

I. Party Information

Plaintiff(s) (name/address/phone): Nevada Policy Research Institute, Inc., c/o NPRI Center for Justice and Constitutional Litigation, 1225 Westfield Ave., #7, Reno, NV 89509, (775) 636-7703

Attorney (name/address/phone): Joseph F. Becker, Esq., 1225 Westfield Ave., Suite 7, Reno, NV 89509, (775) 636-7703

Defendant(s) (name/address/phone): Clark County School District, 5100 W. Sahara Ave., Las Vegas, NV 89146, (702) 799-5000; The Nevada Public Education Foundation, 9890 S. Maryland Parkway, Suite 243, Las Vegas, NV 89183, (702) 486-6492; The Public Education Foundation, 3360 West Sahara Ave., Suite 160, Las Vegas, NV 89102, (702) 799-1042.

Attorney (name/address/phone):

II. Nature of Controversy (Please check applicable bold category and applicable subcategory, if appropriate)

☐ Arbitration Requested

Civil Cases

Real Property	Torts	
<div><input type="checkbox"/> Landlord/Tenant<div><input type="checkbox"/> Unlawful Detainer</div></div> <div><input type="checkbox"/> Title to Property<div><input type="checkbox"/> Foreclosure</div><div><input type="checkbox"/> Liens</div><div><input type="checkbox"/> Quiet Title</div><div><input type="checkbox"/> Specific Performance</div></div>		

☐ **Condemnation/Eminent Domain**☐ **Other Real Property**


☐ Partition

☐ Planning/Zoning

1 COMP
2 JOSEPH F. BECKER, ESQ.
3 Nevada State Bar No. 12178
4 NPRI CENTER FOR JUSTICE AND CONSTITUTIONAL LITIGATION
5 1225 Westfield Avenue, Suite #7
6 Reno, Nevada 89509
7 Tel: (775) 636-7703
8 Fax: (775) 201-0225
9 cjcl@npri.org

10 Attorney for Plaintiff

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CLERK OF THE COURT

11 EIGHTH JUDICIAL DISTRICT COURT

12 CLARK COUNTY, NEVADA

13 NEVADA POLICY RESEARCH
14 INSTITUTE, INC.

15 Plaintiff,

16 vs.

17 CLARK COUNTY SCHOOL DISTRICT, a
18 political subdivision of the State of Nevada;
19 THE NEVADA PUBLIC EDUCATION
20 FOUNDATION; and THE PUBLIC
21 EDUCATION FOUNDATION;

22 Defendants.

Case No. **A- 13- 679114- C**

Dept. No. : **V I I I**

COMPLAINT FOR VIOLATION OF
NEVADA PUBLIC RECORDS ACT

PRIORITY MATTER

Arbitration Exemption Claimed:

SIGNIFICANT ISSUE OF PUBLIC
POLICY

23 COMES NOW, Plaintiff, NEVADA POLICY RESEARCH INSTITUTE, INC.
24 (hereinafter, "NPRI"), by and through its attorney of record, NPRI Center for Justice and
25 Constitutional Litigation, and for cause of action against the above named Defendants hereby
26 complains and alleges as follows:

PRELIMINARY STATEMENT

27 1. NRS § 239.001, *et seq.*, (the "Public Records Act") was enacted to foster
28 democratic principles by providing members of the public with access to inspect and copy public
records. Its provisions should be construed liberally to carry out this important purpose and any

1 exemption which limits or restricts access by members of the public should be construed
2 narrowly. NRS §239.001.

3 2. NRS § 239.0107 requires that:

4 1. Not later than the end of the fifth business day after the date on which the
5 person who has legal custody or control of a public book or record of a governmental
6 entity receives a written request from a person to inspect or copy the public book or
7 record, a governmental entity shall do one of the following, as applicable:

8 (a) Allow the person to inspect or copy the public book or record.

9 (b) If the governmental entity does not have legal custody or control of the public
10 book or record, provide to the person, in writing:

11 (1) Notice of that fact; and

12 (2) The name and address of the governmental entity that has legal
13 custody or control of the public book or record, if known.

14 (c) Except as otherwise provided in paragraph (d), if the governmental entity is
15 unable to make the public book or record available by the end of the fifth business
16 day after the date on which the person who has legal custody or control of the
17 public book or record received the request, provide to the person, in writing:

18 (1) Notice of that fact; and

19 (2) A date and time after which the public book or record will be available
20 for the person to inspect or copy. If the public book or record is not
21 available to the person to inspect or copy by that date and time, the person
22 may inquire regarding the status of the request.

23 (d) If the governmental entity must deny the person's request to inspect or copy
24 the public book or record because the public book or record, or a part thereof, is
25 confidential, provide to the person, in writing:

26 (1) Notice of that fact; and

27 (2) A citation to the specific statute or other legal authority that makes the
28 public book or record, or a part thereof, confidential.

2. The provisions of this section must not be construed to prohibit an oral request
to inspect or copy a public book or record

PARTIES

3. Plaintiff NPRI is a free-market think tank that seeks private solutions to public
challenges facing Nevada, the West, and the nation. With an eye towards full transparency in
government, NPRI informs the public and often testifies before legislative committees regarding
actions and activities of the State of Nevada and its political subdivisions. The Institute's
primary areas of focus are education and fiscal policy. NPRI is a 501(c)(3) organization as
defined by the Internal Revenue Code and is incorporated in the State of Nevada.

1 4. Defendant CLARK COUNTY SCHOOL DISTRICT (hereinafter "CCSD") (as
2 governed by its BOARD OF TRUSTEES) is a political subdivision of the state of Nevada,
3 operates in Clark County, Nevada, and is named as a Defendant (or Defendants) pursuant to
4 NRS § 12.105. CCSD maintains the email directory of CCSD teachers which is the subject
5 matter of this Nevada Public Records Act request case.

6 5. Defendant NEVADA PUBLIC EDUCATION FOUNDATION (hereinafter
7 "NVPEF") is non-profit educational foundation defined as a "governmental entity" under NRS
8 239.005(4)(d) for purposes of the Nevada Public Records Act, NRS 239.001, *et seq.* NVPEF is a
9 501(c)(3) organization as defined by the Internal Revenue Code and is incorporated in the State
10 of Nevada. The NVPEF is named as a Defendant because CCSD, in its July 3, 2012 letter to
11 NPRI, identified NVPEF as the holder of InterAct¹ licenses purportedly preventing the
12 disclosure of public records and may also have the public records sought.

13 6. Defendant THE PUBLIC EDUCATION FOUNDATION (aka Clark County
14 Public Education Foundation) (hereinafter "PEF") is another non-profit educational foundation
15 defined as a "governmental entity" under NRS 239.005(4)(d) for purposes of the Nevada Public
16 Records Act, NRS 239.001, *et seq.* PEF is a 501(c)(3) organization as defined by the Internal
17 Revenue Code and is incorporated in the State of Nevada. The PEF is named as a Defendant
18 herein because CCSD, in its July 3, 2012 letter to NPRI, identified the *holder* of InterAct
19 licenses as preventing the disclosure of public records and PEF did and may still hold said
20 licenses as well as the records sought.

21 JURISDICTION AND VENUE

22 7. Pursuant to the Nevada Public Records Act, NRS § 239.011, suit may be brought
23 by the record requester in the district court of the county in which the book or records is located
24

25
26 ¹ According to CCSD, InterActTM is the intranet system "Responsible for providing internet
27 connectivity and filtering for all schools. Also, provides external network protection (firewall)
28 for all CCSD sites. Manages and operates InterAct, the Districts email system as well as other
hosted services for public consumption." <http://ccsd.net/departments/internet-interact-operations/>

1 for an order permitting the requester to inspect or copy it. All Defendants are present in Clark
2 County, Nevada.

3 8. This Court has subject matter jurisdiction pursuant to NRS §§ 239.011 and 3.220
4 and Nevada Constitution Art. VI, §6.

5 9. This Court is the proper venue pursuant to NRS §§ 239.01 and 13.040.

6 10. Where applicable, all matters set forth herein are incorporated by reference in the
7 various causes of action which follow.

8 **GENERAL ALLEGATIONS COMMON TO ALL CLAIMS FOR RELIEF**

9 11. On June 11, 2012, Victor Joecks, Communications Director at Nevada Policy
10 Research Institute, Inc., (NPRI) requested from Clark County School District (CCSD) an email
11 directory of all Clark County School District teachers.

12 12. On July 3, 2012, Carlos L. McDade, General Counsel for CCSD, replied to Mr.
13 Joecks of NPRI with a letter claiming that the Nevada Public Records Act (hereinafter “the
14 NPRA”) does not require disclosure of “CCSD’s email directory of teachers” for several reasons.
15 See attached Exhibit 1. In addition to reserving the right to include additional justifications for
16 non-disclosure should the matter proceed to litigation, the justifications for non-disclosure
17 itemized in the July 3, 2012 communication from Mr. McDade included:

- 18
- 19 (a) The Email Directory is part of the employee’s personnel records and must be
“safeguarded” by the District;
- 20
- 21 (b) The Email Directory is not a public record because it is similar to a book or a
pamphlet;
- 22
- 23 (c) The Email Directory is not clearly a public record because the Nevada Public
Education Foundation owns the Interact software license;
- 24
- 25 (d) Disclosure of the Email Directory is not required under *Donrey of Nevada,*
Inc. v. Bradshaw, 106 Nev. 630 (1990) and *Reno Newspapers, Inc. v. Haley*,
234 P.3d 922 (2010).

26

27 13. On or about February 4, 2013, Victor Joecks of NPRI sent a public records
28 request to Nevada Public Education Foundation (hereinafter “NVPEF”), requesting an email

1 directory of all Clark County School District teachers. *See* attached Exhibit 2. Under NRS
2 239.005(4)(d), NVPEF is defined as a “[g]overnmental entity” subject to the provisions of the
3 NPRA. As of the date of this filing, NPRI has received no acknowledgement of receipt or
4 response to this request from NVPEF.

5 14. Through its own diligence and research, on or about February 19, 2013, NPRI
6 discovered that the entity designated by Mr. McDade as holding the license to InterAct (the
7 NVPEF), may have actually had no role in the InterAct licensing and that the InterAct licensing
8 was, instead, likely facilitated by the (Clark County) Public Education Foundation (hereinafter
9 “PEF”).

10 15. On or about February 19, 2013, Victor Joecks of NPRI sent a public records
11 request to the PEF requesting an email directory of all Clark County School District teachers.
12 *See* attached Exhibit 3. Under NRS 239.005(4)(d), PEF is also a “[g]overnmental entity” subject
13 to the provisions of the NPRA.

14 16. On or about February 20, 2013, PEF sent an email to NPRI informing NPRI that
15 PEF does not have an email directory of all Clark County School District teachers. *See* Exhibit
16 4. In a later communication, dated February 21, 2013, PEF informed NPRI that “[i]n the early
17 1990s, The Public Education Foundation purchased First Class leases for InterAct. The Public
18 Education Foundation, in partnership with the Clark County School District, developed InterAct”
19 and that “[m]ore than a decade ago, the Clark County School District assumed administrative
20 control of InterAct. Therefore, The Public Education Foundation doesn’t have access to any
21 administrative rights.” *See* Exhibit 5. However, according to PEF’s own website, “the Public
22 Education Foundation continues to pay the annual licensing fees.” *See* Exhibit 5.

23 17. Therefore, on or about February 25, 2013, NPRI sent by Certified Mail, Return
24 Receipt Requested, a final request letter for an email directory of all Clark County School
25 District teachers to CCSD, NVPEF, and PEF. *See* attached Exhibit 6. In an attempt to curtail
26 finger-pointing amongst Defendants, NPRI copied each recipient (now Defendants) on each
27 recipient’s letter as well as including a copy of CCSD’s letter dated July 3, 2012 (Exhibit 1),
28

1 directly naming NVPEF and implicitly identifying PEF as, in part, responsible for CCSD's non-
2 disclosure.

3 18. On March 5, 2013, CCSD responded to NPRI's February 25, 2013 request letter
4 with another letter refusing to disclose the email directory for the following reasons:

5
6 (a) InterAct email addresses are part of the employee's personnel records and
must be "safeguarded" by the District as confidential information;

7
8 (b) The Email Directory falls within the definition of a non-record;

9
10 (c) A court would not require disclosure under the *Donrey* balancing test citing
Donrey of Nevada, Inc. v. Bradshaw, 106 Nev. 630 (1990) and *Reno*
Newspapers, Inc. v. Haley, 234 P.3d 922 (2010).

11 See attached Exhibit 7.

12 19. Missing from CCSD's March 5, 2013 refusal letter was its earlier contention that
13 the Email Directory is not a public record because the Nevada Public Education Foundation
14 owns the Interact software license, although, at the same time, CCSD reserved the right to raise
15 that and any other relevant legal theories in support of its refusal to disclose. See attached
16 Exhibit 7.

17 20. NVPEF has not responded to NPRI's February 25, 2013, certified mail request.

18 21. On or about March 5, 2013, PEF responded to NPRI's February 25, 2013 certified
19 mail request indicating the following:

20
21 (a) The PEF purchased first class licenses for InterAct and, in partnership with
22 CCSD, developed InterAct.

23 (b) More than a decade ago, in 2001, CCSD assumed administrative control of
24 InterAct. Also, in 2001, PEF left the licenses with CCSD.

25 (c) On February 28, 2013, PEF also requested from CCSD a list of all email
addresses for CCSD teachers.

26 (d) On March 4, 2013, Mr. McDade of CCSD refused their request stating, *inter*
27 *alia* "the District [CCSD] is currently solely administering the InterAct
28 system. Therefore, the Foundation [PEF] has no need to know the requested
addresses."

1 See attached Exhibit 8.

2 **CLAIM FOR RELIEF (DECLARATORY AND INJUNCTIVE RELIEF**
3 **AGAINST ALL DEFENDANTS**

4 22. Plaintiffs hereby incorporate Paragraphs 1 through 21 as though fully set out
5 herein.

6 23. Defendant CCSD failed to comply with NRS § 239.0107 by refusing to make
7 available records that must be disclosed under the NPRA.

8 24. Defendant NVPEF failed to comply with NRS § 239.0107 by refusing to make
9 available records that must be disclosed under the NPRA and/or failing to provide notice of the
10 fact that they do not have legal custody of the record requested.

11 25. Defendant PEF is a necessary party because CCSD has implicated PEF as, in
12 part, responsible for their legal inability to comply with NPRI's public record request and
13 reserved the right to raise this legal argument going forward.

14 26. This violation of Nevada law harms the legally protectable interests of NPRI and
15 its members because it is the mission of NPRI and its donors to make public information
16 regarding governmental activity, especially with respect to education policy and to freely
17 communicate with government employees in so doing. The public at large is harmed as
18 transparency and communication with governmental officials fosters democratic principles and
19 there is no government interest that outweighs the public's interest in being able to communicate
20 freely and petition their government and its agents/employees, a right guaranteed by the U.S. and
21 Nevada Constitutions.

22 **ATTORNEY FEES**

23 27. Under NRS §239.011, "[i]f the requester prevails, the requester is entitled to
24 recover his or her costs and reasonable attorney's fees in the proceeding from the governmental
25 entity whose officer has custody of the book or record." As a result of the Defendants' actions as
26 set forth above, Plaintiff is entitled to attorney's fees.

27 **PRAYER FOR RELIEF**

28 WHEREFORE, Plaintiff prays that this Court:

1 1. Declare that under the Nevada Public Records Act, Defendant(s) CCSD, NVPEF,
2 and PEF are required to make available to NPRI the subject e-mail addresses within in their
3 possession.

4 2. Order Defendant(s) CCSD, NVPEF, and PEF to make available to NPRI the
5 subject e-mail addresses in their possession within 5 business days as required under the Nevada
6 Public Records Act.

7 3. Enjoin Defendants from further procrastination and rejection of NPRI's Public
8 Record Act requests clearly within the scope of the Nevada Public Records Act.

9 4. Award Plaintiff its reasonable costs and attorney fees.

10 5. Grant such other relief as the Court deems appropriate and proper.

11
12 DATED this 28th day of March, 2013.

13
14
15 NPRI CENTER FOR JUSTICE AND
16 CONSTITUTIONAL LITIGATION

17 BY: /s/ Joseph F. Becker

18 JOSEPH F. BECKER, ESQ.
19 Nevada State Bar No. 12178
20 NPRI CENTER FOR JUSTICE AND
21 CONSTITUTIONAL LITIGATION
22 1225 Westfield Avenue, Suite #7
23 Reno, Nevada 89509
24 Tel: (775) 636-7703
25 Fax: (775) 201-0225
26 cicl@npri.org

27 Attorney for Plaintiff
28

EXHIBIT 1



5100 WEST SAHARA AVENUE • LAS VEGAS, NEVADA 89146 • TELEPHONE (702) 799-5000

**CLARK COUNTY
SCHOOL DISTRICT**

Via Email to: vi@npri.org
and U.S. Mail

July 3, 2012

Victor Joecks
Nevada Policy Research Institute
7130 Placid St.
Las Vegas, Nevada 89119

BOARD OF SCHOOL TRUSTEES

Dr. Linda E. Young, President
Deanna L. Wright, Vice President
John Cole, Clerk
Lorraine Alderman, Member
Erin E. Cranor, Member
Carolyn Edwards, Member
Chris Garvey, Member

Dwight D. Jones, Superintendent

Dear Mr. Joecks:

We are in receipt of your correspondence dated June 11, 2012, for "CCSD's email directory of teachers." We are also in receipt of your request for "CCSD's list of physical addresses for teachers," which you have subsequently clarified as "home addresses."

1. The public records law does not require the disclosure of "CCSD's email directory of teachers" for several reasons. First, the InterAct email directory may be considered part of the employee's personnel records and must be safeguarded by the District. See NRS 239.010; NRS 603A.210; NRS 386.350; CCSD Regulation 1212; CCSD Regulation 4311. Second, the email directory falls within the definition of a non-record given that it is similar to a book or pamphlet. See NAC 239.051. Third, it is unclear that the CCSD email directory constitutes a public record under the law, given that the Nevada Public Education Foundation owns the license to InterAct. See NAC 239.091. Finally, even if the information were to be construed as a public record, it is the District's position that a court would not require disclosure under the Donrey balancing test. See NRS 239.010; Donrey of Nevada, Inc. v. Bradshaw, 106 Nev. 630 (1990); Reno Newspapers, Inc. v. Haley, 234 P.3d 922 (2010).

2. The public records law also does not require disclosure of the list of "physical addresses" of teachers based upon confidentiality principals or under the Donrey balancing test. See NRS 239.010; NRS 603A.210; NRS 386.350; CCSD Regulation 1212; CCSD Regulation 4311; Donrey of Nevada, Inc. v. Bradshaw, 106 Nev. 630 (1990); Reno Newspapers, Inc. v. Haley, 234 P.3d 922 (2010); Reno Newspapers, Inc. v. Public Employees' Retirement System of Nevada, Case No. 11 EW 00009 1B (December 22, 2011).

Finally, should this matter proceed to litigation, the District reserves the right to raise the aforementioned arguments as well as any other relevant legal theories in support of its position.

Sincerely,

Carlos L. McDade
General Counsel

EXHIBIT 2

justice

From: Victor Joecks
Sent: Monday, February 04, 2013 10:51 AM
To: ccook@nvpef.org
Subject: Public Records Request

Hi Chanda,

I am requesting a list of email addresses for every teacher in the Clark County School District. I am making this request under the provisions of NRS 239.001-239.330, the Nevada Public Records Act.

Per NRS 239.0107, you have five business days to provide the requested materials.

Please let me know if you have any questions and I look forward to receiving these records shortly. Thank you.

Sincerely,

Victor Joecks
Communications Director, Nevada Policy Research Institute
7130 Placid Street, Las Vegas, NV 89119
(702) 222-0642, vj@npri.org, npri.org

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EXHIBIT 3

justice

From: Victor Joecks
Sent: Tuesday, February 19, 2013 9:44 AM
To: steelej@ccpef.org
Subject: Public Records Request

Hi Judi,

I am requesting a list of email addresses for every teacher in the Clark County School District. I am making this request under the provisions of NRS 239.001-239.330, the Nevada Public Records Act.

Per NRS 239.0107, you have five business days to provide the requested materials.

Please let me know if you have any questions, and I look forward to receiving these records shortly. Thank you.

Sincerely,

Victor Joecks
Communications Director, Nevada Policy Research Institute
7130 Placid Street, Las Vegas, NV 89119
(702) 222-0642, vi@npri.org, npri.org

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EXHIBIT 4

Subject: FW: Public Records Request

From: Mike Campbell [mailto:mikecc@ccpef.org]
Sent: Wednesday, February 20, 2013 2:06 PM
To: Victor Joecks
Subject: Public Records Request

Victor Joecks
Communications Director, Nevada Policy Research Institute
7130 Placid Street, Las Vegas, NV 89119

Dear Mr. Joecks,

On Feb. 19, 2013, you emailed Judi Steele, President of The Public Education Foundation, a request for public records. In the email, you wrote:

“I am requesting a list of email addresses for every teacher in the Clark County School District. I am making this request under the provisions of NRS 239.001-239.330, the Nevada Public Records Act.

~

“Per NRS 239.0107, you have five business days to provide the requested materials.”

Regarding your request, The Public Education Foundation does not have a list, nor have access to a list, of email addresses for every teacher in the Clark County School District.

Sincerely,

Michael Campbell
Vice President of Communications, The Public Education Foundation

EXHIBIT 5

justice

Subject: FW: Public Records Request

-----Original Message-----

From: Michael Campbell [mailto:mikecampbellvegas@gmail.com]

Sent: Thursday, February 21, 2013 10:04 PM

To: Victor Joecks

Cc: Judi K. Steele

Subject: Public Records Request

Victor Joecks
7130 Placid St.
Las Vegas, NV 89119

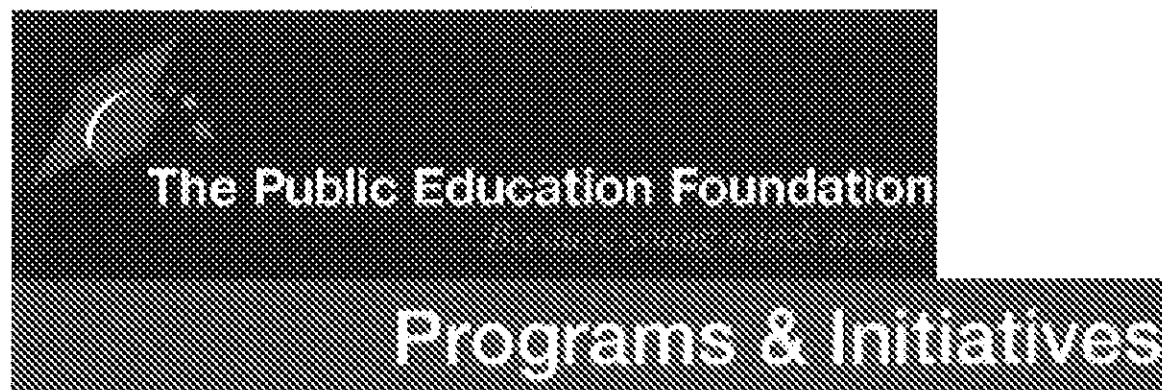
Dear Mr. Joecks:

I'm following up on my previous email of Feb. 20 and our subsequent phone conversation regarding your request for a list of email addresses for every Clark County School District teacher:

In the early 1990s, The Public Education Foundation purchased First Class leases for Interact. The Public Education Foundation, in partnership with the Clark County School District, developed Interact.

More than a decade ago, the Clark County School District assumed administrative control of Interact. Therefore, The Public Education Foundation doesn't have access to any administrative rights.

Michael Campbell
Vice President of Communications, The Public Education Foundation


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The Public Education Foundation launched the InterAct™ Online Learning Community in 1992 to build and enhance online communications, collaboration, enhanced learning and knowledge sharing by faculty, students and administrators within the Clark County School District.

Starting with a pilot group of 10 schools and 300 users, InterAct™ has grown to include all schools and services within the Clark County School District, the fifth largest school district in the nation. InterAct™ currently provides 39,000 teachers, administrators and staff, and 11,500 students with advanced email capabilities along with a comprehensive set of tools for online collaboration, document sharing and social networking within a secure, managed environment.

Statistics

10,500,000 messages per month/350,000 messages per day
 126,000,000 messages per year
 4,500,000 logins per month
 45,000 users (faculty, administrators, staff, students)
 341 active school conferences

The system is managed by system administrators and technicians within the Clark County School District. The Public Education Foundation continues to pay the annual licensing fees.

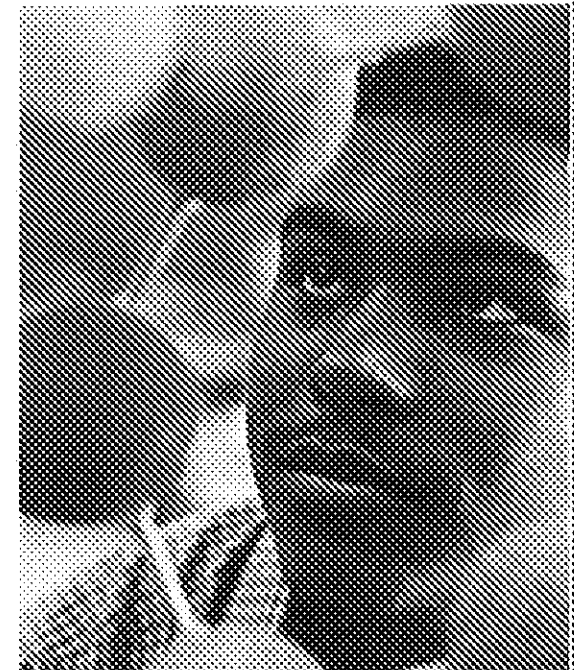
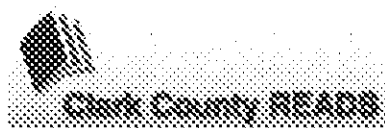

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[Centers of Excellence](#)
[WW Learning Connection](#)


EXHIBIT 6

CENTER FOR JUSTICE AND CONSTITUTIONAL LITIGATION

At the Nevada Policy Research Institute

February 25, 2013

Carlos McDade, General Counsel
Clark County School District
5100 West Sahara Avenue
Las Vegas, NV 89146

U.S.P.S. Certified Mail No. 7010 1670 0001 4304 9634

RE: Final Attempt to Avoid Court Action on Nevada Public Records Act Request

Dear Mr. McDade,

As you are aware, on June 11, 2012, the Nevada Policy Research Institute ("NPRI") requested the following records:

- E-mail directory of all Clark County School District teachers.

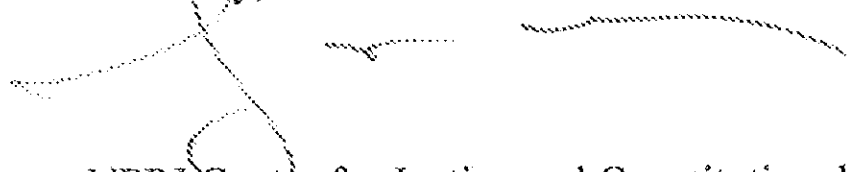
As of this date, you have failed to satisfy the aforementioned request for reasons NPRI believes to be inconsistent with NRS 239, the Nevada Public Records Act ("NPRA"). (See your letter, dated July 3, 2012, enclosed).

As a reminder, "[a] person may request a copy of a public record in any medium in which the public record is immediately available" and "[a]n officer, employee or agent of a governmental entity who has legal custody or control of a public record *shall not* refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium." NRS 239.010(4) (emphasis added).

Recent Nevada Supreme Court authority re-affirms that, under the NPRA, access to public records "must be construed liberally" and that restrictions on access "must be construed narrowly." *Reno Newspapers, Inc. v. Gibbons*, 266 P.3d 623, 628 (Nev. 2011).

In accordance with the NPRA, NPRI hereby renews its request for the aforementioned documents to be completed within five business days as provided for by NRS 239.0107(1), so as to preclude an action with the district court and imposition of attorney's fees pursuant to NRS 239.011.

Sincerely,



NPRI Center for Justice and Constitutional Litigation
Joseph F. Becker, Esq., Chief Legal Officer

Enc.

cc: The Public Education Foundation
The Nevada Public Education Foundation

SENDER: COMPLETE THIS SECTION		COMPLETE THIS SECTION ON DELIVERY	
<p> <input checked="" type="checkbox"/> Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired. <input checked="" type="checkbox"/> Print your name and address on the reverse so that we can return the card to you. <input checked="" type="checkbox"/> Attach this card to the back of the mailpiece, or on the front if space permits. </p>		<p>A. Signature X <i>S. Fuller</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>	
<p>1. Article Addressed to: <i>Carlos M. Wade, Gen. Counsel</i> <i>CCSD</i> <i>5100 West Sahara Ave.</i> <i>Las Vegas, NV 89146</i></p>		<p>B. Received by (Printed Name)</p>	<p>C. Date of Delivery</p>
<p>2. Article Number (Transfer from service label) 7010 1670 0001 4304 9634</p>		<p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes If YES, enter delivery address below: <input checked="" type="checkbox"/> No</p>	
		<p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p>	
		<p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>	

PS Form 3811, February 2004 Domestic Return Receipt 102595-02-M-1

U.S. Postal Service
CERTIFIED MAIL RECEIPT
(Purchase Mail Only. No Return Receipts Provided)

7010 1670 0001 4304 9634

LAS VEGAS NV 89146

Postage	\$ 0.66	0640
Certified Fee	\$3.10	09
Return Receipt Fee (Indorsement Required)	\$2.55	Postmark Here
Restricted Delivery Fee (Indorsement Required)	\$0.00	
Total Postage & Fees	\$ 6.31	02/25/2013

CCSD
5100 West Sahara Ave.
Las Vegas, NV 89146

CENTER FOR JUSTICE AND CONSTITUTIONAL LITIGATION

At the Nevada Policy Research Institute

February 25, 2013

Chanda Cook
The Nevada Public Education Foundation
9890 S. Maryland Parkway, Suite 243
Las Vegas, Nevada 89183

U.S.P.S. Certified Mail No. 7010 1670 0001 4304 9627

RE: Final Attempt to Avoid Court Action on Nevada Public Records Act Request

Dear Ms. Cook,

In a letter dated July 3, 2012, Clark County School District indicated that your organization was in some way responsible for maintaining the e-mail address list of Clark County School District employees. And, as you are aware, on February 4, 2013, the Nevada Policy Research Institute ("NPRI") requested the following records:

- E-mail directory of all Clark County School District teachers.

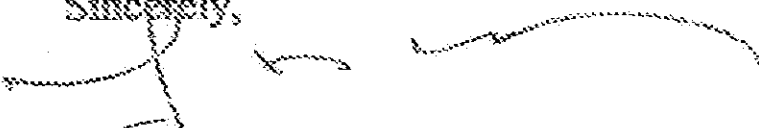
As of this date, you have neither acknowledged nor satisfied the aforementioned request in violation of NRS § 239, the Nevada Public Records Act ("NPRA").

As a reminder, "[a] person may request a copy of a public record in any medium in which the public record is immediately available" and "[a]n officer, employee or agent of a governmental entity who has legal custody or control of a public record *shall not* refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium." NRS 239.010(4) (emphasis added). Under NRS 239.005(4)(d), your organization is defined as such a "government entity" subject to this statute.

Recent Nevada Supreme Court authority re-affirms that, under the NPRA, access to public records "must be construed liberally" and that restrictions on access "must be construed narrowly." *Reno Newspapers, Inc. v. Gibbons*, 266 P.3d 623, 628 (Nev. 2011).

In accordance with the NPRA, NPRI hereby renews its request for the aforementioned documents to be completed within five business days as provided for by NRS 239.0107(1), so as to preclude an action with the district court and imposition of attorney's fees pursuant to NRS 239.011.

Sincerely,


NPRI Center for Justice and Constitutional Litigation
Joseph F. Becker, Esq., Chief Legal Officer

Enc.

cc: Clark County School District
The Public Education Foundation

1225 Westfield Avenue, Suite 7 | Reno, NV 89509
Phone: (775) 636-7703 | Fax: (775) 201-0225 | Email: cjcl@npri.org

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1. Article Addressed to: <i>Chanda Cook</i> <i>The NV Public Educ. Assoc.</i> <i>9890 S. Maryland Parkway</i> <i>Suite 243</i> <i>Las Vegas, NV 89183</i>		3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes	
2. Article Number (Transfer from service label) <i>7010 1670 0001 4304 9627</i>			

CENTER FOR JUSTICE AND CONSTITUTIONAL LITIGATION

At the Nevada Policy Research Institute

February 25, 2013

Michael Campbell
The Public Education Foundation
3360 West Sahara Ave., Suite 160
Las Vegas, NV 89102

U.S.P.S. Certified Mail No. 7010 1670 0001 4304 9580

RE: Final Attempt to Avoid Court Action on Nevada Public Records Act Request

Dear Mr. Campbell,

In a letter dated July 3, 2012, Clark County School District indicated that the InterAct license holder was in some way responsible for maintaining the e-mail address list of Clark County School District employees. And, as you are aware, on February 19, 2013, the Nevada Policy Research Institute ("NPRI") requested the following records:

- E-mail directory of all Clark County School District teachers.

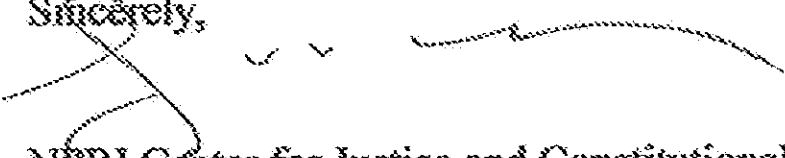
As of this date, you have not satisfied the aforementioned request in violation of NRS § 239, the Nevada Public Records Act ("NPRA").

As a reminder, "[a] person may request a copy of a public record in any medium in which the public record is immediately available" and "[a]n officer, employee or agent of a governmental entity who has legal custody or control of a public record *shall not* refuse to provide a copy of that public record in a readily available medium because the officer, employee or agent has already prepared or would prefer to provide the copy in a different medium." NRS 239.010(4) (emphasis added). Under NRS 239.005(4)(d), your organization is defined as such a "government entity" subject to this statute.

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Sincerely,


NPRI Center for Justice and Constitutional Litigation
Joseph F. Becker, Esq., Chief Legal Officer

Enc.

cc: Clark County School District
The Nevada Public Education Foundation

1225 Westfield Avenue, Suite 7 | Reno, NV 89509
Phone: (775) 636-7703 | Fax: (775) 201-0225 | Email: cjcl@npri.org

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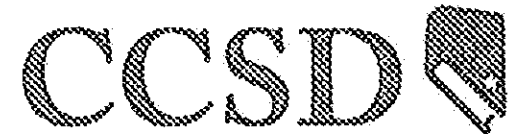
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<p>■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.</p> <p>■ Print your name and address on the reverse so that we can return the card to you.</p> <p>■ Attach this card to the back of the mailpiece, or on the front if space permits.</p> <p>1. Article Addressed to:</p> <p><i>Michael Campbell</i> <i>Public Educ. Foundation</i> <i>3360 West Sahara Ave.</i> <i>Suite 160</i> <i>Las Vegas, NV 89102</i></p> <p>2. Article Number (Transfer from service label)</p> <p><i>7010 1670 0001 4304 9580</i></p>	<p>A. Signature <i>[Signature]</i> <input checked="" type="checkbox"/> Agent <input type="checkbox"/> Addressee</p> <p>B. Received by (Printed Name) <i>Cheryl Miller</i> C. Date of Delivery <i>02-27-13</i></p> <p>D. Is delivery address different from item 1? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No If YES, enter delivery address below:</p> <p>3. Service Type <input checked="" type="checkbox"/> Certified Mail <input type="checkbox"/> Express Mail <input type="checkbox"/> Registered <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D.</p> <p>4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p>

EXHIBIT 7



5100 WEST SAHARA AVENUE • LAS VEGAS, NEVADA 89146 • TELEPHONE (702) 799-5000

**CLARK COUNTY
SCHOOL DISTRICT**

Via Email to: cjcl@npri.org
and Via U.S. Mail and Via Facsimile: (775) 201-0225

March 5, 2013

Mr. Joseph F. Becker
NPRI Center for Justice and Constitutional Litigation
1225 Westfield Avenue, Suite 7
Reno, NV 89509

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Dear Mr. Becker:

We are in receipt of your correspondence dated February 25, 2013, where you renewed your request for an "E-mail directory of all Clark County School District teachers." You also stated that this was the final attempt "to avoid court action" regarding your public records request. In light of the fact that you have previously demonstrated your ability to email thousands of our teachers through InterAct™, it is unfortunate that you feel the need to waste public resources litigating this issue.

Increased unofficial email traffic will create extra stress on the operation of our email system. The likely consequence will be increased costs for system maintenance. In this era of budget austerity, the District must protect the resources provided to us by the taxpayers.

As noted in the District's initial response dated July 3, 2012, the public records law does not require the disclosure of an "E-mail directory of all Clark County School District teachers" for several reasons. First, InterAct™ email addresses may be considered part of the employee's personnel records and must be safeguarded by the District as confidential information. See NRS 239.010(1); NRS 603A.210; NRS 386.350; CCSD Regulation 1212; CCSD Regulation 4311. Second, the email directory falls within the definition of a non-record. See NAC 239.051. Third, even if the information were to be construed as a public record, it is the District's position that a court would not require disclosure under the Donrey balancing test. See NRS 239.010(1); Donrey of Nevada, Inc. v. Bradshaw, 106 Nev. 630 (1990); Reno Newspapers, Inc. v. Haley, 234 P.3d 922 (2010).

Should this matter proceed to litigation, the District reserves the right to raise the aforementioned arguments as well as any other relevant legal theories in support of its position.

Sincerely,

Carlos L. McDade
General Counsel

EXHIBIT 8



The Public Education Foundation

Because young minds matter

March 5, 2013

Joseph F. Becker, Esq.
Chief Legal Officer
NPRI Center for Justice and Constitutional Litigation
1225 Westfield Ave., Suite 7
Reno, NV 89509

Dear Mr. Becker:

Your Feb. 25, 2013 letter, which arrived in the offices of The Public Education Foundation (The Foundation) on Feb. 27, requested a list of email addresses for every teacher in the Clark County School District (CCSD). You wrote: "In a letter dated July 3, 2012, Clark County School District indicated that the InterAct license holder was in some way responsible for maintaining the e-mail address list of Clark County School District employees."

As background, I'd like to provide additional information that should clarify a number of issues involving NPRI's request:

On Feb. 19, 2013, in an email to Judi Steele, president of The Foundation, Victor Joecks, who is NPRI's communications director, requested a list of email addresses for every CCSD teacher. In a Feb. 21, 2013 response to Mr. Joecks, I noted that in the early 1990s, The Foundation purchased First Class licenses for Interact. The Foundation, in partnership with CCSD, developed InterAct. More than a decade ago, CCSD assumed administrative control of Interact. Due to this arrangement, I informed Mr. Joecks that The Foundation doesn't have access to any administrative rights.

(The Foundation also would like to further explain that in 2001, when CCSD assumed the administrative rights to InterAct -- and which was mutually agreed upon by The Foundation and CCSD -- The Foundation left the licenses with CCSD.)

After receiving on Feb. 27 a follow-up letter from NPRI again seeking the email address list of CCSD teachers, on Feb. 28 The Foundation requested that CCSD's general counsel, Carlos McDade, provide to The Foundation the InterAct email addresses of all teachers.

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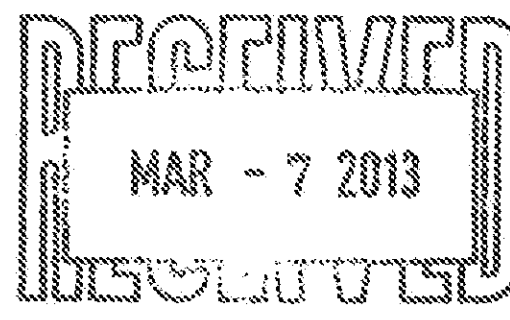
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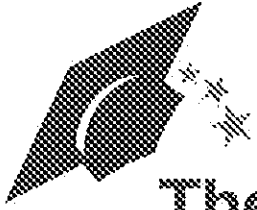
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www.thepef.org

NPRI Post-Computer File





The Public Education Foundation

Because young minds matter

Subsequently, on March 4, 2013, Mr. McDade emailed a response to Ms. Steele, writing: "... The District appreciates the role of the Foundation in the development of InterAct™. As you are aware, the District is currently solely administering the InterAct™ system. Therefore, the Foundation has no need to know the requested addresses."

The Foundation did partner with CCSD in developing InterAct, and The Foundation did fund the project. The Foundation is in favor of the InterAct program, but The Foundation doesn't administer it and doesn't have the information being sought by NPRI.

Sincerely,

Michael Campbell
Vice President of Communications
The Public Education Foundation

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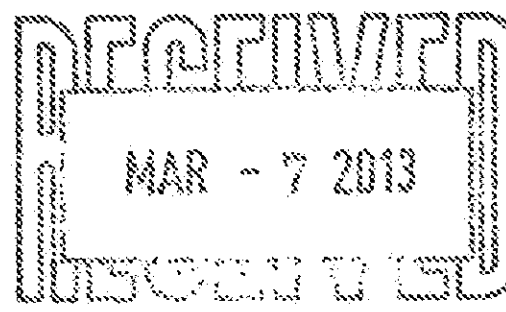
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SCHOOL DISTRICT

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March 4, 2013

Judi Steele
President and Chief Professional Officer
Clark County Public Education Foundation
3360 W. Sahara Avenue
Las Vegas, NV 89102

Dear Ms. Steele:

This letter responds to your telephonic request on February 28, 2013, with regard to whether the District would provide the InterAct™ email addresses of every licensed employee in the District to the Clark County Public Education Foundation (the "Foundation"). The District appreciates the role of the Foundation in the development of InterAct™. As you are aware, the District is currently solely administering the InterAct™ system. Therefore, the Foundation has no need to know the requested addresses.

Sincerely,

Carlos L. McDade
General Counsel

clm:eh

c: Dwight D. Jones, Superintendent