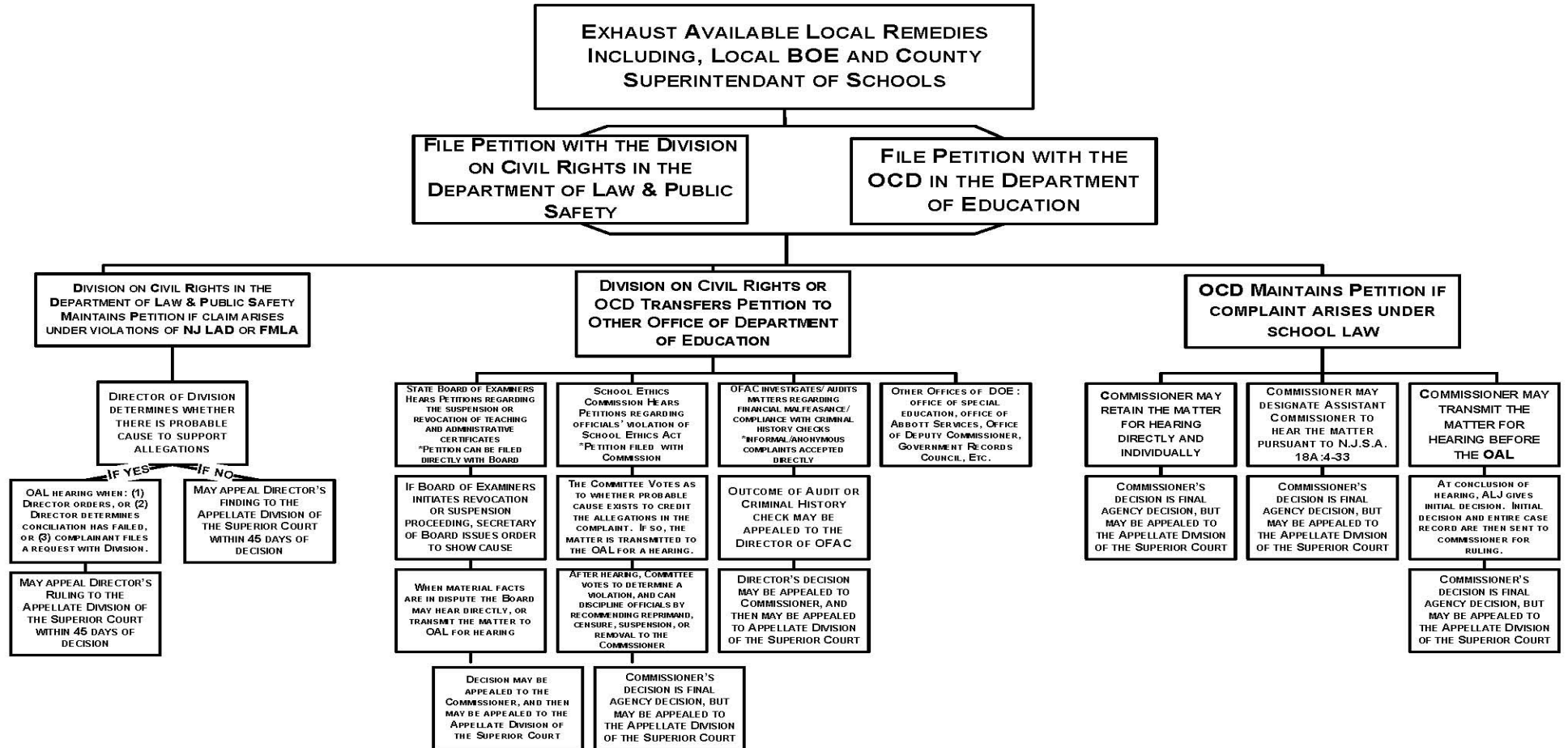
If an appeal to the Commissioner is filed, where the appellant does not sustain the burden of demonstrating entitlement to attend the schools of the district, or abandons the appeal through withdrawal, failure to prosecute or any means other than settlement agreeing to waive or reduce tuition, the Commissioner may order assessment of tuition for any period of a student's ineligible attendance in a school district, including the 21-day period for filing of an appeal and the period during which the hearing and decision on appeal were pending.

The monetary judgment is enforceable through the Superior Court.

This is an arduous and expensive process, however. Once a contested case is initiated, if facts are in dispute or legal issues are complex, the agency head is likely to transmit the matter to the Office of Administrative Law for a fact finding hearing. While this process is available to immigrants claiming discrimination, it is a difficult and lengthy process that would discourage the vast majority of immigrant families. A more accessible, investigative and less legally burdensome process are needed to discourage district noncompliance with the law.



FILING A COMPLAINT WITH THE OFFICE OF CONTROVERSY & DISPUTES



N.J.A.C. 6A:22-3.4 explicitly forbids school districts from requesting or requiring students' Social Security numbers or other information implicating citizenship status as a prerequisite for enrollment in public schools. Although it is unclear what percentage of schools have come into compliance with the law since the New Jersey Department of Education's 2008 memorandum, it is clear that, at least prior to the memorandum, the law alone was not strong enough to deter schools from engaging in illegal practices. This is probably due, in large part, to the fact that many of the affected families are unaware of their rights and/or fear repercussions related to their citizenship. **Accordingly, a policing mechanism to enforce the law and deter violations is probably necessary since the current enforcement mechanism, with its paperwork and bureaucracy, can be cumbersome for families. Any enforcement mechanism, though, should be accompanied by an educational aspect and a means of ensuring that immigrant parents feel comfortable reporting violations, even if anonymously.**

3. In-State Tuition

Maximizing the opportunities for all New Jersey's students to have access to higher education is desirable both from the individual and societal perspective. A well-educated workforce is an inestimable benefit to the state economy, and New Jersey is particularly able to attract economic growth and investment because of its ability to offer access to such a workforce, 25 percent of which is foreign born. Educating New Jersey's children to the highest level of which they are capable is especially important as America's global economic competitors enjoy sharp increases in the educational attainment of their populations.

Currently, immigrant students who are not able to demonstrate proof either of U.S. citizenship or legal permanent resident status must pay full out-of-state tuition at New Jersey's public institutions of higher learning, rather than in-state tuition rates, rendering higher education a fiscal impossibility for many immigrant students, many of whom were raised in New Jersey, attended New Jersey's public schools and attained high academic achievement at those schools. On a human level, denying access to higher education to students who have the academic ability to succeed academically imposed a lifelong disability that is disproportionate to the offense that their parents may have committed in bringing them to this country without lawful immigration status.

Granting resident tuition status to undocumented graduates of New Jersey high schools will provide a powerful incentive for these students to successfully complete high school, obtain a college degree, regularize their immigration status, remain in the state, join the formal labor force, and pay taxes. Nationwide, only five to ten percent of undocumented immigrant high school graduates attend college, compared with 75 percent of their native-born classmates. In New Jersey, approximately 33 percent of children in immigrant families — documented and undocumented — live in low-income families. These financial barriers are magnified in undocumented families, whose average income is about 40 percent lower than that of legal immigrant and native families. Providing undocumented students with affordable, in-state tuition status would lower barriers somewhat -- although by no means completely -- and, in turn, give individuals the opportunity to regularize their

immigration status and participate legally in the formal economy.

Tuitions at New Jersey's public colleges and universities are already among the most costly when compared to public institutions in other states. Moreover, on average, the cost for out-of-state tuition and fees at New Jersey state colleges and senior public institutions is about 65 percent higher than in-state costs. As the country faces increasing pressure by its citizenry to develop ways to attract and keep jobs at home, part of this effort includes maximizing educational opportunities for all students.

Since 2001, ten states have succeeded in granting in-state tuition to immigrant students regardless of federal immigration status. Four of these states—California, Texas, Illinois, and New York—rank alongside Florida and New Jersey as the top six states with the largest foreign born populations in the country and which account for two-thirds of all immigrants. Those states that have extended in-state tuition to immigrant students, regardless of their federal immigration status, use similar legislative models. The student must have graduated from a high school or received a G.E.D. in the state, have attended secondary school in the state for a defined period (typically three years), and for those who do not have lawful immigration status, submit of an affidavit certifying that the student will seek to legalize his or her immigration status at the first available opportunity. Granting in-state tuition to immigrant students would not change admission standards, and applicants would be required to meet the same academic requirements of, and be admitted by, the institutions to which they apply. The Panel supports the initiative embodied in current proposed legislation (A194, S1036) that would provide for charging the full in-state tuition rate to

persons who meet specified NJ residency requirements, regardless of their immigration status under federal law.

Granting in-state tuition rates will not impose any direct costs to the State. Students would pay the full in-state tuition charged by the college they attend. Indeed, it is very likely that most public colleges in New Jersey would enjoy a positive fiscal impact from in-state tuition, since students who otherwise would not attend college at all will fill available classroom seats and pay the full in-state tuition rate.

Denying undocumented students access to affordable, in-state tuition costs is detrimental to the State and society at-large. A balanced analysis of this issue indicates that the benefits of such a policy far outweigh any cost. Given the state's large immigrant population – some of whom are undocumented graduates of the state's high schools – as well as the clear benefits of a educate populace and the ever increasing demands to maintain the state's highly educated and competitive workforce, New Jersey must ensure that all of its young people have the tools they need to reach their full potential in the marketplace.

4. Professional Credentialing²⁴

Outlining a clear path to accreditation for immigrants who were professionals in their countries of origin would have an economic benefit to the state as a whole. While no statistics exist for the United States, Australia estimates it lost between AU\$100 million and AU\$350 million because it under-recognized foreign degrees since 1990. Similarly, Canada estimates an annual loss of CAN\$2 billion associated with the economic impact of not recognizing more credentials for immigrants.²⁵ Inaccessibility of information for incoming professionals creates unnecessary hurdles that discourage the

foreign professional from gaining licensure in New Jersey. This discouragement leads the foreign professional to accept work in positions in which they do not meet their full capacity.²⁶ It can be reasonably assumed, based on the Australian and Canadian financial estimates that New Jersey can only benefit from finding ways to provide guidance to the professional immigrant by helping to create an accessible pathway towards credentialing.

Foreign professionals seeking credentialing in New Jersey face many challenges in fulfilling all necessary requirements. The steps an individual must take to gain licensure were examined in four fields: physical therapy, law, education, and translation. Each has different guidelines and presents different challenges to gaining licensure. First, a foreign professional must identify the organization that regulates the specific profession and obtain the necessary information. In each professional field, an organization establishes the credentialing guidelines: the New Jersey State Board of Physical Therapists; the New Jersey State Board of Bar Examiners; the New Jersey Department of Education; and the American Translators Association. These organizations each have separate guidelines for credentialing. Their costs vary for obtaining an evaluation of foreign credentials. They also vary in the accessibility of information provided by the organization. Each of these organizations outlines a mission that involves improving both their own professions and the people that are affected by the profession.

The physical therapy licensing board outlines very clear and easy to follow requirements to obtain the credentials required to be licensed in New Jersey. An applicant for licensure must have his credentials evaluated by an International Evaluation Committee. The profession

recognizes three private sector credentialing evaluation services, the closest of which is located in Newark, Delaware.²⁷ This profession's identification of the services that it recognizes protects the foreign professional from wasting time and money on potential credentialing scams, the foreign credentialing equivalent of a "diploma mill."

The credentialing evaluation service recommends whether the applicant should be granted a certificate to sit for the physical therapy credentialing exam. The credentialing service sends this recommendation directly to the Board of Physical Therapists, thereby taking the evaluation out of the hands of the applicant and avoiding potential tampering with the recommendation. If the certificate is granted to the applicant by the Board of Physical Therapists based on the external evaluator's recommendation, the candidate can then sit for the board certification exam provided by the New Jersey State Board of Physical Therapists.²⁸

The language translation profession imposes both educational requirements and work experience in order for a candidate to be eligible to sit for the certification exam. The American Translators Association identifies approved schools, but if a school is not identified an applicant can contact the association and seek reconsideration.²⁹

Unlike the physical therapy and translation professions, the requirements to practice law in New Jersey are not as specific. To be admitted to the New Jersey State Bar, the applicant must qualify for and then pass the New Jersey Bar exam. In order to qualify to take the bar exam, however, the applicant must be above the age of eighteen, complete the appropriate law school education and be in good standing legally in the applicant's jurisdictions.³⁰ This creates issues regarding what is an appropriate law school education because, unlike the American Translator

Association, the New Jersey Bar does not specify what schools are approved. Additionally, the New Jersey Bar does not provide information regarding transcript evaluation.

In education, the requirements or qualifications required for a foreign-educated professional to become a teacher in New Jersey are vague and unclear. On the New Jersey Department of Education's Licensure & Credentials web page, only one of the 36 links addresses Foreign Credentialing. This site instructs the reader that "the NJDOE is not authorized to determine the equivalent of studies completed in other countries for education in the United States," suggests the reader "consult a credential evaluation service by searching the yellow pages or internet," and describes what the reader should request from the credentials evaluation service.³¹ There are no links to any credential evaluation services, or any advice on how to select one. The website does specify that United States citizenship is a requirement for licensure, and that a "five-year non-citizen license may be issued to an eligible applicant upon completion of a sworn affidavit to become a United State (sic) citizen."³² Other links that look promising in determining the requirements for the foreign professional to become a licensed teacher in the State of New Jersey offer little clarification. For example, the link for "Certification Reciprocity" from the main Licensure & Credentials web site directs the user to a web-page that does not refer to or mention foreign credentials.³³ The New Jersey State Department of Education Office of Licensure & Credentials' Guide to Certification in New Jersey/2007-08 publication omits any reference to the foreign professional. The same can be said about the New Jersey Professional Education Portal (NJPEP) website.³⁴

There also are concomitant costs to a foreign professional who is seeking certification to practice in New Jersey. In the field of translation a non-refundable \$35 verification fee and a \$300 exam fee are due at the same time the candidate submits his or her application form. If the candidate fails to meet the standards, the exam fee will be returned but the verification fee will still be held.³⁵ The legal profession is more costly. It costs \$625 to take the bar exam initially, and \$475 to retake the exam.³⁶

Access to credentialing information is not easy to find without the identity of the exact agency that regulates each profession. The State of New Jersey website does not provide this kind of information in an easy to find format and does not provide links to most of the organizations that the foreign professional needs to contact to achieve licensure.

Some organizations are further ahead in addressing the issue of foreign training. In the area of credentialing foreign professionals, the physical therapy profession leads other professions, and may serve as a model. The Board of Physical Therapists has outlined a clear path for foreign professionals to gain the needed credentials in New Jersey. The American Physical Therapy Association webpage provides links to individual states. The New Jersey chapter of the association has a website that allows easy access to a consumer guide to physical therapy. This consumer guide has a designated section for foreign credentialing.

Canada and its provinces have succeeded in providing important information on credentialing for foreigners and prospective immigrants in condensed and easily navigated internet sources. A Google search for "foreign credentials Canada" returns an extensive and useful list of websites and press releases regarding the subject. The

first returned response in the Canada query is a link to the Government of Canada's Foreign Credentials Referral Office website (www.credentials.gc.ca).³⁷ The home page of this website features articles about the Foreign Credentials Referral Office, a "Spotlights" section that provides links to concise information such as the 2007-2008 Progress Report, Getting Started, Frequently Asked Questions, and a link to a webpage about Best Practices in Foreign Credential Recognition. When the internet browser clicks any of these links, he or she will arrive at a web-page that contains a well formatted and well categorized breakdown of information and additional links that narrow the individuals focus toward their profession.³⁸ In contrast, a similar search for "foreign credentials United States" returns a list of non-government agencies that provide foreign credential services, as does a search for "foreign credentials New Jersey".

The official website of Alberta Province (www.albertacanada.com) offers a best practice example for a governmental subdivision.³⁹ The first menu link on this page is titled "Immigrate to Alberta." Clicking the link brings the internet browser to a dedicated section titled "Alberta's Official Immigration Website."⁴⁰ Alberta is using the website as a marketing tool, and it contains easy access to useful information for immigrants that New Jersey should consider adopting. For example, within two clicks of the mouse, the internet user arrives at a page titled "Recognition of Credentials" that contains useful links for determining how to have credentials evaluated.⁴¹

5. Early Childhood Education⁴²

Early childhood education can address issues of school readiness and language acquisition for children of immigrants.⁴³ Early education also aids the integration of

children and their families into the American education system. Early education programs enable children of immigrants to enter elementary school with more developed English skills and prepare them to succeed in school. Special needs children in immigrant families benefit from early intervention programs that connect their families to additional support services. Family literacy programs and other parental involvement components can help immigrant parents learn English in order to gain employment skills and actively participate in their children's formal education from the beginning.⁴⁴

Until the age of five, many children of immigrants are less likely than children of U.S.-born citizens to participate in pre-school or other center-based care.⁴⁵ Research indicates that immigrants are under-represented in early child care and development programs throughout the country. Nationally, at age three, 30 percent of children of immigrants attend preschool, compared to 38 percent of children of native born citizens. At age four, 55 percent of children of immigrants attend pre-school, compared to 63 percent of the children of U.S.-born citizens.⁴⁶

Effective early childhood education is culturally competent and



addresses the diversity within the immigrant population.⁴⁷ A culturally supportive environment encourages a child's sense of security and self-concept.⁴⁸ Additionally, contact with people of similar ethnic and cultural backgrounds minimizes the stress and isolation experienced by many new immigrants.⁴⁹ Due to high costs and limited

knowledge among parents about the options that are available, many immigrants are unable to participate in these programs.⁵⁰ Likewise, much of the immigrant community is excluded from essential systems of child care as a result of the inability of traditional service providers to connect effectively with immigrant children and their families. Language barriers, concerns regarding citizenship status, general distrust of the government and cultural stigma further undermine efficient delivery of early childhood educational services. Increased funding, targeted outreach to immigrant communities, coordinated services, appropriate translation services and improved parent engagement would begin to eliminate the barriers to accessing quality early childhood education.⁵¹

Better availability of full-time child care is essential. The New Jersey Cares for Kids Program offers subsidized child care to many low-to-moderate income families in NJ, but, the waiting lists for these programs are as long as two years. Immigrant families are eligible for the voucher program or Head Start as long as their child is a U.S. citizen.⁵² The process of determining eligibility, however, usually ends before it begins, since many families do not have access to forms that have been translated.⁵³

The challenges or barriers which child care providers identified include: inadequate training to help providers reach out to diverse immigrant communities; lack of funding to maintain child care facilities and provide a quality educational experience for immigrant children; and a lack of bilingual staff.⁵⁴ The Coalition for Asian American Children and Families found that providers need more funding for translation services and language access for immigrant families. Many communities, however, lack the infrastructure (e.g. community based organizations, collaborations with providers

and bilingual workers) necessary to greatly increase their access to quality child care.⁵⁵

Immigrant parents agree, regardless of country of origin, that trust is the most important criterion when selecting child care.⁵⁶ Child care can play a major role in facilitating their children's adjustment to a new country. Most new immigrants to the U.S. are in their child-bearing years and are among the working poor. For many, child daycare serves as the primary point of "extra-familial contact."⁵⁷ Child day care may serve as a buffer for these young families and aid in their integration into their new country's culture.⁵⁸ Most parents prefer child care programs that prepare their children for school, including programs that develop language, math skills, and social skills.⁵⁹ Many families, including immigrant parents, prefer family child care because more flexible hours are likely to be offered.⁶⁰

Heavy paperwork burdens and a lack of adequate full-day child care programs create barriers to obtaining quality, affordable child care that are difficult for immigrant parents to overcome.⁶¹ Information about child care programs travels in immigrant communities mostly by word of mouth.⁶² Agencies and child care providers often are not effectively using direct outreach that is language-appropriate to inform immigrant parents.⁶³

Another barrier to accessing child care is the stigma associated with using public assistance. Families are afraid that accessing subsidized care will label them as burdens on the government, or public charges, which they fear may jeopardize their immigration status.⁶⁴ An alternative may be to use immigrant, or community-based organizations, to provide training in early childhood education for family caregivers. This strategy is effective in reaching out to grandparents and other family caregivers, because it raises the caregiver's

awareness of how to incorporate teachable moments into their daily activities.⁶⁵

Bilingual staffing is essential to the success of early child care for immigrants. Without bilingual staff to communicate with, parents do not always receive the feedback they need regarding their child's progress toward the academic and social goals of early childhood education. Parents with limited English proficiency need to understand the challenges, as well as successes, their children experience every day in child care programs.

There are many reasons why participation of children of immigrants in early childhood education programs is lower than that of children of natural born citizens.⁶⁶ The first is the lack of written information available in the native language. Second, there is not enough outreach to immigrant communities about programs and services available to them. Third, there is not enough training for child care professionals to help develop their cultural competency and understanding of the unique challenges facing immigrant families and children. Lastly, there are high costs associated with child care programs and inadequate funding to agencies to help them develop and maintain current child care programs and facilities.

Participation can be increased in early childhood education programs by identifying systemic barriers and improving access to the programs for immigrant families.⁶⁷ Children of immigrants are more likely than children of native born citizens to live in households characterized by poverty, low parental education attainment, and low maternal employment.⁶⁸ Immigrant families are also less likely to utilize public benefits that may lessen the hardships associated with poverty, or they may not be eligible for these benefits depending on their immigration status.⁶⁹ Children in families below 200 percent of

the poverty level are less likely to participate in early education program than children in higher-income families.⁷⁰ Children of immigrants, especially those who are Latin American foreign born, are under-enrolled in pre-school in New Jersey, according to the 2006 American Community Survey. Of the 231,084 foreign-born Latin American students in NJ ages 3 and up, only 2.3 percent are enrolled in nursery school or pre-school programs.⁷¹

A child's school success depends not only on what takes place in the classroom, but also on the parental involvement in the school culture and the school's connection to the home.⁷² Schools and families need to work together toward the same goals.⁷³ It is not enough to simply encourage parental involvement in their children's learning at school. The school must connect to the family to bridge the child's home and school experiences.⁷⁴ Information about other services available to eligible immigrants, such as food stamps and TANF, could be provided by the school. Bridging could bring communities that are culturally and linguistically similar together to accomplish a set goal. For example, a set goal could be to establish a low-cost child care clinic funded by a local community or faith-based organization, or a network of family care providers which are culturally and linguistically similar to their immigrant clients.

Over a quarter of all young children of immigrants live in households of poverty, and they are 20 percent less likely to attend the Head Start program than children of natives.⁷⁵ Head Start programs report difficulty enrolling and communicating with non-English speaking families, as well as difficulty recruiting well-trained bilingual staff.⁷⁶ Head Start completion significantly improved test scores and reduced grade repetition for Latino children.⁷⁷

Economically disadvantaged children and those with lower levels of cognitive skills are typically found to achieve larger gains from pre-school.⁷⁸ As in the K-12 educational system, neither the Head Start Program nor pre-school programs funded through Title 1 of the No Child Left Behind Act, can ask about the immigration status of enrolling families.⁷⁹

All children living in the United States deserve quality child care that is affordable. There are child care programs available to immigrant families, but many are not aware that these programs exist.⁸⁰ Greater communication with immigrant communities would increase knowledge of available child care programs. Government agencies should take advantage of ethnic radio and television outlets to disseminate information about available programs, and work with immigrant groups and community-based organizations to share program information.

Family child care programs are in many ways ideal for immigrant families. Family child care offers flexible hours and providers that are culturally competent and bilingual and who offer services at a lower cost than a child care facility. The Jewish Child Care Association of New York (JCCA) was designed to serve low-income immigrant families from the former Soviet Union.⁸¹ The program is publicly funded, and provides child care at either no charge or a low cost to parents with low incomes. Parents who receive a subsidy are required to be employed, in training programs, or looking for employment.⁸² JCCA's network consists of providers who are trained, supported, and monitored by the agency.⁸³ JCCA providers attend lectures and workshops to increase their knowledge of Jewish culture, heritage and traditions. Providers are monitored in their homes at least eight times per year by JCCA's staff

members. Staff members also function as mediators if conflicts arise between providers and parents.⁸⁴ The practices of the JCCA could be implemented by states in a non-sectarian fashion. The core concepts of offering no cost or low cost care, training for family child care providers, ensuring culturally competent programs, providing conflict mediation, and monitoring providers in their homes is highly replicable.

Educating immigrant parents on how to assist with their children's educational success is a best practice cultivated by AVANCE-Dallas parenting program. Many immigrant parents arrive in the United States with limited formal education, placing their children at an educational disadvantage.⁸⁵ AVANCE-Dallas provides guidance, tools, and support to help parents become their child's first teacher.⁸⁶ This nine-month program encourages parents to become an active participant in their child's education.⁸⁷ AVANCE-Dallas works to address attitudes and behaviors exhibited by parents through a stimulating bilingual early child development program.⁸⁸ The goal is to start the program during the child's earliest years, so that the child has a parent participating in their education and helping them to succeed. The AVANCE-Dallas program provides information about positive mother-child interactions, playtime activities that teach developmental skills, and the mother's role as the child's first teacher.⁸⁹ With guidance, parents with little formal academic background can inspire their children to achieve.⁹⁰ Parental involvement is shown to positively influence the child's development in the classroom and the completion of homework.⁹¹ The first years of a child's life are critical, and programs like AVANCE-Dallas help parents become engaged in their child's education in a systematic way.

5. Adult Education

New Jersey has a long history of supporting the education of adult immigrants, and the state has long recognized the importance of developing English literacy and the other skills needed to support full integration of immigrants from all communities. At the start of the 20th century (in 1907) New Jersey was the first state to establish a state-funded immigrant education system. As we move into the 21st century, the state has an opportunity to again provide a model for the rest of the nation.



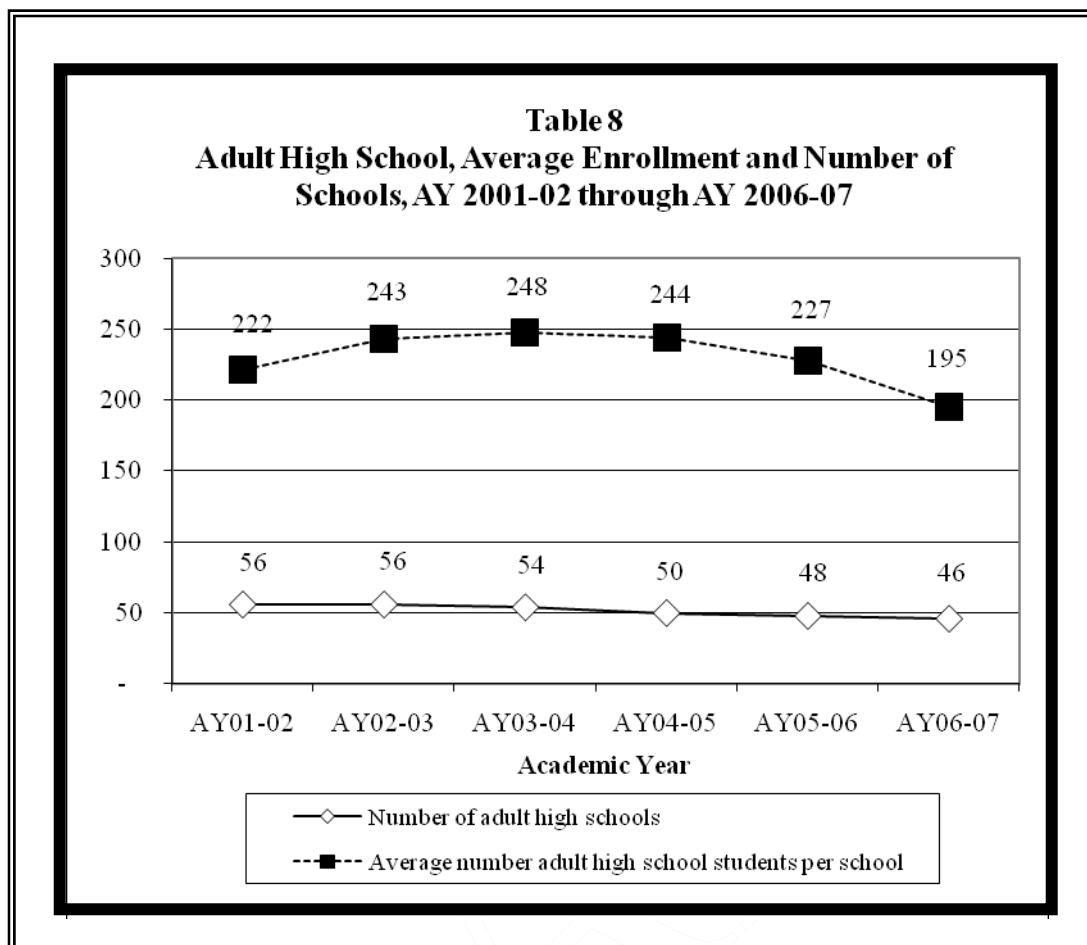
Adult immigrants come to New Jersey with different resources, strengths, and needs. Some have advanced degrees in their own countries. Indeed, adult immigrants in New Jersey have a higher average level of education than immigrants in other states.⁹² On the other hand, there are immigrants who come to the state with limited education from their own country, and some have limited literacy skills in any language. Regardless of their background, however, many of these immigrants need some assistance in becoming fully participating citizens of the state. Programs that offer English, literacy, citizenship, or job training classes are essential if immigrants are to realize their full potential, and if the state is to take full benefit of their commitment to making a new home in New Jersey. For example, studies note that immigrants with English proficiency earn 13 to 24 percent more in income than those without English proficiency.⁹³ Not surprisingly, English proficiency also supports a stronger attachment to the workforce.⁹⁴

From a different perspective, parents who increased their English skills through family literacy programs were more actively

engaged in their children's schools.⁹⁵ Parents play a key role in the intergenerational transfer of knowledge. Efforts to improve outcomes and decrease drop-outs in K-12 schools should thus include support for parents.

Finally, in New Jersey, there are large numbers of adult immigrants who are on the path to citizenship. Currently, 373,000 such individuals are already eligible, and 134,000 are soon to be eligible.⁹⁶ A key aspect of naturalization is mastering English. In addition, the citizenship test was recently made more difficult. Clearly, without the proper language and content-area support (e.g., US history, government, etc.) many of these potential citizens will be not be able to naturalize.

For the reasons noted above, New Jersey needs a system that supports adult immigrants across their lifespan and through multiple types of education. This needs to be done in a judicious manner; so that we make best use of the resources we have and target specific areas for increases in spending and coordination. With the advent of the new State Education funding formula, which does not include adult high schools, it is unclear as to where funding for these programs will come from. In the current 08/09 school year, funding was provided by a \$10 million appropriation from the State legislature and distributed based on reporting for the previous school year of 07. The Department of Education continues its support of the adult high school programs and recognizes the positive impact on the adult community in need of a high school credential. Current economic conditions make for challenging times for many state funded programs. The adult education community has voiced strong concerns for the continuation of funding for these programs.⁹⁷



Current data suggests that the need for English classes outstrips the classes that are being offered. In 2006, statewide there were 747,018 working age adults who have limited English proficiency (LEP), or 13 percent of all 18-64 year olds.⁹⁸ There are an estimated 25,265 adults currently enrolled in state-administered ESL programs.⁹⁹ Since 2002, the number of persons taking the GED test increased 64 percent, and those receiving high school diplomas increased 98 percent. Many of these are immigrant adults seeking to gain recognized US academic credentials.¹⁰⁰

There is a disparity between the number of LEP individuals and the number of those enrolled in English language classes and there are reports of long waiting lists at programs that do offer ESL. For example, one survey found some 20 percent of respondents having difficulty finding ESL support.¹⁰¹ Additionally, although there is lot of emphasis on getting immigrants into the workforce, immigrant participation in programs covered by WIA Title 1 is low.¹⁰² Immigrants do not need to be convinced of the need to learn English or develop job skills – they need opportunities and access.

III. RECOMMENDATIONS

1. Bilingual/ESL Education Programs

- 1.1 The NJDOE should review evidence-based bilingual, ESL, and world language programs as well as further explore dual language programs to help identify best practices in each type of program and disseminate them statewide.**
- 1.2 The New Jersey Department of Education should develop the database capacity to follow limited English proficient students from identification, through direct service to graduation. It should also include drop out data on limited English proficient students. This data is critical for program evaluation regarding effectiveness of services and understanding student educational outcomes.**
- 1.3 As the Department of Education develops longitudinal data on limited English proficient students in special education, program evaluation should be conducted on the effectiveness of services and student outcomes.**
- 1.4 NJDOE should strengthen and enforce the requirement for Bilingual Parent Advisory Committees, including assisting districts in providing training to members and identifying specific areas in which the district should secure input from the members of the Bilingual Parent Advisory Committee. NJDOE, the New Jersey Immigration Policy Network, as well as community, education, ethnic and immigrant based organizations should work cooperatively with school districts**

to improve the quantity and quality of local parental advisory committees and bilingual education. The objective of the Bilingual Parent Advisory Committee is to empower and enable parents to become partners in the education process with educators in school districts. Immigrants with LEP and their children face critical challenges and opportunities. The Committees are established to address the challenges create opportunities for parents to engage in their children's schooling. The state bilingual education committee should reflect the diversity of the New Jersey's immigrant community.

- 1.5 The New Jersey Council on Higher Education should offer incentives to teacher education programs that increase the number of ESL/Bilingual teachers prepared, certified and employed in the New Jersey public schools.**

2. Discrimination in Education

- 2.1 The state should establish an Ombudsman within the Division of Civil Rights in the Department of Law and Public Safety, which would be the entity to which school discrimination cases are reported. The Ombudsman would conduct its own confidential investigation as appropriate and work with other state agencies based on the type of information and cases reported. If appropriate, the Ombudsman would work with the immigrant parents to file a complaint.**
- 2.2 Prior to the district enrollment period, the NJDOE should send a memo on an annual basis reminding districts that they cannot request**

Social Security numbers from parents who are seeking to enroll their children in the district. The memo should also include information clarifying the rights of undocumented students to receive educational services and encourage districts to provide training to staff, particularly those involved with enrollment. The memo should state that complaints from parents on these issues will be referred to the Division on Civil Rights in the Department of Law and Public Safety. Annual training for support staff, faculty, and administrators responsible for registration should be conducted to ensure compliance with the law. Funding should be provided to conduct an annual random survey of New Jersey school districts during registration to monitor compliance with anti-discrimination sections of the New Jersey Education Code.

2.3 When an allegation of discrimination is received from any source including individuals, community-based organizations, faith-based organizations, and immigrant advocacy groups, the Commissioner of Education should utilize the Office of Fiscal Accountability and Compliance in the Department to investigate complaints of districts requiring Social Security numbers or other unauthorized documentation before a child will be enrolled. Sanctions should be imposed accordingly.

2.4 The department should, through regulation, require districts to adopt policies assuring non- discrimination against immigrant students. These

policies should be verified by the county superintendent's office.

2.5 The Department of Education should develop a document, available in multiple languages, that outlines the rights of immigrant children to attend school in New Jersey. This document would identify the information that may be requested to verify the student lives in the district, as well as the types of documents that schools may not require or request. The document would identify the county superintendent offices of NJDOE and the Division of Civil Rights in the Department of Law and Public Safety as the places to call to report violations of the law. This document would be made available to community groups, parent groups and other agencies and associations serving the immigrant community and be available on the NJDOE website in multiple languages. Similarly the Department should also make available the Parental Rights in Special Education document that outlines all of the rights of parents under federal and state law. This document is translated into a number of languages to assist immigrant families involved in special education programs and services.

3. In-State Tuition

3.1 The Governor's Blue Ribbon Advisory Panel on Immigrant Policy recommends a change in the law so that immigrant students are eligible to attend two and four year public colleges and universities at the same tuition rate as resident students.

3.2 The Governor's Blue Ribbon Advisory Panel on Immigrant

Policy supports those bills pending before the New Jersey Legislature that would provide in-state tuition rates for immigrant students.

- 3.3 The Governor, Cabinet, other officials and the Legislature should implement all other necessary legislation and regulations that would allow for immigrant students to receive the benefit of in-state tuition rates.

Please refer to the appendix for a more detailed analysis of in-state tuition for immigrant students.

4. Professional Credentialing

- 4.1 The state should adopt standards for credential review of foreign training and academic degrees for all regulated professions in New Jersey.
- 4.2 The state should monitor private credentialing service quality to avoid the development of “credentialing mills.”

5. Early Childhood Education

- 5.1 The state should encourage the development of family child care programs, which offer flexible hours with caregivers who are culturally

and linguistically competent, by offering workshops and certification in early childhood development. Certified family child care providers should be eligible for public funding.

- 5.2 The state should support full funding for preschool education for three-year-olds regardless of the state’s fiscal challenges.

- 5.3 The state should support development of appropriate instructional programs for eligible preschool limited English proficient students.

6. Adult Education

- 6.1 The state should work in partnership with immigrant communities to determine productive ways to respond to the needs of adult learners and potential adult learners. This may include offering courses at community-based organizations.

- 6.2 The state should conduct a comprehensive needs analysis, with the goal of identifying how much of the demand for English language education is being met and where there are gaps in programming.

Endnotes

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⁹³ M. McHugh, J. Gelatt, and M. Fix, M. "Adult English Language Instruction in the United States: Determining Need and Investing Wisely," Washington, DC: Migration Policy Institute (2007).

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⁹⁵ T. Shanahan, Mulhern, M., & Rodriguez-Brown, F. "Project FLAME: Lessons learned from a family literacy program for linguistic minority families," *Reading Teacher* 48 (1995), 586-593.

⁹⁶ N. Montalto. *Out of the Many, One: Integrating Immigrants in New Jersey*. Washington, DC: National Immigration Forum, (2006).

⁹⁷ Robert M. Berezny, GED Administrator, Bureau of Adult Education and Family Literacy/GED, New Jersey Department of Education, e-mail correspondence with Christine Thurlow Brenner, December 10, 2008.

⁹⁸ Source: 2006 American Community Survey, Measure C16004: Age by language spoken at home by ability to speak English for the population 5 years or older.

⁹⁹ Office of Vocational and Adult Education, Division of Adult Education and Literacy (2006). State-administered Adult Education Program, Program Year 2003-2004 Enrollment.

¹⁰⁰ Limitations on adult population data preclude identification of the actual number of foreign-born persons participating in these programs.

¹⁰¹ South Asian Americans Leading Together (ND). *A Community of Contrasts: South Asians in New Jersey*. Retrieved on November 14, 2008, from www.fundfornj.org/files/saaltjn.pdf.

¹⁰² Asian American Justice Center (2007). *Adult Literacy Education in Immigrant Communities: Identifying Policy and Program Priorities for Helping Newcomers Learn English*. Washington, DC.

State and Local Government Recommendations

The Panel agreed on the following overarching priorities:

- Recognize the critical role of the State of New Jersey and local counties and municipalities in community building by facilitating participation and representation of all residents, delivering services in a culturally and linguistically competent manner, and developing partnerships to encourage immigrant integration.
- Respect for fundamental democratic values and human rights.
- Ensure opportunity for immigrants and native-born persons to fully participate in the economic, social, cultural, political and civic life of New Jersey and their local community.
- Ensure the right of an immigrant to maintain his or her own cultural identity.

The Panel has developed a number of specific recommendations to further these overarching priorities.

I. OVERVIEW

The lack of a cohesive national immigration policy has placed a great burden on state and local governments.

According to a report by Christine Thurlow Brenner, Ph.D. and Nadia Rubaii-Barrett, Ph.D. submitted to the Panel in June 2008: “Several conditions create challenges for local governments when responding to immigration, including: the influx of immigrants to many communities that are not historic destination locations; the diversity of countries from which recent

immigrants come and the range of languages they speak; economic and budgetary constraints at the national and state levels; and the politicization of the discourse surrounding national immigration policy, particularly as it relates to post-September 11 concerns about borders and security. These conditions are only exacerbated by the absence of clear national or state policies.”

The report continues,

“Local governments in New Jersey represent a microcosm of communities across the nation in terms of the policies and strategies they have adopted with respect to immigrants, ranging from deliberately welcoming to vehemently resisting immigration.



n. The state government, as well as each local government within the state, has a responsibility to be deliberate about the discourse surrounding immigration. In an environment of virulent and blatant anti-immigrant sentiment in the national media, it is important that the state not simply be neutral, but rather very positive about the economic, social, cultural, public safety, and public health benefits of immigrant integration, and that state and local policies and actions be grounded in empirical evidence rather than emotionally charged rhetoric. Indeed, the language of Governor Corzine’s executive order 78

reinforces this philosophy stating, in part, “A progressive and holistic approach by the state towards immigrant policy that leverages the skills and assets of its immigrants and directs state resources in accelerating immigrant integration will benefit the entire state.”¹ Discourse and policy initiatives that emphasize the positive benefits of immigration for all New Jersey residents, not just for the immigrants, helps frame the context of these recommendations.

Any effort to promote immigrant integration within New Jersey must consider the impact on recent immigrants, long-standing residents of New Jersey, and large and small employers throughout the state. In developing state policies, the impact on local communities is also an important consideration. As such, the development of state policies must include representatives from immigrant and native populations, employers, community and faith-based organizations, and local government officials. The core of the immigrant integration efforts at the local government and community level is relationship building. Critical to the effectiveness of sound local programs is recognition that newcomer immigrants arrive with pre-existing human capital and/or tangible assets and want to become contributing members of the community.² The role of the receiving community³ is to provide appropriate external assistance in developing those assets and growing community-based leadership.”⁴

II. RESEARCH FINDINGS

1. Immigrant Integration

The establishment of more comprehensive national immigrant policy is just part of the story. True immigrant integration occurs at the local, neighborhood level and that is why it is critical that community-based organizations and local officials be significantly engaged in the integration process.

According to the June 2008 report presented to the Panel by Brenner and Rubaii-Barrett: “People live, work and interact with others in their local communities, and it is at this level that there is the greatest opportunity for true integration. Long-standing residents and immigrants can get to know each other as people, and local government officials are in the best position to help recent immigrants learn through experience to trust government officials and agencies. Local governments are ideally positioned to promote integration and build trust among and between immigrant populations and long-standing residents, within a clearly articulated and coherent state policy and the resources to support their integration initiatives”⁵

It is important to take into consideration that “the political environment in an immigrant’s country of origin and personal experience with officials and administrative bureaucracies prior to arriving in the United States may leave a newcomer more or less trusting of local government.”⁶

In addition, “one of the barriers to positive attitudes toward immigrant newcomers and integration is the segregation and lack of interaction between long-term residents and new immigrant populations. [There are] Many receiving community members have not talked to or interacted with immigrant

newcomers”⁷ because of a language barrier. According to the 2000 Census, 25 percent of the people living in New Jersey speak a language other than English at home and 11 percent of the New Jersey population speaks English “less than ‘very well.’”⁸

2. Immigrant Entrepreneurship

A recent report from the U.S. Small Business Administration⁹ finds that immigrants are 30 percent more likely than the native born to transition from working for someone else to working for themselves. While this research finds that the highest average annual net business income of an Indian-owned business is \$83,000, higher than the average for U.S.-born entrepreneurs by \$33,000, other immigrant nationalities including Taiwanese, Canadian, Filipino, and Greek also strongly outperformed the average for businesses owned by U.S.-born entrepreneurs. In New Jersey, 21.4 percent of all businesses are immigrant-owned,¹⁰ and Indian immigrants headed 47 percent of all new NJ companies started by immigrants.¹¹

Immigrants own large shares of businesses in both the lowest- and highest-skill sectors; however, lower-skilled immigrants experience regulatory and financial barriers that can be difficult for newcomers to negotiate.

There is an array of (governmental and non-governmental) regulatory structures that promote certain economic activities while inhibiting others. Immigrant entrepreneurs’ concrete relations and transactions are

embedded in a more abstract way in wider economic and politico-institutional structures, referred to as mixed embeddedness.¹²

Immigrant newcomers who move into distressed areas can help revitalize communities through small business development and general improvement to housing.¹³ Because immigrant business owners comprise the largest share of least-educated business owners nationally, their need to understand how the American business climate operates may be more acute.



Currently one-fifth of New Jersey business income is generated from immigrant-owned business.¹⁴ If business start-up concerns like access to capital and streamlining of the permitting and application processes can be addressed, then immigrant

entrepreneurship holds the potential to significantly grow the state’s economic base.

Other recent immigrants hold professional positions in the full range of New Jersey’s industry and business sectors, including higher education, pharmaceuticals, and healthcare, and are expanding the economic base of local communities through existing firms and new start-ups. Since 1990, immigrants have founded one out of every four public, venture-capital-backed companies, according to a 2006 study commissioned by the National Venture Capital Association.¹⁵ Six percent of all public firms started by foreign-born immigrants are located in New Jersey.¹⁶ These are major firms that attracted significant venture capital investment. Yet, the current U.S. and state fiscal crises mean there are fewer venture capital dollars

available to invest in immigrant- or native-owned firms. As the state works with Washington to craft ways to jumpstart the New Jersey economy, promoting immigrant entrepreneurship will be an important piece of addressing the state's economic recovery.

3. Cultural Competency Training and Access to Government Services

In the course of fulfilling their daily responsibilities, state, local, and county employees interface with immigrant community members who may be unfamiliar with local ordinances or New Jersey laws. How the city or county employees interact with the immigrant community or individual immigrants can create and promote immigrant integration or exacerbate tensions.¹⁷

Many training programs address diversity but may neglect to contextualize it regarding immigrants. For example, the state police academy curriculum includes a module on diversity, but it is dated and does not address the challenges of working with limited or non-English speaking persons, or cultural competency in working with immigrants.¹⁸

Lack of cultural competency in government entities can have dire consequences for people with limited English proficiency. For instance, when persons with limited English proficiency come before state and local courts in New Jersey, their ability to understand the court proceedings is critical for the fair administration of justice in New Jersey. For example, if a court issues a restraining order that is only in English, it is possible that the plaintiff and defendant both will not fully understand the terms of the order or its implications.¹⁹ Likewise, the ability of immigrants to understand the ramifications, in terms of federal immigration law, of the decisions they

make in these courtrooms is also essential to the fair administration of justice.²⁰

4. Day Laborers and Informal Employment Services Locations

There are few in our society as economically and otherwise vulnerable as recent immigrants to this country who toil as laborers, seek work on a day-to-day basis and have limited English proficiency.

As reported in "*On the Corner: Day Labor in the United States*," produced by the Los Angeles Center for the Study of Urban Poverty: "Most often, day laborers have limited English proficiency and other skill sets, and they seek jobs on street corners, in parking lots, and in public rights-of-way."²¹

"Day laborers ... are contingent workers, primarily recent immigrants, employed in a variety of sectors and industries, including manual labor, construction, service industries, and factory work."²² Most often, day laborers have limited English proficiency and other skill sets, and they seek jobs on street corners, in parking lots, and in public rights-of-way.²³

These temporary labor marketplaces have both real and perceived spillover effects on the host community, and in New Jersey, the informal portion of the day labor market is unregulated. According to "*Local Day Labor Worker Centers*," by LaQuanda Brown and Kaitlyn Miller,

"With the current economic crisis, the unregulated status of the day labor market is of great concern. Rising unemployment, a decreased number of jobs available across sectors, and a focus on cutting costs by using cheaper labor brings a heightened awareness of the public

issues that come with day labor²⁴. Immigrant integration policy, therefore, must take into account the competing desires of stakeholders, meeting the demands of the local labor market, addressing the concerns of community members and businesses, and respecting the dignity, human and labor rights of day laborers.

Political concerns and the sometimes emotional nature of immigrant relations in New Jersey demand a consensus-driven, community solution to the objective of regularizing and structuring certain aspects of the temporary labor market. Worker centers are “community-based and community-led organizations that engage in a combination of service, advocacy and organizing to provide support to low-wage workers,” and offer a positive solution for municipalities seeking to regularize this often chaotic employment practice.²⁵ By involving all stakeholders, worker centers establish a place for immigrant laborers and others to seek gainful employment; they serve as mediating institutions, which advocate for the low wage worker, and interface with the larger community.²⁶ Worker centers enable the temporary labor market to function in a more equitable and effective way, and serve an important role in integrating immigrants into the life of a community.”²⁷

5. Affordable Housing

The lack of affordable housing in New Jersey is a problem for all New Jerseyans

but can be of particular concern to immigrant populations who face language barriers, unfamiliarity with the systems that support access to housing and who face barriers to obtaining housing subsidies.

According to “*Immigrants and Affordable Housing*,” a paper presented at the Immigrant Policy symposium of Student Research, Rutgers University, December 2008:

“In addition to problems with housing supply, New Jersey has the second highest median monthly housing costs in the country and the third highest median rental prices.²⁸ Statewide, 46.1 percent of homeowners and 48.5 percent of renters spend more than 30 percent or more of their monthly incomes on housing costs.²⁹ When compared with the rest of the country, these percentages show New Jersey has the fourth highest mortgage costs and third highest rental costs, with averages nationwide at 37.5 percent and 45.6 percent, respectively.³⁰ Other factors exacerbate the problems of locating affordable housing including: discriminatory landlord practices; anti-immigrant ordinances; exclusionary zoning; overcrowding; and lack of access to credit. Based on reports published in the *Newark Star Ledger* in 2006, affordable rents in New Jersey are more a myth than reality. The average rent for a 2-bedroom apartment in New Jersey in 2006 was \$1085, which is far too expensive for low-income families. Federal government supplemental housing programs, such as Section 8 and public housing, are limited to U.S. citizens and those non-U.S. citizens with legal residency status. That means less educated immigrants whose job skills are less transferable in

the New Jersey economy may have extremely limited resources to seek affordable housing. The housing they do find is sometimes overcrowded and substandard in quality.

Additionally, immigrants from developing countries may not be familiar with housing codes and may unintentionally create fire hazards for themselves and others. For example, the use of the wrong type of extension cord for an appliance presents a significant fire hazard; however, immigrants from rural areas in developing countries may not know the difference between an extension cord for a lamp and the type to be used for a microwave.³¹ It is not uncommon to find more than one such family sharing a two bedroom apartment with another immigrant family.³² This overcrowding presents public health and public safety concerns. Due either to their immigration status, lack of affordable housing options, or lack of familiarity with local municipal codes, such families will not complain to the proper authorities about unsafe living conditions.”³³

6. Potential Implications of Municipal Ordinances That Affect Immigrant Populations.

In 2006, Riverside, NJ, passed a local ordinance designed to penalize employers and landlords who hired or rented to an unauthorized immigrant. “Within months, hundreds, if not thousands, of recent immigrants from Brazil and other Latin American countries had fled.”³⁴ Faced with mounting legal bills³⁵ from two lawsuits filed against the municipality and the

spillover effect of shuttered businesses that had substantial immigrant clientele, a year later the town of 8,000 rescinded the ordinance.

In Lakewood, NJ, anti-immigrant rallies were organized in fall, 2007 and May, 2008.³⁶ Signs reading “We’re not vigilantes, we’re undocumented border patrol agents,” demonstrate the strong rhetoric against unauthorized immigrants in some New Jersey communities. In Morristown, police were forced to separate the 500 protestors from both sides of the immigration issue that converged in August 2007, burdening the community with a combined local and county law enforcement bill of \$36,000 for the event.³⁷

Meanwhile, the Immigration Reform Law Institute filed a lawsuit in U.S. District Court against a Plainfield, NJ-based properties company which “holds that by renting apartments to undocumented immigrants, landlords are violating federal statutes that impose criminal penalties for harboring undocumented people.”³⁸ This action prompted an array of immigrant rights groups³⁹ to file amicus curiae (friend of the court) briefs “to protect the right to housing for Latinos and other immigrants and to thwart anti-immigrant efforts.”⁴⁰

In light of these and other efforts by residents in some New Jersey communities to act on their frustration with the perceived failure of federal immigration enforcement, a pending federal lawsuit involving Hazelton, PA, is especially pertinent to New Jersey. The city’s Illegal Immigration Relief Act sought to impose fines on landlords who rent to illegal immigrants, deny business permits to companies that give them jobs and require tenants to register and purchase a rental permit. The Hazelton law was struck down as unconstitutional.⁴¹ The city appealed and

a ruling by the Third Circuit Court of Appeals will have particular force in New Jersey, which is in the federal Third Circuit. The court held oral arguments in October 2008.

This case, if upheld on appeal, should prove to be a landmark case in the area of the rights of undocumented immigrants and provide municipalities with clear guidelines and limits when attempting to regulate immigrant populations.

7. Disaster Preparedness

It is important for those working in disaster preparedness to understand the particular need of all residents including recent immigrants and especially those who face language barriers. Michael Dansbury writes in *“Disaster and Emergency Preparedness and the Immigrant Community,”*

“During the past four decades, the United States experienced major transformations in population size, development patterns, economic conditions, and social characteristics. These social, economic, and built-environment changes altered the American hazardscape in profound ways, with more people living in high-hazard areas than ever before.⁴² The devastation and displacement caused by Hurricane Katrina in the Gulf Coast region of the United States posed a host of environmental, human resource, and other public policy challenges.”⁴³ There is a “unique subset of immigration-related issues that may arise whenever a state suffers from natural or man-made disaster.”⁴⁴ Approximately 20

percent of New Jersey’s residents were foreign immigrants as of 2000.⁴⁵ To help the victims of disasters, including immigrants, disaster preparedness planners must understand who they are and what their needs are likely to be. To do so, it is essential to understand and respect their culture.^{46,,47}

Experiences in disaster evacuation, relief, and recovery reveal that racial minorities and immigrants are relatively more vulnerable in comparison to white Americans. In particular, socioeconomic differences, language barriers, minority preferences for particular information sources, and distrust of governmental authorities are significant factors that leave racial minorities and immigrants are more vulnerable to disasters.⁴⁸ In disasters, the poor, racial minorities and immigrants suffer disproportionate magnitudes of destruction, injury, disease and death. For example, in New Orleans, areas most damaged by Hurricane Katrina were largely populated by low-income African-Americans, many living in substandard housing and lacking access to transportation for evacuation.^{49,,50}

Currently, New Jersey’s ability to provide immediate translation of all emergency information in a rapid manner to limited English-proficient populations is limited and lacks coordination. Press statements in English sent to ethnic media outlets rely on the media to provide translation of critical information.

The New Jersey Office of Emergency Management (NJOEM) basic workshop in

emergency management does not include any material on working with limited English proficient immigrant populations.⁵¹ A further search of the NJOEM webpage revealed the NJOEM procedure for assisting individuals with special needs or disabilities is to have the individual register with the local emergency management office and the local police. Both of these options are problematic for immigrants who either do not know, or may not trust, local public safety officials, or who entered the United States without inspection and fear deportation.

The NJOEM does include information on persons with limited English proficiency under “other planning considerations for earthquakes.” The agency states, “People who cannot speak English often rely on their family or friends for information. If they are separated during an earthquake, they may need help. Prepare emergency cards written in English indicating identification, address and any special needs.”⁵² These emergency identification cards would be helpful to English speaking first responders; however, they do not address how the first responder can communicate with the limited English proficient immigrant, or how the limited or non-English speaking immigrant can access information. Likewise, materials prepared by the American Red Cross on family emergency planning, some of which are translated into Cambodian, Chinese, Korean, Spanish, Vietnamese, and Tagalog, are not easily available. There were no translations available in Indic languages, such as Bengali, Hindu-Urdu or Punjabi, in spite of the fact that India is one of the top ten sending countries to New Jersey. The Federal Emergency Management Administration multilingual webpage does make information available in the form of flyers, brochures, tri-folds, press releases and public service

announcements that can be tailored to local disasters.⁵³

8. Immigrants and Public Safety

Many immigrants are wary of the police because of negative experiences in their country of origin,⁵⁴ or because they fear bringing the attention of authorities to households which may include members with undocumented status.⁵⁵ Limited understanding of the U.S. legal system makes immigrants less likely to “assertively resist(ing) victimization or pursue(ing) grievances.”⁵⁶ This can hamper law enforcement efforts to resolve crimes committed in their community. The role of immigrant community organizations and cultural brokers is magnified in importance in these circumstances.⁵⁷

The New Jersey Attorney General issued Law Enforcement Directive No. 2007-03 (the “Directive”), which “established the manner in which local, county and State law enforcement agencies and officers shall interact with federal immigration authorities.”¹ Based upon experiences in the seventeen months following issuance of the Directive, we believe that it needs to be modified to advance legitimate law enforcement objectives and ensure civil rights protections. A full discussion of this subject is included in the appendix.

9. Immigration and Customs Enforcement (ICE) Home and Workplace Raids

According to a report by Janice Fine, Ph.D. submitted to the Panel in December 2008:

“In 2003, ICE began its Fugitive Operation Program to eliminate the nation’s backlog of immigration fugitives (an alien who has failed to depart the US based on a final order of removal, deportation, or

¹ See Directive at p. 1.

exclusion; or who has failed to report to a Detention and Removal Officer after receiving notice to do so.) ICE implements the Fugitive Operations Program through Fugitive Operations Teams (FOT): there are 75 such teams nationwide and 4 in New Jersey as of mid-2006. In late May of 2006, FOTs began a nationwide fugitive apprehension program known as ‘Operation Return to Sender.’

In 2005, the Department of Homeland Security (DHS) announced the Secure Border Initiative (SBI) to reduce illegal immigration. While the second phase of SBI seeks to deport “criminal aliens,” human smugglers and traffickers, and those who pose national security threats, it also seeks to increase and strengthen worksite enforcement in order to deter employment of undocumented workers.⁵⁸ By targeting undocumented immigrant workers, Immigration and Customs Enforcement (ICE) does not succeed in effectively removing those that fall into the most concerning categories of undocumented immigrants; those who are engaged in indictable criminal activities. Rather, it simply triggers a series of other more severe problems.

Worksite enforcement arrests by the Immigration and Enforcement Agency has increased dramatically in the past few years. In 2005, ICE detained 1,116 employees, in 2006, 3,667, and in 2007, ICE arrested 4,077 workers.⁵⁹

During enforcement operations, workers are routinely picked up and

sent to detention facilities. Oftentimes, they are denied their constitutional rights during the procedure, are unable to communicate with their families, and cannot make arrangements for their dependent children, many of whom are infants, toddlers, and preschoolers. Still more, workers are detained under poor conditions.⁶⁰

In a recent report, the Government Accountability Office (GAO) found that facilities used to detain suspected undocumented immigrants lacked telephone access for detainees, thus preventing them from obtaining legal support or other assistance and to make arrangements for their dependents. The GAO reported visiting twenty-three detention centers holding undocumented immigrants run by ICE. Of these facilities, seventeen had telephone systems for detainees to make free phone calls in order to seek assistance; however, GAO found access impediments for sixteen of these telephone systems. Problems “ranged from inaccurate or outdated numbers posted by the phones to technical problems preventing completion of calls.”⁶¹

Large numbers of children in New Jersey live in mixed-status families. There are approximately 40,000 undocumented children living in the state of New Jersey and approximately 75,000 U.S.-born children of undocumented parents living in New Jersey in about 70-80,000 families.⁶² Fear of ICE raids has a direct impact on these children.

Even though children born in the United States have all the same rights and privileges of any children born in the United States — their undocumented parents do not. Undocumented parents are more likely than immigrants overall to be working in low-wage jobs and jobs that don't carry health benefits. These jobs may not be stable; they may be seasonal. Undocumented parents often fear interacting with government agencies. They are less likely to apply for food stamp benefits, even though their children may be eligible and may be afraid to go into a government agency to apply for their children's health care benefits. As a consequence, even though the children in these families experience greater need, they are less likely to use public benefits.

Since the escalation of *Operation Return to Sender* and the implementation of FOT quotas,⁶³ the number of individuals arrested by NJ FOT's has doubled. In FY 2007, NJ FOTs apprehended 2,079 individuals, compared with 1,094 in FY 2006. Of the 2,079 arrested, 1,809 had no criminal history, but likely were collateral apprehensions during the raids. Media reports and numerous personal accounts suggest that FOTs executed many of these arrests in pre-dawn warrantless raids of immigrant homes across the state.⁶⁴

ICE reports over 10,000 referrals from New Jersey law enforcement agencies from September 2007 through January 2008. Of these, 1,417 people were charged with immigration violations, while

another 1,468 people received detainers, allowing federal agents the right to hold into custody immigrants that finish their prison sentences.⁶⁵ Detainers “are issued for both illegal immigrants and legal immigrants, who may be stripped of their legal status because of their crimes.”⁶⁶

At present, five counties in New Jersey, Hudson, Middlesex, Monmouth, Bergen and Sussex hold immigrant detainees. An additional facility in Elizabeth, managed by the Corrections Corporation of America, a private contractor, also holds immigrant detainees.⁶⁷ Currently, around 1,000 immigrant detainees are held in these facilities.⁶⁸

According to a report by the American Civil Liberties Union (ACLU) of New Jersey, detainees continually have difficulty accessing telephones and other means to contact outside sources for legal support from relatives, friends, or attorneys.⁶⁹ In addition, detainees who are separated from their children or other dependents have a hard time making the proper arrangements for them. Sometimes these children and dependents are left abandoned⁷⁰ and do not seek support for the ensuing distress related to their relative's detainment. Such trauma, including economic difficulties and psychological suffering, creates harmful and long-lasting consequences for families.⁷¹

Following an ICE enforcement operation on a toner cartridge manufacturing company in Van Nuys, California, more than a hundred workers were detained for immigration violations. A rapid

response network of attorneys and organizers met with detainees as soon as possible to advocate for their release. As a result many of the workers were released on humanitarian grounds, and many more were released shortly after and given appointments to return the following week.⁷²

On March 6, 2007, an ICE raid in New Bedford, MA, on the Michael Bianco Inc. leather goods factory, resulted in the arrest of more than three hundred workers. Bruce Foucart, “the special agent in charge of the operation, said he contacted state officials before the raid took place, allowing them to put the Department of Social Services on notice that their help might be required to make sure that children affected by the raid were taken care of. (...) The Boston special agent in charge made unprecedented efforts to reach out and coordinate with his state counterparts, both at the Department of Public Safety and at the Department of Social Services.”^{73,74}

10. Immigrant Detainees Held in County Jails and Privately Operated Correctional Facilities

Federal ICE detainees held in county facilities do not have a right to a court-appointed attorney for immigration procedures. Nonprofit and faith-based organizations presently fill the gap by helping immigrant detainees gain access to legal representation for immigration procedures.

Immigrants arrested by ICE for civil violations of federal immigration law are sometimes moved to detention facilities that

are a great distance away from where they were living, thereby making access to family difficult, if not impossible.

“Sung Soo Heo, a South Korean, was detained at the Passaic County Jail. After a previous suicide attempt, he was transferred to a forensic psychiatric hospital which returned him to the jail after concluding he did not need any psychiatric medicine and had “not demonstrated any self-destructive behavior at this facility.” He hanged himself less than a week later. He was 51. Nery Romano hung himself in the Bergen County Jail on February 12, 2002. Kandiah Satkunes-Waran died of AIDS-related renal failure in Robert Wood Johnson Hospital while being detained at the Middlesex Jail.”⁷⁵

After the completion of our [Department of Homeland Security, Office of the Inspector General] review, ICE removed all immigration detainees that had been housed at Passaic County Jail and transferred them to other facilities.”⁷⁶

The State of New Jersey does not have regulatory authority over county jails or private correctional institutions located in the state. Complaints about conditions of immigrant detainees at county jails are handled in-house, because the NJ Department of Corrections’ jurisdiction comprises state prisons and sentenced inmates⁷⁷; however, New Jersey Administrative Code 10A section 34 allows the State to set minimum standards for county and private correctional facility detention. Currently there are unequal standards for immigrant detainees and regular inmates. For example, Monmouth County Jail excludes immigrant detainees

from working, and detainees have little access to law library.⁷⁸

Federal guidelines from the Department of Homeland Security were issued in fall 2008, which specify new Performance Based National Detention Standards for immigrant detainees.⁷⁹ New Jersey county jails and privately-contracted jail facilities in the state are required to come into compliance with these standards, if they accept immigrant detainees. As of December 2008, there were 297 immigrant detainees being held at the privately-run Elizabeth detention facility and 727 detainees at six county jails in northern New Jersey.⁸⁰ County jails are compensated by the US Department of Homeland Security on an intergovernmental contractual basis and receive between \$90 and \$105 per detainee per day.⁸¹

“In a sinking economy, immigration detention is a rare growth industry. Congress has doubled annual spending on it in the last four years, to \$2.4 billion approved in October as part of \$5.9 billion allotted for immigration enforcement through next September — even more than the Bush administration had requested.”⁸²

11. Driving and New Jersey’s Immigrant Community

In May of 2005, President George W. Bush signed the REAL ID Act, which establishes federal minimum standards for state-issued driver’s licenses and personal identification (ID) cards.⁸³ Once the law takes effect, only REAL ID compliant driver’s licenses and ID cards can be used to board a federally-regulated airplane and to enter federal facilities and nuclear power plants. The act was passed by Congress to make it more difficult to fraudulently acquire a driver’s license or ID card, as part of the effort to fight terrorism and reduce fraud.⁸⁴ Although

the Act was passed three years ago and was scheduled to be implemented last May, the Department of Homeland Security (DHS) has suspended its implementation due to the administrative infeasibility of the Act. In addition to these severe drawbacks, the act exceedingly and unfairly burdens the immigrant community’s access to driver’s licenses. The act forbids anyone, including those in legal and illegal status, who is unable to prove lawful status, from obtaining a state driver’s license or ID card.

An estimated 400,000 undocumented immigrants live in New Jersey, many of whom drive even though they are not permitted to obtain licenses. The Panel heard arguments, both moving and reasoned, as to why undocumented immigrants should be authorized to drive in New Jersey. Many argue that the hardships imposed upon working immigrants and their families by not being able to drive legally are disproportionate to the state’s interest in reinforcing federal immigration laws by imposing the limitation. Among the most compelling reasons for licensing un-documented immigrants was the safety and welfare of *all* the driving public in New Jersey. Unlicensed drivers are not examined to assure their knowledge of the rules of the road, are not checked to establish identity, and cannot procure liability insurance that protects other drivers and passengers in the event of accident. Thus, there may be significant costs and losses imposed on innocent third parties as a result of not bringing within our driver’s license regulatory scheme those who, as a practical matter, are driving on our roads anyway. And it may also enhance safety, security and law enforcement efforts if state government has access to some basic information about the identity of undocumented immigrants.

Presently, the MVC bars applicants who cannot provide a valid social security

number or proof of authorized immigration status from receiving New Jersey driver's licenses. The current policy also requires that licenses expire with an immigrant's visa. The result is that many New Jersey residents who do not qualify for these licenses are either driving without licenses or fleeing to other states with less restrictive licensing qualifications to obtain licenses.

The MVC and REAL ID policy which restricts those who cannot prove lawful status unfairly denies competent drivers who are able to provide proper identification from obtaining a driver's license and consequently from obtaining automobile insurance. Since its implementation in New Jersey, efforts to repeal the lawful presence requirement have been ongoing due to public safety and national security concerns. Implementation of REAL ID will solidify the lawful presence requirement as New Jersey will be mandated to have this requirement in order for New Jersey driver's licenses to be REAL ID compliant. The committee stands opposed to the REAL ID implementation. The research provided below demonstrates that implementation of the REAL ID act unreasonably targets the immigrant population as the act substantially hinders immigrant access to driver's licenses. The arguments in favor of licensing all persons in New Jersey who can establish their identity through credible documentation and by passing a driving exam are far more compelling than the arguments against it as immigrant access to driver's licenses increases national security and public safety, and maintain state fiscal responsibility.

REAL ID Unreasonably Targets Immigrant Population

Implementation of the REAL ID act will specifically target immigrant drivers and would turn the MVC, a service run by New Jersey, into a sub-branch of the Immigration

Service.⁸⁵ The REAL ID mandates states to require documentary evidence that an applicant is a citizen or national of the U.S. or is a citizen who is lawfully admitted for permanent or temporary residence, has conditional permanent resident status, is an asylee or refugee, has a valid, unexpired nonimmigrant visa or nonimmigrant visa status, has a pending asylum application, has a pending or approved application for temporary protected status, has deferred action status, or has a pending application for adjustment of status to lawful permanent residence.⁸⁶ Although the list of eligible non-immigrants seems expansive, the list excludes persons granted withholding of removal or withholding of deportation, persons paroled into the U.S., applicants for nonimmigrant visas (including victims of trafficking or other crimes), Cuban/Haitian entrants (the subcategory of those paroled into the U.S., at least until they have been in the U.S. for one year and can apply for adjustment), battered spouses and their children, battered children and their parents (unless and until they can apply for adjustment of status or unless they are granted deferred action), persons granted Family Unity status, persons granted deferred enforced departure (DED) status, applicants for suspension of deportation or cancellation of removal, and persons under an order of supervision.⁸⁷

Training for MVC employees could not adequately cover every immigration technicality and the ever changing policies in immigration law. MVC employees must be trained like immigration agents to recognize fraudulent versions of various types of documents for proof of identity (foreign passports and visas, permanent resident cards, Employment Authorization Document (EAD), Certificates of Citizenship, or Certificates of Naturalization).⁸⁸ Immigration databases such as SAVE are notoriously incomplete and error-ridden and might fail to verify the status of

people who are legally present.⁸⁹ DHS is behind on processing immigration applications and changes in or extension of status. The result is that many thousands of non citizens face long delays in obtaining lawful immigration status or proof of lawful presence.⁹⁰

The rules which will implement the REAL ID Act allow the MVC to accept a narrow list of documents to prove identity. The rules only allow an unexpired permanent resident card, unexpired EAD, or unexpired passport accompanied by a valid U.S. visa.⁹¹ The rules also included an additional requirement that an unexpired passport with valid visa must also be accompanied by an I-94 showing the most recent admission to the U.S. This limitation was not required by the REAL ID Act and was intended to simplify the process for MVC employees who would otherwise have to be trained on a list of immigration documents. The flaw with accepting only a narrow list of documents is that not every legal immigrant has the same immigration document to prove status. Visas and immigration status can be proved by a myriad of documents and do not have simple expiration dates.⁹² For example, it is relatively common for noncitizens that are lawfully present in the U.S. to have an expired immigration document.⁹³ MVC employees will have to be trained about this fact, understand which expiration dates are valid and which can be ignored, and apply it appropriately without giving an immigrant a license based on an expired document that really is expired, and denying an immigrant a license based on an expired document that is actually still valid. Situations such as these require extensive and continuous training of MVC employees so that each employee can understand and apply complex immigration laws.

REAL ID also prevents immigrants from using foreign documents other than a passport to prove their identity.⁹⁴ The act prevents states from giving any weight to other foreign documents, such as birth certificates, consular identification cards, marriage certificates, or school records, no matter how reliable, notwithstanding the fact that the same foreign documents are regularly used to prove identity for the purpose of obtaining immigration status in the U.S. Such a requirement drastically affects many immigrants, even those lawfully present, from obtaining a driver's license as some immigrants do not have a passport.⁹⁵ The requirement unfairly targets refugees and asylum applicants who often flee their home countries, leaving everything behind including identity documents and passports to escape deplorable situations. Thus, although refugees and asylees are technically able to obtain federally qualified licenses, the identification requirement effectively bars these applicants from obtaining licenses as they often do not have official passports from their home countries.

DHS states in its comments in the final regulations that it solves this problem by allowing the use of EADs to verify identity. However, not all categories of legal immigrants, particularly some asylees, will possess EADs.⁹⁶ The final regulations also allow states the option to have an exception process for core documentation requirements such as proof of citizenship, identity, date of birth, SSN, and address. If implemented, the rule may allow the MVC to accept foreign documents other than a foreign passport. However, this flexibility can also lead to inconsistency amongst the states as some states will choose to exercise this discretion and some may not. This may lead to some states being inundated with more immigrant applications for driver's licenses as it will be "easier" to obtain in some states and more difficult in others. The flexibility is not

mentioned in the REAL ID act itself and could hinder the aim for uniform, strict requirements in the interest of national security.

In addition to the restrictions on identity documents the REAL ID Act requires proof of “full legal name,” which the final rule defines as an individual’s first name, middle name(s), and last name or surname, without use of initials or nicknames. This name must appear on the face of the driver’s license, and it must match the name on documents used to prove identity.⁹⁷ This requirement poses a complicated situation for many New Jersey residents including immigrants who meet the lawful presence requirement and U.S. citizens who come from an immigrant background. In some countries, the family name precedes the individual’s given name. In others the mother’s and father’s last name may both appear as last names or for a married woman, the mother’s last name may be dropped and her husband’s family name added after the father’s last name.⁹⁸ Others may have changed their family name for ease of pronunciation when they came to the U.S., or may hyphenate or drop one of their family names.⁹⁹ As a result, the names on various documents will not match. This could make an immigrant ineligible from obtaining a license. The final rules mention that foreign documents other than a passport may be used to track a name change, however, this language appears in the preamble to the rule, not in the rule itself. Moreover, the rule does not explain how different documents that reflect different versions of a name will be reconciled to meet the rule’s requirements.¹⁰⁰ This leaves the possibility that each state will choose whether or not to accept foreign documents other than passports in order to track a name change. Such discretion could lead to additional inconsistency amongst the states.

Immigrant access to a driver’s license will be further hindered by REAL ID’s heavy reliance on the flawed SAVE database. SAVE is an automated, Internet-based system for federal, state and local government agencies to verify the immigration status of noncitizens.¹⁰¹ The REAL ID regulations put the entire burden of verification on the SAVE database, a system that the states have criticized as inaccurate, expensive, and slow.¹⁰² States complain that they often experience delays in responses from DHS, forcing states to spend staff time following up with the agency.¹⁰³ Additionally, the Social Security Administration, which must verify immigration status before issuing Social Security numbers to noncitizens, has complained that it often experiences significant delays in verifying immigration status through SAVE and sometimes receives no response at all.¹⁰⁴ The system has not been independently evaluated, and no mechanism is currently in place to monitor and ensure compliance with its rules.

The regulations note that DHS is improving the “usability, accuracy, and reliability” of the systems. However, the lack of accuracy and reliability in the SAVE database poses a critical issue for immigrants in lawful status and their ability to obtain driver’s licenses. The regulations fail to provide a time limit during which verification must be completed, and do not require states to issue a temporary driver’s license during the verification process.¹⁰⁵ The regulations also do not provide immigrants with an opportunity to appeal if verification is wrongly denied. Thus, an immigrant in lawful status has no venue to assert his eligibility for a driver’s license. The system described in the regulations renders an immigrant in lawful status that is wrongly denied a license ineligible to obtain a driver’s license due to an error in a flawed system.

REAL ID and Public Safety

Maintaining New Jersey's current policies and implementing the REAL ID leaves a large segment of the New Jersey population truly "undocumented." FBI, state and local police will not be able to rely on a driver's license to locate a witness, victim, or a suspected criminal.¹⁰⁶ Restricting access to driver's licenses also enhances the idea that New Jersey is an anti-immigrant community resulting in many immigrants avoiding contact with the police and will also encourage a black market in false documents.¹⁰⁷ Assuming law enforcement immigrants are able to locate an immigrant who is out of status, the immigrant may be terrified to speak to the police for fear of immigration consequences. These resulting consequences will be detrimental to police investigations regarding potential criminal and terrorist activity.¹⁰⁸ It could also create a breeding ground for criminal activity targeting the immigrant population since immigrants will be reluctant to report crimes for fear of immigration consequences.

Implementing REAL ID will also leave families who require a car in order to travel to work and provide for their families with no choice but to drive without licenses and without insurance. The Automobile Association of America showed that unlicensed drivers are five times more likely to be involved in a fatal car accident than drivers with a license.¹⁰⁹ The reality is that undocumented immigrants live and work in New Jersey and will consequently drive on New Jersey roads whether or not they have a driver's license. Allowing these immigrants access to licenses will ensure the safety of all New Jersey residents as well as ensure that all drivers are within the reach of MVC which is charged with testing and certifying driver competence for New Jersey resident drivers. Access to driver's licenses would ensure that more drivers take driving classes, pass driving tests, and get insurance. It will also decrease

the number of drivers who flee the scene of an accident due to lack of insurance and a driver's license.¹¹⁰

REAL ID and State Fiscal Responsibility

Although exact cost of implementation is not yet known, MVC estimates that it will cost New Jersey \$51.4 million upfront and \$27 million annually to make New Jersey licenses REAL ID compliant.¹¹¹ As mentioned above, MVC will have the daunting challenge of training its employees on the myriad of documents that can prove that a person is lawfully present in the U.S. In addition to the financial hardship that the MVC will endure in implementing other REAL ID requirements not directly related to immigrant access to driver's licenses, extensive training for employees will be an additional financial burden on the MVC. Currently, the federal government has awarded New Jersey approximately 1.3 million dollars in REAL ID Grants.¹¹² However, the federal money awarded is only a small fraction of what it will cost New Jersey to implement all REAL ID requirements, including training of employees in immigration law.¹¹³

12. Access to Voting for Limited English Proficient Citizens

In spite of joint efforts of the ACLU-NJ, Asian American Legal Defense and Education Fund, New Jersey Appleseed, New Jersey Citizens Coalition for the Implementation of the Help American Vote Act, and LatinoJustice Puerto Rican Legal Defense and Education Fund, alleged violations of the rights of voters and would-be voters continue to occur.¹¹⁴ In July 2008 the U.S. Department of Justice filed suit against officials in Penns Grove, Salem County, for violation of the Voting Rights Act of 1965. Among the issues raised in the lawsuit was a pattern of discrimination which constrained the voting rights of U.S. citizens of Puerto Rican descent. Among

the violations noted in the lawsuit were: failure to print the election materials in Spanish; failure to recruit and train bilingual poll workers; and either prohibiting or interfering with family members, friends, and other assistants of the voters' choice from providing assistance to limited English proficient Hispanic voters, as allowed under the Voting Rights Act of 1965.¹¹⁵ Additionally, "many newly naturalized Asian Americans [*also*] require in-language assistance to facilitate their voter registration, and ultimately, their access to the vote."¹¹⁶

Section 203 of the Voting Rights Act Reauthorization of 2006 allows assistance to be provided for U.S. citizens who have limited English proficiency. In some instances when the language-minority group comprises more than 10,000 persons or 5 percent of the local population and has a higher than average literacy rate, the act requires communities to provide bi-lingual ballots. The most common language used in communities required to provide bilingual ballots is Spanish, followed by Chinese in some west coast communities. The act specifically targets Latinos, Asian and Pacific Islanders, Native Americans and Alaskan indigenous persons.

This threshold is rarely met in the State of New Jersey as each language group must individually qualify under the provisions of the act. However, another provision of Section 203, which allows oral assistance during the voting process, would benefit limited English proficient U.S. citizens living in New Jersey. New York City and Houston, which provide oral assistance to limited English proficient U.S. citizens, experienced significant increases in voting turnout by providing this accommodation.

13. Municipal Identification Cards

Municipal residents may wish to become full participating members of the community but are held back by lack of personal identification. Communities, such as New Haven, CT and San Francisco, CA, found that resident municipal identification (ID) is a valid proof of residency for the particular community. With the municipal ID program individuals are able to obtain an ID that will allow them to participate in civic privileges like municipal pools, golf courses, or libraries as well as opening bank accounts within the community. There are potential benefits and concerns local governments may want to review if they are considering implementing municipal identification cards.

Benefits of the Municipal ID: Proponents of municipal identification are likely to cite these reasons for implementing such a program in the city.

1. Improving Access of Facilities and Services the Municipality Offers. Unregistered citizens are barred from using the services and facilities the given municipality offers. These services can range from community center access, to library privileges. These services such as access to public libraries can enrich lives and educate individuals. Community centers often offer educational classes that may prove to be beneficial to ones' vocation or education. With municipal ID's individuals are now able to participate in services offered by the community, thus improving civic participation, and involvement within the community.
2. Improving Public Safety. Providing residents who otherwise have no proof of identification with a municipal identification card will help overcome unwillingness to report crimes they

witness. Undocumented citizens are often victims of crimes that go unreported due to the individual's fear of deportation or imprisonment. Undocumented workers are often the subject of worker mistreatment, abuse, and exploitation. With the implementation of a municipal ID program undocumented individuals will become more willing to report crimes they witness or suffer. The ID program will also become beneficial to law enforcement agents who will be able to identify previously unregistered citizens.

3. Increased Civic Participation

The biggest benefit of the program is community enrichment and increased civic participation. The municipal identification program is clearly a benefit for undocumented workers, and immigrants within the community, but it is important to note that legal citizens will benefit as well. Students at universities such as Yale and the University of San Francisco who are not residents are now be able to take full advantage of civic privileges that were previously reserved for town residents. The municipal program that New Haven choose to implement offers a debit program in which a card holder can load money on the card that can be used at over 50 restaurants and shops, and be used for parking fees within the town. The municipal ID will also contribute to spurring the immediate local economy. Undocumented workers will now be able to open bank accounts within the community, which will (1) decrease theft, and assault upon undocumented immigrants by decreasing the need of storing actual cash in home or on person. (2) Provide local banks a new selection of investing individuals. Undocumented workers will now be able to invest and save earnings, all the while keeping cash

out of the home thus decreasing the amount of robbery, and assault.

Concerns about municipal identification programs:

1. Supports sanctuary city concepts. The biggest problem that the municipal ID system faces from opponents is the notion that municipal ID programs will contribute to the expansion of sanctuary cities, acting as a magnet furthermore to draw more undocumented immigrants into the United States. Sanctuary cities like San Francisco are cities that refuse to engage in local enforcement of federal immigration laws. For example San Francisco's sanctuary city ordinance prohibits police officers from inquiring about the immigration status of a suspect. Sanctuary cities are literally a safe haven for undocumented workers.
2. Undermines federal immigration law. Opponents of this system also claim that a municipal ID system will undermine the federal government immigration system. Immigrants will enter the country without benefit of inspection and reside in a sanctuary city that refuses to cooperate with enforcement of federal immigration laws. Proponents counter establishing a municipal identification system merely recognizes the reality of the 13 million undocumented persons residing in United States.
3. Personal identification from consular offices. Some local communities such as Lakewood, NJ are providing an opportunity for Mexican nationals to obtain a valid form of identification through the Mexican Consulate's Office by having representatives of the consulate office visit the city and provide a location for the registration. Freehold, NJ provided its Mexican nationals with this service about two years ago, and the consulate issued hundreds of cards,

known as *matriculas* or *matricula consular*. In many parts of the United States, the *matricula consular* can be used as proof of identification to open bank accounts. Several other foreign consulates offer similar programs; however, *not all immigrants have equal access to consular identification*.

4. Abuse and forgery. In July 2005, the U.S. Department of Justice issued warnings about the validity of the *matricula* identification cards. The problem with local identifications, whether they are issued by a foreign consulate or a NJ municipality, is that they are subject to abuse and forgery.
5. Historic unacceptability. The concept of identification papers is unacceptable to many U.S. citizens based on historic events, such as the holocaust and slavery.

III. RECOMMENDATIONS

1. Immigrant Integration

- 1.1 **Establish state and local immigrant advisory councils.** The challenges elected and appointed leadership face with regard to culturally and linguistically diverse communities is not only how to gain access but how to do so in a respectful and culturally appropriate manner. Having a high level advisory board at the state level with representatives of immigrant groups serves to keep immigrant integration issues on the radar at all times, and to provide a means of communication with residents and immigrant communities.

Mayors who are reaching out to specific communities often choose to establish a task force to tackle a

specific policy issue or convene a group of local advisors. For example, Mayor Robert Patten of Hightstown meets monthly with his Latino Advisory Committee, which includes recent immigrants.¹¹⁷ These groups, which usually include civic leadership, experts, and other knowledgeable persons, can fill important informational functions in city government and help city leaders, thereby avoiding costly or embarrassing decisions. Advisory council members, who assume the role of cultural broker between the immigrant community and city government, must be chosen for their ability and wisdom, not position; be honored by the community; and act to help to preserve the integrity of the immigrant community.¹¹⁸ In their role as cultural brokers, advisory councils “manage the flow of meaning” between two or more cultural contexts.¹¹⁹ Participation in advisory councils also enhances immigrant leadership development and may launch other forms of civic involvement. An immigrant advisory council might be called upon to:

- Inform employment diversity efforts of public and private sector organizations;
- Assist in effective communication across cultural differences in crises situations;
- Develop local and international business and entrepreneurial relationships; and
- Address healthcare care and public health issues.¹²⁰

Whether this advisory board meets regularly to discuss a full range of issues or is called upon only in

response to particular concerns is less important than the composition of the group and the extent to which they have the ear and respect of elected and appointed officials. If the representatives of immigrant populations do not have credibility within those populations, the advisory group is perceived to be purely symbolic. In selecting members it is important to include more than “the usual suspects – those who are already civically engaged, have previous civic experience and are conversant and comfortable with committee work and the procedures used for [government] decision-making.”¹²¹ Additionally, if public officials engage in only cursory consultation with such an advisory council, relations with immigrant populations may be harmed, rather than helped.”¹²²

- 1.2 In addition to establishing immigrant advisory boards, local municipalities may want to consider establishing Cultural Diversity and Human Relations Boards, which would meet on a regular basis to discuss and resolve immigrant and community issues.** The Board would consist of certain elected officials and citizen volunteers from all ethnic segments of the community, including immigrants.

Both the Cultural Diversity and Human Relations Board and the immigrant advisory council could work together with the non-profit and faith-based communities to develop a Welcome Center for all new residents, including immigrants. If the Cultural Diversity and Human Relations Board, immigrant advisory

council and the welcome center are successful, then the municipality will have created a community of cultural sensitivity.¹²³

- 1.3 Establish an immigrant welcome center.** The center would serve as a one-stop service venue to guide and support immigrants through the maze of state and local resources and provide targeted services to immigrants such as:

- *Integration services.* Immigrant settlement services provided by settlement counselors on either an individual or group basis can help immigrants and their families deal with problems related to their adjustment, adaptation and integration in the community. Below is a sample list of immigrant settlement services provided by Catholic Community Services of York Region (Canada), which are funded by the federal and provincial governments to assist immigrants and refugees to settle and integrate in order to become established and contributing members of Canadian society.¹²⁴ Other welcoming centers provide similar kinds of services.¹²⁵

- Newcomer orientation & workshops
- Information and referrals
- Guidance and support
- Advocacy and access
- Adjustment counseling
- Newcomer support groups
- Information sessions on settlement-related topics, such as education, housing, employment, taxation, health, community resources, voting

and access to assistance at the polls. Public education and community outreach

- Family life education
- Assistance in accessing resources in the community such as health clinics, retail and educational sites, business and recreational facilities.
- *Referrals to nonprofit and faith-based organizations.* There are many community-based organizations that can offer assistance and integration services to immigrants, and a welcome center can help immigrants identify which services will meet their needs.
- *English language acquisition.* A welcome center can provide information about where classes are offered and how to sign up for classes. Immigrants can also be provided with information about their rights to interpretation and translation services when receiving government services.
- *Citizenship acquisition.* The welcome center can provide links to information about the process of becoming an American citizen as well as civic education classes.
- *Accreditation and qualifications services* which address New Jersey - specific credentialing issues.
- *Employment supports.* A welcome center can serve as a source of information about where jobs are located, what skills are needed, and the laws governing employment relationships.

Ideally, immigrants would be able to access the services of a welcome center in a physical center not far from their home where they could have face-to-face interactions with a diverse and culturally competent staff. The physical location would offer some services and would be supplemented by an on-line presence with access to a full range of information needed by newcomers. In an environment of resource constraints, beginning with a web-presence may be a good first step. If a web-based approach is selected as the starting point, providing information in the full range of languages spoken by immigrants in New Jersey is critical, and web design will need to be attentive to the language limitations of websites linked to the site as well. As resources become available, physical welcome centers may be established in the communities with the highest concentrations of immigrants, along with a mobile welcome center that travels the state to ensure access for immigrants living outside those targeted communities.”¹²⁶

Alternatively, the welcome center could be as simple as a designated desk at the City Hall. As the volunteers at the Welcome Center distribute language-accessible information, they would also be the resource for finding out what the immigrants feel would make them become more integrated into the community fabric.¹²⁷

1.4 Establish and promote open, transparent lines of communication between newcomers, established residents, city administrative

personnel, and local elected officials.

A person's immigration status – or the status of others within the same household – is another factor influencing immigrants' trust of and willingness to interact with local government officials. Proactive local programs can help build trust in government and offer pragmatic solutions to local concerns. To promote positive relations with immigrants, local governments can:

- Anticipate potential areas of conflict and establish plans to prevent conflict among newcomer populations and between newcomers and established residents.¹²⁸
- Provide information on state laws concerning areas such as driving requirements and family law matters.¹²⁹
- Establish regular times for the mayor to meet with immigrant newcomers to listen to their ideas and concerns, such as Mayor Michael Wildes' New Residents Day held in Englewood, NJ.¹³⁰
- Introduce immigrant newcomers to city services, nonprofit organizations, and local business community.^{131,132}

Access to services and local information.

"Residents of any municipality should know that they are entitled to full municipal services and benefits as permitted by law. Likewise, all immigrants in the community should feel that they are entitled to the same protections as any other resident. At a minimum, these services, benefits, and protections should include the following:

1. Police, fire, and housing inspection services;

2. Emergency medical care, including labor and baby delivery;
3. Public health services, including treatment for mental health and programs for persons with disabilities;
4. Nutrition programs such as school lunch and breakfast programs;
5. "WIC" services;
6. Children's protective services, including programs for children with special needs;
7. Access to public schools (K-12);
8. Access to courts, transportation, shelter services and emergency relief; and
9. Access to all community based programs geared to improve the quality of life within the municipality."¹³³

Municipal leaders may want to partner with local community, immigrant, and faith-based organizations to provide its immigrant population with information about local issues.

1.5 Municipalities should develop, in conjunction with the Department of Community Affairs, New Jersey League of Municipalities, and local nonprofit and educational institutions a [City Name] 101 course to introduce newcomers, including immigrants, to public services in the community.

1.6 Celebrate the diversity of immigrant newcomers and long-term residents. Creating opportunities to provide meaningful personal and cultural exchange between newcomers and established residents builds community and helps people realize how

much they actually have in common.¹³⁴ It is also important because it helps to shape the topos and tone of immigrant discourse in the community,¹³⁵ and avoids the pitfall of examining diverse populations in reference only to the challenges they face or perceived problems they cause. Such activities might include:

- Hold an annual community fair to showcase the art, food, culture, and traditions of both newcomers and earlier generations of immigrants and indigenous persons.
- Establish regular community dialogues, which include all members of the community, to identify areas of common ground through sharing perspectives and culture.¹³⁶
- Develop diversity policies that reflect community goals.
- Establish regular times for the mayor to meet with immigrant newcomers to listen to their ideas and concerns, such as Mayor Michael Wildes' New Residents Day held in Englewood, NJ.¹³⁷
- Sponsor essay contests for youth and/or adults, which might have topics such as telling your immigrant story, reflecting on democratic themes through an immigrant lens or community building ideas.^{138,,139}

1.7 Establish appropriate language support for limited English proficient persons, so they can be civically engaged in local communities. New Jersey 211, which provides a community resources website, offers on-line translation in eight languages¹⁴⁰; however, data from

New Jersey Department of Education indicates public school children who are English language learners speak more than 105 different languages.¹⁴¹ This suggests a need to expand the online translation offerings of the 211 program.¹⁴²

“If New Jersey moves forward on the development of a statewide 311 system, issues of language access and cultural competence for call center staff will need to be part of the comprehensive planning strategy.¹⁴³ New York City’s 311 hotline is equipped to respond in 170 languages, and the mayor is developing an executive order regarding language access that may help inform New Jersey’s development of a similar system.¹⁴⁴ Both the existing 211 and proposed 311 systems might consider establishing a NYC-type im-migration hotline as a component of the services offered. Additionally, as part of the immigrant integration effort, recent immigrants may be an appropriate labor pool to consider in staffing the call centers.

There is also need for language support in municipal courts, administrative law courts,¹⁴⁵ and in the provision of local services. Cultural and linguistic competency standards could be established for these courts, and they could provide access to adequate interpretation services to ensure limited English proficient persons can participate fully in the legal system.”¹⁴⁶

Establishing an inter-agency task force on language access at both the state and local government level would help begin to address this

issue. For example in New York City, representatives of various departments meet on a monthly basis to share strategies, identify training needs, and best practices, which will allow for timely response to resident concerns.¹⁴⁷ In addition, the governor may want to consider an executive order, modeled after President Clinton's executive order 13166, to improve access to state services for persons with limited English proficiency and to ensure compliance with the language access provisions of the federal executive order for all agencies and local governments who receive federal funds.¹⁴⁸

Local communities may want to consider changes in signage and public notices, such as proposed zoning changes, to include information for multiple language groups, especially for information critical to public safety.¹⁴⁹ The state may be able to negotiate favorable rates for vendors who provide translation services or language lines for local communities. Local governments with government access television might also consider purchasing commercial programs, like the soap opera "Crossroads," which are specifically designed to increase English language proficiency.¹⁵⁰

- 1.8 Create a Governor's Commission on New Americans.** The most critical function of the office should be the central coordination and oversight of inter-department collaboration regarding immigrant integration policies. The office should be the lead driver in implementing a statewide policy of

immigrant integration and work collaboratively with community organizations

The Commission must be closely affiliated with the Governor because the influence and authority of the Governor are essential to effectively carrying out the office's core mission.

Proposed Commission on New Americans Structure: The commission members, both public and private, would direct and oversee the immigrant integration policies of the state. The commission would have staff permanently assigned to it. The commission would be headed by a member of the Governor's Office.

The commission should include representatives from both government (key departments must be at the table) as well as representatives from immigrant and immigrant-serving community-based organizations, philanthropic organizations, advocacy groups, businesses, including immigrant entrepreneurs, unions, academia, and faith-based organizations. The commission would meet regularly and as required in order to provide policy direction and feedback to the Governor on the effectiveness of any proposed immigrant integration policies. The commission would be headed by the Governor's Chief-of-Staff or their designee. The commission would have two to three full-time state employees in order to execute and oversee the implementation of the commission's decisions.

Please refer to the appendix for a more detailed description of the functions of the Commission on New Americans.

2. Immigrant Entrepreneurship

2.1 Strengthen programs that support immigrant entrepreneurship and access to capital. Promoting immigrant entrepreneurship could take several forms. One approach would be to include it as part of a broader initiative to promote entrepreneurship and small business development throughout the state. Another possibility is to position it within immigrant integration centers. Some specific ideas for supporting economic development include:

- Establish or expand existing one-stop small business assistance centers.
- Partner with local financial institutions to provide information about American banking, credit, and financing options for small businesses.
- Provide sweat equity loans to homeowners and micro and small business owners in low income communities.
- Establish a local community microloan program.
- Establish mentoring relationships between existing businesses and/or retirees with business experience and new business startups.
- Establish sister city relationship(s) between a municipality and a town in the newcomers' country of origin and explore international trade opportunities.

- Sponsor an international trade mission.”¹⁵¹

3. Cultural Competency Training and Access to Government Services

3.1 The Department of Community Affairs, in conjunction with the League of Municipalities, New Jersey Association of Counties, and nonprofit, immigrant, and faith-based organizations, should develop an organizational self-assessment tool to measure cultural and linguistic competency and assist municipalities and counties in reviewing their administrative capacity to work effectively with recently arrived immigrant populations.

3.2 All state agencies and commissions should review their administrative capacity to work effectively with recently arrived immigrant populations and review their employee training programs for cultural competency in working with immigrant communities and limited or non-English speaking persons.

3.3 Counties and municipalities should review all employee training programs for cultural competency in working with their immigrant communities. Departments should include, but are not limited to, public works, public safety, which includes fire, police, EMT, correctional facility or jail personnel working with immigrant detainees in their custody, customer service representatives,

code enforcement, and economic development. Cities and counties may already incorporate diversity training into the employee orientations and training, which could be expanded to include cultural competency in working with immigrant communities.

- 3.4 Extend the New Jersey court interpretation guidelines to all municipal and administrative courts in New Jersey, establishing clear protocols regarding pre-trial or service-oriented interactions requiring language services. Vicinages should include cultural competency training for court personnel, and clarify the role of the ombudsman for limited English proficient persons coming before the court.** “The current New Jersey court guidelines, while representing the highest standards nationally, apply only to Superior and Tax Court. Traffic violations are frequently heard in municipal court, where there may be federal immigration implications for individuals charged with driving under the influence (DUI) or driving while intoxicated (DWI). In addition, many immigrants, including day laborers, may take their complaints against employers to small claims courts, where they may be representing themselves. The current version of the guide, “How to Sue in Small Claims Court,” was only available online in Spanish on the New Jersey Judiciary website, and no other language groups were available.¹⁵² In general, services for pro se (self-representing) parties are limited, but limitations are exacerbated when the party representing himself is limited English proficient.¹⁵³ There is a right

to counsel under the California Constitution in small claims cases, *Gardiana v. Small Claims Court*, 59 Cal. App. 3d 412 (1976), but California is the only state that guarantees a right to counsel in small claims court.¹⁵⁴ All official documents used in New Jersey courts are translated by the Administrative Office of the Court; however, while most forms are available in Spanish, there is a dearth of official forms and documents in other major languages spoken in New Jersey.”¹⁵⁵

- 3.5 The Administrative Office of the Courts should issue a directive that establishes a uniform way for all courts to inform LEP individuals of their right to an interpreter.** “Currently, there is no formal procedure for informing LEP persons coming before state court that they have a right to an interpreter. In courtroom proceedings, when there is awareness of an issue with a limited English proficiency and preparations are made, there are few problems.¹⁵⁶ However, informal proceedings, hallway conversations, and negotiation with the opposing party or their counsel present more of a problem.¹⁵⁷ Any case where there is no entitlement to counsel will result in difficulty navigating legal system; however, this situation is exacerbated for limited English proficient persons given that documents are typically in English, and sometimes there is no interpreter present.¹⁵⁸

Two possible solutions are suggested. The U.S. Department of Commerce has a document written in multiple languages that has “I speak

[*language*]" in the various languages, which could which could be posted next to court clerk offices, or handed out in court.¹⁵⁹ The limited English proficient individual can then point or check a box next to their language, and the court can then make appropriate accommodations for language interpretation. This approach may be especially helpful in vicinages that are not as culturally diverse as the persons coming before the courts. Coupled with cultural competency training for court personnel, this would increase accessibility to the judicial system for persons with limited English proficiency. Similarly, the Legal Aid Society of Mid-New York in Utica, NY offers a multiple-language document that may be useful. It states, in a variety of languages, "If you need an interpreter to read this brochure to you in your own language, please bring this card to the front desk. We provide interpreters free of charge."^{160,161}

3.6 The Administrative Office of the Courts should establish a continuing education program for court interpreters. "Once an individual is certified as a court interpreter in New Jersey, there is no requirement for ongoing training. Language and language usage evolves over time. Additionally, some languages which are used in multiple countries may assign different meanings to various words or phrases. Changing demographics of immigrants within New Jersey make ongoing training for court interpreters important to the fair and equitable conduct of the judiciary."¹⁶²

3.7 The Administrative Office of the Courts should establish a formal procedure for logging complaints against interpreters who may have either violated their ethics code or provided poor quality interpretation services. "The nature of interpretation is that it must be accurate for legal purposes. Most court interpreters provide critical services for limited English proficient persons who are involved with the judicial system, including informing the attorney or judge when some kind of anomaly is detected.¹⁶³ However, if there is reason to believe the interpreters cannot be trusted at times to accurately convey important information, and instead insert their own value judgments or summarize inappropriately, then there should be recourse to file an official complaint."^{164,165}

3.8 Local communities should consider changes in signage and public notices, such as proposed zoning changes, to include information for multiple language groups, especially information that is critical to public safety.¹⁶⁶ "The state may be able to negotiate favorable rates for vendors who provide translation services or language lines for local communities. Local governments with government access television might also consider purchasing commercial programs, like the soap opera "Crossroads," which are specifically designed to increase English language proficiency."^{167,168}

4. Day Laborers and Informal Employment Services Locations

4.1 Local municipalities should establish an official day labor hiring site or work center. “Worker centers are “community-based and community-led organizations that engage in a combination of service, advocacy and organizing to provide support to low-wage workers,” and they offer a positive solution for municipalities seeking to regularize this often chaotic employment practice.¹⁶⁹ By involving all stakeholders, worker centers establish a place for immigrant laborers and others to seek gainful employment; they serve as mediating institutions, which advocate for the low wage worker, and interface with the larger community.¹⁷⁰ Worker centers enable the temporary labor market to function in a more equitable and effective way, and serve an important role in integrating immigrants into the life of a community.”¹⁷¹

4.2 Local municipalities that establish these work centers should recognize the importance of coalition building with concerned stakeholders, including local community members, businesses, community and faith-based organizations, immigrant advocacy groups, and day laborers. This will ensure the creation of a consensus-driven local solution, which meets the needs and demands of the local labor market, and which addresses the concerns of community members and businesses and respects the dignity and human and labor rights of day laborers.

A prototype of a day labor station, designed with input from day laborers that could be built at modest cost by the day laborers themselves is available from Public Architecture.

The day labor station received a 2008 citation award for unbuilt design from the American Institute of Architects as a sustainable structure that aims to improve and facilitate the informal employment process by replicating how the existing day laborer system operates and provide laborers a more dignified presence in the public realm.¹⁷²

5. Affordable Housing

5.1 Immigrants, regardless of their status, should be assured that they are entitled to seek and obtain housing assistance of any city agency without having to disclose their immigration status. Literature printed by municipalities about housing should be published in the languages of the citizens in the community. This may mean more than just printing in English and Spanish. Some communities are populated by persons who are from French speaking Caribbean countries such as Haiti, Eastern European countries such as Croatia, and Asian communities such as Bangladesh and Pakistan. According to SAALT (“South Asian American Leading Together”), nearly one fifth of the Bangladeshis in New Jersey live in poverty.

5.2 Ensure fair and uniform enforcement of municipal codes in all neighborhoods to avoid racial or ethnic profiling. Municipalities may want to establish a team approach to code enforcement. Team members would receive cultural competency training and be prepared to communicate with limited English proficient immigrants. They may also want to consider working with faith- and

community-based organizations to develop language-accessible written materials related to code enforcement and fire prevention strategies.

5.3 Municipalities should establish and/or maintain and update an accurate database of rental property owners, especially absentee landowners who do not reside in the community, so they are available in the event they need to be contacted for problems related to overcrowding, illegal subdividing of structures, and other unsafe conditions.

5.4 Communities should oppose the enactment of any state law which is allegedly about overcrowding, but in fact allows a landlord who has profited from the overcrowding to transfer the full responsibility for overcrowded and/or substandard conditions to the tenant(s).

5.5 The State should support legislation, such as the “Second Unit Housing Authorization Act”, which encourages the increase of affordable housing and acts to reduce overcrowding in New Jersey. Such legislation would allow for the creation of municipal ordinances, which would authorize second units or accessory apartments in single-family and multifamily residential zones. Municipal ordinances can designate second unit housing areas and criteria or standards to ensure adequate water and sewer services, address the impact on traffic and retain consistency with the general plan and zoning designation. “Sometimes referred to as accessory dwelling units (ADUs), second units

are self-contained residential dwelling with a kitchen, sanitary facilities, and sleeping quarters.¹⁷³ Second units are typically created within an existing home, but also through conversion of an existing accessory structure or addition to an existing home or accessory building.^{174,175} Second units or accessory apartments provide valuable housing at below market prices within existing neighborhoods. These self-contained residential dwellings would distribute affordable housing opportunities among neighborhoods and provide both additional income to homeowners as well as a real solution to New Jersey’s affordable housing problem.

5.6 The State should provide assistance for immigrants to obtain loans and establish credit history to increase their opportunity to rent and purchases homes.¹⁷⁶

6. Potential Implications of Municipal Ordinances that Affect Immigrant Populations.

6.1 The State of New Jersey should support the previously filed amicus briefs that oppose the City of Hazelton’s attempt to prohibit both the employment and housing of undocumented immigrants under a city ordinance.

7. Disaster Preparedness

7.1 New Jersey Office of Emergency Management should update its basic workshop on emergency management curriculum to include plans and procedures for limited English proficient residents and

make its webpage language accessible. For instance, the New Jersey Office of Education should mandate school districts review their emergency management plans and include provisions for communicating with limited English-proficient students and parents. The Government Accountability Office's (GAO) 2007 report on emergency management and the status of school districts' planning and preparedness noted that "based on our survey of school districts, an estimated 39 percent of all school districts provide translators to communicate with Limited-English Proficient parents during emergencies." "Our survey finds that roughly three-quarters of all school districts have not included written procedures in their plans for communicating with Limited-English Proficient parents and students..."¹⁷⁷

7.2 Local disaster service providers and public information officers should evaluate the language needs of preparedness education materials in their service areas. "Disaster preparedness educators and response personnel need to be aware of the demographics of the population being served, identifying special needs such as LEP rates and numbers in the population by language spoken. Cultural differences between native and immigrant populations can also become barriers between service providers, and the community to be served can help increase effectiveness in education and response."^{178,179}

7.3 Local providers should ensure simulation exercises incorporate the

language needs of LEP community members. This includes an assessment of available language resources and their anticipated utilization during the course of a disaster, as well as awareness of decoupling immigrant enforcement from humanitarian aid.

7.4 New Jersey should establish working groups with service personnel, nonprofit organizations serving immigrant communities and ethnic media on how to better promote preparedness materials. For example, the Maryland Citizen Corps working with Maryland State Commissions to help all state residents prepare for disasters worked with the Asian Commission, the Hispanic Commission, the Indian American Commission and the Women's Commission to reach their respective constituencies. Subsequently they held a series of conferences on preparing diverse communities for emergencies and disasters.¹⁸⁰

7.5 New Jersey and local municipalities should create a baseline of minimal second language resources for diverse jurisdictions.¹⁸¹

7.6 Local municipalities and state offices responsible for disaster preparedness planning should conduct an assessment of the readability of emergency preparedness materials for less educated residents, including immigrants, and develop auditory risk and emergency preparedness materials for those who are not literate. Many less formally-educated immigrants lack written literacy in their native language, so

emergency preparedness planning needs to incorporate materials on CD, cassettes, radio, or other auditory means of delivery.¹⁸²

- 7.7 Federal, state and local agencies administering public benefits and other assistance programs should develop plans for relaxing ordinary documentation requirements in areas where a disaster has caused widespread destruction of documents.** U.S. Citizenship and Immigration Services (USCIS) should expedite issuance of temporary documents to replace lost immigration papers, such as work authorization cards.¹⁸³ State offices, such as the Department of Motor Vehicles and Department of Health and Senior Services, should plan for temporary reissuance of state documents.

- 7.8 It should be made clear to first responders, the immigrant community, and to the public in general that disaster relief is *not conditional on immigration status*.** While all first responders interviewed report that immigration status is not a consideration when rendering disaster services, many among the immigrant community are still fearful that their status will come into question.^{184,185}

8. Immigrants and Public Safety

- 8.1 Local police regularly work with and seek the opinions of immigrant community leaders/ community liaisons.** Police departments may find non-sworn community liaisons are a cost-effective way to bridge police-immigrant interactions. These civilian liaisons that are selected on the basis

of their cultural knowledge and language skills “enable sworn police officers to respond more quickly to urgent calls and to spend more time working with *[immigrant]* community members to solve public safety problems.”¹⁸⁶ Alternatively, designated sworn officers with cultural and linguistic competency might be assigned to act as community relations officers in immigrant neighborhoods. In addition to traditional police work, they work to build trust in the immigrant community through such activities as sponsoring youth and/or adult athletic leagues or providing social services like Thanksgiving meals or toys for children during the holidays.¹⁸⁷

Local governments should support policies that promote confidence in law enforcement structures within new immigrant communities while preserving and enhancing the need for public safety in all New Jersey neighborhoods. It is important for new immigrants to understand how and why police behave in certain ways when enforcing the law.¹⁸⁸

- 8.2 Municipalities should conduct citizen police academies that are designed to help immigrant community members become familiar with how police officers perform their duties and how the department serves the community.** Such programs can open the lines of communication between the community and the police department, by allowing immigrant residents a firsthand look at what rules, regulations and policies the police follow.¹⁸⁹ For recent immigrants, a citizen police academy can help

demystify American criminal justice practices.

8.3 Municipalities could create a victims' assistance outreach callback program.

The program would provide services such as crisis counseling, referrals to community agencies, and support for victims through the criminal justice process. In order to overcome language and cultural barriers immigrants may experience when they interact with police and courts, bilingual personnel or a trained cadre of community volunteers could assist immigrants.¹⁹⁰

8.4. The Attorney General should supplement, and where necessary, amend Law Enforcement Directive No. 2007.

That Directive governs the conduct of law enforcement when interacting with federal immigration officials. The Directive requires that when a law enforcement officer arrests an individual for an indictable offense or DWI and has a "reason to believe" that such person is not lawfully present in the United States, he or she must notify U.S. Immigration and Customs Enforcement. The "reason to believe" standard is too vague and subjective, and therefore a more objective standard should be included in the Directive. Additionally, the Directive does not currently govern typical police interactions (e.g., traffic stops) with members of the public regarding immigration issues. The Attorney General should supplement the Directive to include a broad statement that other than circumstances involving the arrest of an individual for an indictable offense or DWI, law enforcement inquiries into immigration status and notifications to

ICE should be the exception rather than the norm. Greater efforts must also be made to collect more and accurate data, provide training to law enforcement officers and conduct community outreach programs to better inform immigrant communities of the Directive's reach and protections.

9. Immigration and Customs Enforcement (ICE) Home and Workplace Raids

9.1 The Governor of New Jersey should recommend and work with the President and the Department of Homeland Security for a moratorium on home and workplace raids until such time as there is comprehensive immigration reform, for the following reasons:

"Raids and the fear of raids produce damaging effects to communities, families and children and do not appropriately deal with the state's immigrant integration issues.

Immigrant integration cannot be accomplished in a climate of fear. When immigrant families go underground for fear of deportation there are significant implications for their children's education and healthcare as well as for public safety.

Immigrant families will not come forward to seek help with education-related needs or to apply for medical benefits or food stamps for their children, if they fear home raids.

Immigrant workers will not come forward to report serious health and

safety violations and other labor violations if they fear employer retaliation. Unreported violations of labor law have implications for every worker in a plant, not just the undocumented. When health and safety and labor violations are reported and investigated the health and safety and labor rights of all workers are safeguarded.”¹⁹¹

9.2 In order to minimize the suffering of detainees and their dependents, the State of New Jersey working in partnership with county and local governments and university and non-profit organizations should make its best effort, funding permitting, to provide the necessary measures to deal with the distresses associated with being detained.

A. The State should take preemptive action to plan for and work with ICE to ensure that any immigration enforcement conducted in New Jersey does not result in children being left behind or abandoned.

While New Jersey has not experienced documented cases of children being left abandoned after a mass ICE raid, federal immigration enforcement actions in other states have resulted in the children being left alone as a result of their parent(s) being detained and held for deportation. DCF is working with Office of Attorney General to request a formal process whereby ICE would notify the state in advance of any enforcement raid in NJ so that DCF can prepare to step in and ensure that any impacted

children receive the care and services they need.

B. The State of New Jersey should make every effort to ensure that every detainee have immediate access to telephones to contact outside sources for legal support and to make arrangements for their dependants.

C. The State of New Jersey, in partnership with county and local governments, university and non-profit organizations should explore the establishment of a Rapid Response team to deal with the immediate effects for detainees and their dependents. The response team would include state, county, and local efforts to respond to the needs of detainees, including legal support and other measures to ensure that the dependents of detainees do not go uncared for. As part of the Rapid Response effort, the State of New Jersey, in partnership with county and local governments as well as area law schools should help to see that bilingual attorneys available to attend all processing interviews.

10. Immigrant Detainees Held in Municipal or County Jails and Privately Operated Correctional Facilities

10.1 Counties and municipalities who operate jails or contract with private correctional firms should establish community-based jail advisory boards as another way of ensuring basic human rights for those who are arrested or detained. Those jurisdictions that

operate jails and accept ICE detainees would work with the advisory board to ensure detainees have access to family, non-profit, and faith-based organizations that may be able to assist with legal issues and ensure communication between the detainee and his or her family and consular offices. They would be able to monitor basic jail or correctional facilities standards such as detainee access to telephone, visitors and consular officers, the provision of language accessible information about jail standards and rights of detainees, and the appropriate separation of immigrants detained for civil, noncriminal violations of federal immigration laws from the general jail population. Communities might want to expand the role of the jail advisory boards to include monitoring of all inmates, including immigrants, to ensure transparency in the criminal justice process.

Another option would be for the jail or correctional facility to establish an immigration hotline and a coalition of ethnic groups, such as the New Jersey Ethnic Advisory Council, so that immigrant detainees could call on representatives of their own communities or immigrant-serving non-profit organizations for legal and economic assistance with their immigration issues.¹⁹²

- 10.2 Urge and encourage the New Jersey Supreme Court and Assignment Judges of each vicinage to include representation of detainees among the list of pro bono assignments to local counsel in each county.**¹⁹³

- 10.3 The State of New Jersey should work with the Department of Homeland Security and ICE to keep detainees in the general area where they were arrested, if detention space is available, so detainees can have access to family and humanitarian support.**

11. Driving and New Jersey's Immigrant Community

- 11.1 After consultation and cooperation with the federal Department of Homeland Security, New Jersey should implement a system that allows all individuals living in the state to obtain a driver's license (DL) or a driver's privilege card (DP).**

According to a report by the American Civil Liberties Union of New Jersey, the Rights of Immigrants in New Jersey, barring undocumented immigrants from getting driver's licenses is dangerous public policy. It increases the number of unqualified and uninsured drivers on our roads. Driver's licenses ensure that people can operate motor vehicles safely. Turning them into immigration documents jeopardizes our public safety. People who cannot get a driver's license will not necessarily stop driving. Moreover, drivers without licenses cannot get auto insurance and are more likely to flee accidents. Increasing the number of unqualified and uninsured motorists on our roads is a recipe for more accidents, injuries and deaths. A report by the AAA Foundation for Traffic Safety, "Unlicensed to Kill," found that unlicensed drivers are

almost five times more likely to be in a fatal crash than are licensed drivers. The experience of the handful of states that issue driver's licenses to undocumented immigrants is instructive. New Mexico saw the percentage of its uninsured drivers drop from 33 percent in 2002, before immigrants could receive driver's licenses, to 10.6 percent in 2007.^{xxxi} Utah also saw its rate of uninsured drivers fall after passing a law to issue driver's licenses regardless of immigration status, and the state's rates of fatal accidents fell as well.

Every state has an interest in confirming the identity of licensed drivers. However, proving one's identity is different from proving one's immigration status. Many of our state's undocumented immigrants could in fact prove their identity through legitimate documents such as foreign passports, consular identity cards or other verifiable documentation. Barring use of legitimate identity documents creates conditions for a black market in false documents. Making a driver's license tantamount to proof of legal status inflates the value of a license and creates incentives for fraud. For example, in July, 2003, two Department of Motor Vehicles employees in Virginia were indicted for selling more than 1,000 fraudulent driver's licenses for between \$800 and \$2,000 a piece. Similar instances have occurred in New Jersey.

One New Jersey Motor Vehicles Commission employee was charged with conspiring to commit document fraud at the Mount Holly Motor Vehicle Commission facility when she and an

unnamed conspirator made at least 13 fake licenses and sold them for up to \$3,000 each. The 9/11 Commission, established to investigate facts and circumstances relating to the terrorist attacks of September 11, stressed the importance of standards for issuing driver's licenses, but it did not recommend denying licenses based on immigration status or rejecting reliable foreign documents as acceptable proof of identity. The report emphasized the overarching importance of intelligence gathering and information sharing in preventing terrorist acts -- goals that are actually undermined by denying millions of people legitimate forms of identification and pushing them into the shadows.

(<http://www.aclunj.org/downloads/121108immigrant.pdf>)

Driver's License/driving privilege cards will address and curtail the effect that REAL ID implementation will have on the immigrant community and New Jersey's public safety. The privilege will be afforded to all drivers who are able to prove their identity, pass all required driving tests, and prove residence in New Jersey. The driver's license/driving privilege card should also allow the driver to obtain auto insurance.

Such a system is currently in place in Illinois through the Roadway Safety and Mandatory Insurance Coverage Act, HB 1100. Through this act, Illinois drivers may apply for driving certificates so that they may drive legally and purchase auto insurance. The act requires the applicant to prove his or her identity by providing a valid passport and verifiable documentation of the applicant's identity and residence. Some states,

however, such as Utah and New Mexico, allow foreign IDs such as the matricula consular as a proof of identity. The Panel recommends that foreign documents that are accepted by DHS for the issuance of visas and permanent residence should be acceptable to prove identity for driving privilege cards.

The Panel further recommends that New Jersey implement safeguards to prevent driving privilege cards from becoming tools of discrimination against our immigrant community. Driving privilege cards have the potential to be a sign of illegal immigrant status, and could be used to discriminate against those who hold these cards. Immigrants could fear that obtaining this card would lead to discrimination from law enforcement, when applying for a job, receiving necessary medical care, or obtaining housing. Without proper safeguards against discrimination, New Jersey will waste its financial resources by creating a system that will be largely under-utilized due to the stigma of carrying a driving privilege card. More importantly, the state will still face the same public safety concerns as many immigrants will continue to drive without licenses and insurance.

The Panel is cognizant that granting such a privilege is contingent on changing a law passed by the Legislature in 1993. The law requires that the Motor Vehicles Commission “shall require the applicant to provide, as a condition for obtaining a license, satisfactory proof that the applicant's presence in the United States is authorized under federal law.” N.J.S.A. 39:3-10. The reasoning behind this requirement is probably

self-evident. The State has a legitimate interest in promoting adherence to federal immigration law and in requiring that those who are given the privilege of driving on New Jersey's roads are lawfully present in the United States and thus subject to appropriate monitoring and control.

As with almost all policy questions, appropriate balances must be struck and competing interests weighed. Whether the State's interest in limiting driving privileges to those who are lawfully present in the United States under federal law outweighs the costs associated with ignoring the reality that undocumented immigrants are driving on our roads anyway, regardless of those proscriptions, is an issue that the Legislature, as our elected policy-making body, is ultimately empowered to decide.

Realizing the sensitive nature of granting driving privileges to those unable to establish lawful presence in the United States, the Panel agrees that such an action should only be taken after consultation with the federal Department of Homeland Security.

12. Access to Voting for Limited English Proficient Citizens

- 12.1 State, municipal, and county election workers at voting sites with a significant presence of limited English proficient U.S. citizens should receive training to understand how Section 203 of the Voting Rights Act applies during the election, with specific attention to provisions which permit oral assistance in voting.**

12.2. The State of New Jersey, municipalities and counties should partner with local nonprofit, faith-based and immigrant groups to educate limited English proficient U.S. citizens about their rights to have oral assistance in the voting process.

12.3 The State of New Jersey should apply for federal funds under the Help America Vote Act to underwrite the cost of training election workers and providing public education to limited English proficient U.S. citizens under Section 203 of the Voting Rights Act.

13. Municipal Identification Cards

13.1 No recommendation.

CONCLUSION

The recommendations that form the body of this document are undergirded by several broad themes, articulated in Brenner and Rubaii-Barrett's 2008 report to the Panel, and which were expressed by subcommittee members and those who provided public testimony representing a range of New Jersey's non-profit, immigrant-serving, community, and faith-based organizations as well as business persons, attorneys, physicians, and academics.

- The diversity of immigrants strengthens the economic, social, and civic fabric of New Jersey.
- All newcomers to local communities in New Jersey, regardless of immigration status, deserve to be treated with dignity and respect. Immigrant integration efforts allow newcomers to become fully contributing members of the community.
- New Jersey state and local governments have a civic responsibility to set a positive and constructive tone for discourse and to lead community efforts to develop a shared civic identity.
- Collaboration in immigrant integration efforts between the non-profit sector, broadly defined, and government is critical as neither sector has the resources (including staff, finances, or facilities), cultural competence, or access to all of New Jersey's immigrant population groups to effectively do it alone.¹⁹⁴

Endnotes

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⁴ Christine Thurlow Brenner and Nadia Rubaii-Barrett, "Recommendations to Governor Corzine's Blue Ribbon Advisory Panel on Immigrant Policy" (paper presented to panel June 11, 2008).

⁵ Ibid, 2.

⁶ Ibid, 6.

⁷ Ibid, 9.

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⁹ Robert W. Fairlie. 2008. Estimating the Contribution of Immigrant Business Owners to the U.S. Economy. Small Business Research Summary. Office of Advocacy, U.S. Small Business Administration. November. <http://people.ucsc.edu/~rfairlie/papers/published/sba%20final%20report%20immigrant%20business.pdf>

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¹¹ Vivek Wadhwa, Ramakrishnan Balasubramanian, Pradeep Kamsali, Nishanth Lingamneni, Chris Morecroft, Niyanthi Reddy, George Robinson, Batul Tambawalla, Mark Weaver, and Zhenyu Yang. 2007. America's New Immigrant Entrepreneurs. Master of Engineering Management Program, duke University and School of Information, U.C. Berkeley, p. 4. <http://people.ischool.berkeley.edu/~anno/Papers/Ame>

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¹⁴ Fairlie, p. 32.

¹⁵ Andrea James and John Cook. Nov. 15, 2006. Immigrants Behind Start Ups. Seattle PI.com http://seattlepi.nwsource.com/business/292389_startups15.html

¹⁶ Ibid.

¹⁷ Christine Thurlow Brenner. "Structures and Strategies for Immigrant Integration: Evidence from local governments in the new Latino destinations in the United States," *Journal of Public Management and Social Policy* 15, no. 1 (2009).

¹⁸ New Jersey State Police Academy Curriculum.

¹⁹ Victoria Chase and Ruth Ann Robbins, Rutgers Law Domestic Violence Project/Clinic, Camden, NJ. Focus group comments October 29, 2008.

²⁰ Yoshi Kumara and Christine Thurlow Brenner, "Legal Requirements for Access to New Jersey Courts for Persons of Limited English Proficiency," (paper presented to Governor's Blue Ribbon Advisory Panel on Immigrant Integration, Trenton, NJ, December 11, 2008).

²¹ Ibid, 34.

²² Abel Valenzuela, et al. *On the Corner: Day Labor in the United States* (Los Angeles: University of California, Los Angeles Center for the Study of Urban Poverty, 2006), 34.

²³ Ibid, 34.

²⁴ Kirk Semple. "With Economy, Day Laborer Jobs Dwindle," *New York Times*, October 19, 2008.

²⁵ Janice Fine, *Worker Centers: Organizing Communities at the Edge of a Dream* (Ithaca, London: Cornell University Press, 2006), 2.

²⁶ *Ibid.*, 245.

²⁷ See appendix for full report. LaQuanda Brown and Kaitlyn Muller, "Local Day Labor Worker Centers" (paper presented at Immigrant Policy Symposium of Student Research, Rutgers University, Camden, NJ, December 9, 2008).

²⁸ U.S. Bureau of Census, American Fact finder. Selected Median Monthly Housing Costs for Owner-Occupied Housing Units with a Mortgage (Dollars): 2007 & Median Monthly Costs for Renter-Occupied Housing Units (Dollars): 2007. <http://www.factfinder.census.gov>

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³¹ Testimony by Hightstown Mayor Robert Patten, telephonic hearing with state and local subcommittee of Governor Corzine's Blue Ribbon Advisory Panel on Immigrant Policy and League of Municipalities. July 31, 2008.

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³⁹ *Ibid.* "Friend of the court" briefs were filed by the Mexican American Legal Defense and Educational Fund, the American Civil Liberties Union Immigrants' Rights Project, the ACLU of New Jersey, the Seton Hall Law School Center for Social Justice and the law firm of Fried, Frank, Harris, Shriver & Jacobson.

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In Pennsylvania, the state operates a Welcoming Center for New Pennsylvanians, which is located in Philadelphia. Its mission is "to be a centralized employment and referral center for the region's growing immigrant community by promoting immigrant participation in the area's political, social, and economic life." See <http://www.welcomingcenter.org/immigrants/education.php> Additionally, there is a Welcome Center for Immigrants and Internationals located in Pittsburgh. "The mission of the Welcome Center for Immigrants and Internationals is to help immigrants and internationals successfully live in or relocate to Southwestern Pennsylvania so they will contribute to the economic vitality of the region." See <http://www.wcii.org/about.asp>

The Welcoming Tennessee Initiative (WTI) was established by the Tennessee Immigrants and Refugee Rights Coalition. "WTI is a collaboration of concerned Tennesseans from all walks of life – business, law enforcement, community and faith – who are proud that Tennessee is a welcoming state, and are working to continue that noble tradition by

increasing understanding of how new Tennesseans share our values, contribute to our economy, enhance our combined culture and strengthen our communities.” See <http://www.welcomingtn.org/>

“Iowa Workforce Development has established New Iowan Centers to offer workforce development services to persons who have recently moved to Iowa and are seeking employment. The centers are designed to support workers, businesses, and communities with information, community service referrals, job placement, translations, language training, and resettlement assistance, as well as technical and legal assistance concerning forms and documentation. Through public-private partnerships, the New Iowan Centers provide one-stop workforce development services for new Iowans.” See <http://www.iowaworkforce.org/centers/newiowan/>

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Dr. Richard McCormick, President, Rutgers University
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New Jersey Synod of the Evangelical Lutheran Church in America, Policy Committee
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Public Hearing Testimony December 10, 2007

Assemblyman Upendra J. Chivukula
Councilman Manuel Segura
Patricia Fernandez Kelly, Latin American Legal Defense and Education Fund
Cid Wilson, Dominican American National Roundtable
Nancy Glover-Warren
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Diana Mejia, Wind of the Spirit
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Public Hearing Testimony, March 11, 2008

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Public Hearing Testimony, June 11, 2008

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Maneesha Kelkar, Director, Manavi
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