



## **APPELLATE COURT DECISION IN HOLA CASE**

Charter School Expansion Upheld by Judges  
Two Years of Litigation Ends

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HOBOKEN, June 29, 2017 ---Ending over two years of costly litigation by the Hoboken Board of Education against Hoboken Dual Language Charter School (HoLa), the Appellate Division of the New Jersey Superior Court has affirmed the decision of the Commissioner of Education granting HoLa's application to expand the school's program to 7th and 8th grades.

The decision comes one week after the school graduated its first 8th grade class.

"HoLa provides quality education to a cross section of Hoboken's children," the court said in its opinion. "As a dual-language school, HoLa allows students to become bilingual in a curriculum with a multi-cultural content, and thus advances public policy goals."

The court found no evidence of economic or racial segregative impact or an adverse funding impact to the Hoboken district.

The decision means that taxpayers can stop footing the bill for litigation that pits the local school board against one of the highest performing public charter schools in the state. Over \$200,000 was spent in taxpayer money by the three parties (HoLa, Hoboken Board of Education, State of New Jersey/NJ Department of Education) over the course of the two year litigation.

"We're so grateful that this case is finally over," said Jennifer Sargent, Executive Director of HoLa. "We're proud that our diverse school is an important part of the educational landscape of Hoboken. I look forward to continuing to work with the district to serve all of Hoboken's children."

HoLa, which ranks in the top 10% of all public schools in the state in terms of math and English state test scores, including some of the wealthiest suburbs, was sued by the Hoboken Board of Education in March 2014 after the Department of Education approved the school's expansion to 8<sup>th</sup> grade. At the time, the school's oldest students were in 5<sup>th</sup> grade. The Hoboken Board sued to prevent the 6<sup>th</sup> graders from moving on to 7<sup>th</sup> and 8<sup>th</sup> grade at HoLa.

HoLa was designated a Model World Languages School by the NJ Department of Education for four years in a row, which has led to educators from all over the state coming to observe the school.

HoLa was the first charter school in New Jersey to adopt a low-income preference in its random admissions lottery. Over 400 students apply every year for 44 Kindergarten spots.

### **About the 8<sup>th</sup> Grade Graduating Class**

Reflecting the beautiful diversity of Hoboken, the recent graduating class of 8<sup>th</sup> graders--the main targets of the Hoboken Board's lawsuit-- are predominantly black or Hispanic (80%). They are from Egypt, Argentina, Puerto Rico, Dominican Republic, Chile, Ecuador, Honduras, Lebanon, Cuba and Spain. Half of them were born outside of the U.S. or are first generation Americans.

Academically, they vastly outperformed local and state averages. In last year's state assessments, 80% of the 8<sup>th</sup> graders passed math, compared with only 39% statewide, and 95% of HoLa's 8<sup>th</sup> graders passed ELA compared with 56% statewide. They were 7<sup>th</sup> graders at the time of those results. That put them in the top 5% for English Language Arts and the top 10% for math compared with the over 600 public school districts in the state, including the wealthiest suburban districts.

HoLa is a public charter school. As such, it follows all state laws and regulations of public schools regarding transparency, health and safety, educational attainment, financial stability, etc. In fact, a public charter school is more accountable to the state for its performance because charter schools are intensely reviewed every five years by the NJ Department of Education. Those that are not performing—either academically or financially-- are shut down.

The organization Democrats for Education Reform applauded the decision.

“As an organization focused on making sure that all of New Jersey's children have access to a high-quality public education, Democrats for Education Reform is elated to learn that the ruling of the Superior Court of New Jersey confirms what New Jersey's Education Commissioner determined from its review - that HoLa is providing a quality education for students, adding value to the families and children they serve,” said Paula White, executive director of DFER in New Jersey.

“With student outcomes ranking in the top quartile across the state, HoLa is effectively serving a cross-section of its community’s children, exposing students to two languages, without compromising the quality of the core education they receive,” White continued. “As we look forward to the 4th of July celebration of our country’s founding, we applaud the educators at HoLa for working hard to ensure that more of New Jersey’s children can grab a hold of the American Dream.”

Viola S. Lordi of Wilentz, Goldman & Spitzer, P.A., represented HoLa in the litigation, throughout. Commenting on the decision, Ms. Lordi stated: “This is a decision that recognizes HoLa’s positive contributions to the education of Hoboken’s children. As the Court noted, ‘The evidence showed that HoLa’s policies are geared toward admitting a cross section of the school-aged population, economically as well as racially and ethnically.’”

The New Jersey Charter School Association appeared as an amicus in the Appellate Court proceeding.

“With the Appellate Court ruling, our community can begin to heal the divide that this two and a half year lawsuit created in our community,” said Michael DeFusco, first-ward councilman. “A major asset of Hoboken is the wide range of school options that we offer families. I look forward to working with both the district and HoLa to ensure we are working together collaboratively and avoid costly, contentious situations like this in the future.”

“I’m glad this lawsuit is finally over,” said 4th Ward Councilman Ruben Ramos. “Litigation is never how we should be spending precious educational resources. I hope that the Board of Ed can now move on and focus on student achievement for all kids in Hoboken.”

“Now we must all move on,” said Ward 6 Councilwoman Jennifer Giattino on her Facebook page. “If we must still fight, we should fight for a more equitable funding formula” at the state level between charter schools and district schools.

**Important Quotes from the Appellate Court Decision:**

- “The percentage of students receiving free or reduced price lunch decreased for all four Hoboken public elementary schools from 2010-2011 to 2013-2014, although at Connors 88% of the students still received a lunch subsidy in 2013-2014.” p. 6
- “As can be seen by these statistics, minority students are heavily concentrated at Connors, where in both years they made up approximately 95% of the student population.” p. 6
- “Thus, contrary to Hoboken’s suggestion, the inclusion of Brandt did not skew the statistics.” p. 11
- “A simple comparison between the charter schools and the traditional public schools is not necessarily representative of the demographics.” p. 13

- “It is not fair to HoLa to refuse to recognize the impact of the private schools on overall school enrollment in Hoboken, as HoLa has no control over private school enrollment.” p. 13
- “Hoboken presents no data of its own to support its positions.” p. 13
- “The evidence showed that HoLa’s policies are geared toward admitting a cross section of the school-aged population, economically as well as racially and ethnically.” p. 17
- Hoboken’s former superintendent (Toback) “did not submit specific financial data to support those assertions” of financial impact. p. 19; “In spite of these representations, we found the ‘paucity of specificity’ in the district’s claim to be ‘fatal.’” p. 21

## History of HoLa Litigation

- In 2013, when it was time to go through HoLa’s first five-year renewal process, HoLa asked to expand from a K-6 school to a K-8 school in order to continue to serve its current students until they got to high school.
- In March 2014, recognizing HoLa excellent track record and HoLa families’ desire to have their students stay at HoLa through 8<sup>th</sup> grade, the NJ Department of Education granted the renewal and expansion. At the time, HoLa’s oldest students were in 5<sup>th</sup> grade.
- That same month, the Hoboken Board of Education sued the NJ Department of Education and HoLa to stop the growth to 8<sup>th</sup> grade. They claimed that HoLa’s addition of 7<sup>th</sup> and 8<sup>th</sup> grade would be harmful to the district financially and would have a segregative effect on the district. There were no facts or data to back up this claim.
- The NJ Department of Education agreed to study the potential for segregative impact on the district and one year later, in March 2015, reaffirmed HoLa’s expansion and showed demographic evidence that contrary to the allegation of segregative effect, the district’s proportion of low income students had decreased since HoLa opened, not increased.
- The Commissioner of the NJ Department of Education wrote in a letter to the Hoboken Board of Education in March of 2015:

*“After the Department’s analysis of publicly available student enrollment data, census data, and documentation submitted by the parties, it has been determined that HoLa does and will not have a segregative effect on the District.*

*The Department also conducted a longitudinal analysis of the District to identify any changes in these demographics over time in grades K-12.... the percentage of white students attending the District has actually increased since HoLa opened in 2010 with the percentage of Hispanic*

*students decreasing in that same time period. The percentage of Black students in the District has stayed fairly constant since 2010.”* HoLa opened in September of 2010.

Therefore, the Commissioner concluded in his letter, *“the increase in the percentage of the District’s white students since 2010, along with the decrease in Hispanic students, and the lack of changes to the percentage of black students indicates that HoLa’s enrollment has not had a segregative effect on the District. Instead, the data points towards an overall population shift in the last ten years in the City of Hoboken, which began before the opening of HoLa Charter School.”* The Commissioner also added that *“Compared to the Hoboken District Schools, the demographic composition of HoLa’s student population appears to better reflect Hoboken’s population.”*

- In April 2015, the Hoboken Board of Education requested a stay of HoLa’s expansion, saying the Commissioner—who had already looked at the issue twice—had not looked at the issue of segregative impact. The motion was denied.
- Also in April of 2015, after much advocacy by HoLa parents about the terrible waste of taxpayer money on this litigation, the Hoboken Board of Education created the Hoboken Legal Fund in order to continue to fund the litigation against HoLa using private money rather than taxpayer money.
- The following month, in May 2015, three Hoboken Board of Education Board members donated to the Hoboken Legal Fund to fund the lawsuit against HoLa. A fourth Board member later contributed to the Fund as well.
- In June 2015, the Hoboken Board of Education filed an emergent request for a stay to the Appellate Court. It was denied.
- In May 2017, three Appellate Court judges heard arguments from bothr sides.
- The Court ruled against Hoboken Board of Ed on June 29, 2017.