

SPIN FORUM: LOCKED OUT OF LEARNING¹

I learn America. This grammatically-incorrect yet expressive phrase is the title of a documentary on six refugee children from various countries trying to learn how to live their lives in New York City. The documentary introduced a panel discussion on a nationwide issue that is particularly felt in the local School District of Lancaster County.

The documentary reflects the challenges refugee children face as they attempt to learn English and adapt to American culture. The children attended an international school and tried to learn the “American way,” including learning English, learning about each other, and even attending prom. The documentary was poignant and did a good job of relaying the struggles the students faced.

Each student told their own story about coming to America while the camera followed them around, capturing challenge after challenge the students faced in their high school. The students also spoke about their struggles as “New Americans,” including their feelings of isolation, fear of unfulfilled ambition, and feelings of confusion about their national identity. However, these students were able to learn. They were at a school where the teachers had the tools and resources to make sure they

learned English, at their own pace, as well as traditional American subjects like science, math, and history. Not all refugee students are given this opportunity, which is the reason for an ongoing case against the School District of Lancaster.

American Civil Liberties Union of Pennsylvania (ACLU-PA) Staff Attorney Molly Tack-Hooper, a lead attorney in *Issa v. Lancaster*,² opened the panel discussion by explaining the educational crisis in the School District of Lancaster. It affects refugee students as soon as they attempt to enroll in school. Ms. Tack-Hooper explained that the School District of Lancaster has been refusing to enroll older refugee students at McCaskey High School, where the children would have access to English as a Second Language, or ESL, classes taught by trained ESL teachers and could also participate in the International School. The school district has either completely refused to enroll the older children or diverted them to Phoenix Academy, which the lawsuit alleges is inferior. There, the children receive credits just for “seat time” and not fighting, rather than by engaging in substantive educational programs.³ Yet, the school district allowed younger refugee students to enroll in the International School program at the regular

¹ This article was written by Antavir Kaur, Temple Law ‘18, and reviewed by Kimya Forouzan, Temple Law ‘19. The forum was presented at Temple University Beasley School of Law on October 12, 2016; it was sponsored by the Student Public Interest Network (SPIN), the National Lawyers Guild, and the Black Law Students Association.

² See <https://www.aclupa.org/our-work/legal/legaldocket/issa-v-school-district-lancaster/> for background information and links to available case filings.

³ It is notable that Phoenix Academy, run by a private corporation called Camelot Education, has some of the worst school ratings in the area. See *Phoenix Academy*, U.S. NEWS & WORLD REPORT, <http://www.usnews.com/education/best-high-schools/pennsylvania/districts/lancaster-sd/phoenix-academy-17055> (last visited Oct. 20, 2016). According to the speakers, the corporation entered into a deal with the School District of Lancaster promising to save the school district money in the long term.

high school, some of whom even have older siblings who were refused enrollment or diverted to Phoenix Academy.

On behalf of a putative class of refugee children, the ACLU-PA, the Education Law Center, and Pepper Hamilton filed a lawsuit in the Eastern District of Pennsylvania to enjoin the school district from refusing to enroll the children.⁴ The District Court granted a preliminary injunction after a week-long trial so the children could enroll at McCaskey High School when the new school year (2016–17) started.⁵ However, the School District has appealed the outcome to the Third Circuit Court of Appeals.⁶ The future of these children’s education remains unclear.

Panelist Wei Chen spoke about his personal struggles when he was a new immigrant to the United States in 2006. He, along with fellow immigrant students, was continuously bullied at South Philadelphia High School for many years. Throughout the day on December 3, 2009, 26 Asian-American students were assaulted by other students.⁷ The students realized their administration would not protect them so they boycotted the school to put pressure on the school administrators. The boycott attracted media attention and the school was publicly maligned. The principal of the school left and was replaced by the Director of Education in Philadelphia.

Ludy Soderman, Director of the Multilingual Family Support Officer, specializes in supporting immigrant and refugee students in the School District of Philadelphia. She described her own

experience of being rebuffed by the former principal of South Philadelphia High School for attempting to find ways to support these students, just months before the group assault occurred on December 3, 2009. She implored SPIN Forum attendees to use their legal knowledge to provide assistance and resources to better provide for these “New Americans.” Each panelist echoed her sentiments, including Len Rieser, Temple Law Professor of Education Law and Director of the Sheller Center for Social Justice.

The panelists agreed that dialogue about multiculturalism, as well as better resources, could change the course of this conversation entirely. For the students in Lancaster, better resources could have meant enrollment in the ESL classes and the skills they need to thrive in America. This conversation should continue because, as Ludy Soderman put it, law students and lawyers possess “access to a language that others do not—the law.” Law students and lawyers can use this language to ensure that more students are not “locked out of learning.”



⁴ *Issa v. Sch. Dist. of Lancaster*, No. 16-3881, 2016 U.S. Dist. LEXIS 114546, *10 (E.D. Pa. Aug. 16, 2016).

⁵ *Id.* For transcripts and more information about this case, see <http://aclupa.org/issa>.

⁶ The docket number on appeal is No. 16-03528.

⁷ *See also Widening the Circle of Our Concern*, PHILA. COMM. ON HUMAN RELATIONS, at 5, <http://www.phila.gov/HumanRelations/PDF/WideningTheCircleReport.pdf> (last visited Oct. 20, 2016).