



January 26, 2017

*Via E-mail Only*  
Clark County School District Trustees  
5100 W. Sahara Avenue  
Las Vegas, NV 89146

Trustees of the Clark County School District,

The ACLU of Nevada submits its full support of the resolution before you today that will demonstrate the Clark County School District's "Commitment to Students Regardless of Immigration Status." As you are well aware, there is a profound level of fear and uncertainty among undocumented students in Clark County and throughout Nevada. Many students are terrified they will be ripped away from their families and their home at a moment's notice. This resolution will serve as a rededication to all students that when they walk towards the halls of CCSD they can leave their fear and anxiety at the door. They will know that they can trust their teachers and administrators, that they can turn their attention to their studies, and that they don't have to learn under the threat of deportation. Per capita, Nevada is home to one of the highest percentages of undocumented immigrants in the nation. Protecting and promoting the safety, well-being, and educational opportunities of immigrant students is essential to securing Nevada's future.

We have outlined below why CCSD both can and should adopt this resolution. We are hopeful that you, the trustees of the students in Clark County, will affirm your commitment to some of the most vulnerable among us and adopt this resolution today.

### **1. This Resolution Enables the Clark County School District to Fulfill its Constitutional Duties**

The Clark County School District has a duty to educate all students under both the United States and the Nevada Constitutions. The Supreme Court affirmed in *Plyler v. Doe*, 457 U.S. 202 (1982), that **all children must have equal access to public education, regardless of citizenship or immigration status**. This means that schools cannot engage in any practice that might chill a student's right of access to school, cannot treat students differently in order to determine the student's residency, cannot require students to disclose their immigration status, and cannot ask students or parents questions that would expose their undocumented status. This decision is based on the protections of the Fourteenth Amendment and is not subject to change by an ordinary act of Congress, state legislation or a presidential executive order. This resolution works to ensure CCSD can educate all students equally.

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## 2. This Resolution Is Consistent With State And Federal Law To Protect Immigrant Children From Bullying And Harassment.

Federal law already requires that public schools protect students from discrimination or harassment based on national origin. *See, eg.*, Titles IV and VI of the Civil Rights Act of 1964. Moreover, under NRS 388.121 *et seq.* CCSD must provide “a safe and respectful learning environment in which persons of differing beliefs, races, colors, national origins, ancestries, religions, gender identities or expressions, sexual orientations, physical or mental disabilities, sexes or any other distinguishing characteristics or backgrounds can realize their full academic and personal potential.”

The resolution at issue today reaffirms that CCSD will not allow immigration status to interfere with any student’s ability to obtain an education.

## 3. Threats To Punish Those Who Protect Rights Without Regard To Immigration Status Are Unenforceable And Unconstitutional

We urge you to not be deterred by recent and threats to retaliate against cities and states that protect people’s rights without regard to immigration status. The presidential administration possesses no legal authority to carry out these threats. As you are aware, immigration enforcement is the responsibility of the federal government - any local decision to offer resources to federal immigration enforcement agencies is strictly voluntary. **Public schools have no legal or constitutional requirement to help enforce federal immigration laws.**

Yesterday’s executive orders would commandeer state and local governments to carry out federal policies, in violation of the 10th Amendment. And, even if Congress enacted a law to “defund” states and localities that stay clear of the deportation business, it would be struck down as unconstitutional. Coercing state and local governments into action by cutting off their funds violates the spending clause of the Constitution.

CCSD should not be swayed by these intimidation tactics.

The ACLU of Nevada commends CCSD in taking steps towards inclusion and justice for all students and we urge you to adopt the resolution at issue today.

Sincerely,

Amy M. Rose  
Legal Director  
ACLU of Nevada

Tod Story  
Executive Director  
ACLU of Nevada

CC: CCSD Superintendent Pat Skorkowsky; Carlos McDade

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