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5

6 **UNITED STATES DISTRICT COURT**
7 **DISTRICT OF NEVADA**

8 C.M., individually and as parent to D.M.,
B.C., individually and as parent to C.C.,
9 L.C., individually and as parent to C.C.,
D.C., individually and as parent to R.C.,
10 C.S., individually and as parent to D.S.,
L.K., individually and as parent to M.K.,
11 M.W., individually and as parent to A.W.,
12 B.C., individually and as a parent to A.C.,

13 on behalf of themselves and all other
similarly situated,

14
15 **Plaintiffs,**

16 vs.

17 JESUS JARA, individually and personally and in
his official capacity, DUSTIN MANCL,
18 individually and personally and in his official
capacity, TRUSTEES OF THE CLARK
19 COUNTY SCHOOL DISTRICT, individually and
personally and in each of their official capacities,
20 and CLARK COUNTY SCHOOL DISTRICT;
21 and DOES 1 through 100; ROE ENTITIES 11
through 200, inclusive,

22 **Defendants.**
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CASE NO.:
DEPT NO.:

CLASS ACTION COMPLAINT

- (1) Violation of Civil Rights (42 U.S.C. § 1983) Section 504 Rehabilitation Act (29 U.S.C. § 701)
- (2) Violation of Civil Rights (42 U.S.C. § 1983) IDEA (20 U.S.C. §§1400, 1414)
- (3) Violation of Nevada Open Meeting Laws N.R.S. 241
- (4) Violation of Administrative Procedure Act Abuse of Due Process
- (5) Conspiracy
- (6) State Tort - Unjust Enrichment
- (7) Violation of Civil Rights
- (8) Unconstitutional Invasion of Privacy
- (9) State Tort of Negligence
- (10) Professional Negligence
- (11) Unjust Enrichment/Personal Liability pursuant to 42 U.S.C.S. § 1983
- (12) Violation of COPA 47 USC § 231
- (13) Violation of COPPA 15 USC § 6501-6506
- (14) Request for Declaratory Relief

**PRAYER FOR RELIEF DEMAND
FOR JURY TRIAL**

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1 COMES NOW Plaintiffs, C.S., W.G., D.T., and M.K., representative of their class, by and
2 through their attorneys of record, Bob Sweetin, Esq., with the firm Davison Van Cleve, to pray this
3 Court for equitable and legal relief from the illegal activity and chronic apathy for and abuse of the
4 stewardship of the education of Nevada’s children, negligent disregard for the needs of those
5 children with special needs, prevention of public comment during this time of crisis, and conspiracy
6 perpetuated by the leadership of CCSD to squander half of the State of Nevada’s budget, and plead
7 as follows:

8 1. CCSD has tax-payer granted stewardship over more than 350,000 students, is made
9 of thousands of teachers and administrators who care about children, education, and the future of
10 Nevada.

11 2. There are thousands of teachers and civic servants who sacrifice for the good and
12 benefit of Nevadan children. This complaint is meant to support and protect the parent/child,
13 student/teacher relationships that benefit Nevadans. Despite the civil service and heartfelt
14 commitment of thousands, the policies and practices implemented by Defendants JARA and
15 MANCL, and other unnamed administrators and CCSD employees have hurt Nevadans, damaged
16 families, and made it difficult for parents to secure child-care, especially for special needs children.¹

17 3. At all times relevant herein, Plaintiffs, C.M., B.C., L.C., D.C., C.S., and L.K.,
18 (hereinafter “Plaintiffs”) are and were minor residents and students in Las Vegas, Clark County,
19 Nevada.

20 4. Plaintiffs C.M., B.C., L.C., D.C., C.S., and L.K., (“Guardians”) bring this Complaint
21 on behalf of themselves and on behalf of their wards D.M., C.C., C.C., R.C., D.S., M.K. (the
22 “Students” and collectively with Guardians, the “Plaintiffs”) and on behalf of Nevada children and
23 young adults (“Declaratory Relief Class” otherwise “DRC”) and (“Compensatory Education Sub-
24 Class” otherwise “CESC”) eligible for protection under the Individuals with Disabilities Education
25 Act (20 U.S.C. §1400 et seq.) (“IDEA”) and/or Section 504 of the Rehabilitations Act of 1974
26 (“Section 504”) through an Individualized Education Program (“IEP”) and/or Modification Plan
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28 ¹ <https://www.reviewjournal.com/local/education/parents-of-ccsd-students-struggling-with-child-care-2095857/>

1 (“MP”) and under the theory of a ‘Class of One’ claim.

2 5. Defendants are required to implement Students’ IEPs in order to meet its legal
3 obligations to provide Students a free appropriate public education (“FAPE”) but are failing to do
4 so in violation of federal and state laws.

5 6. Defendants and their leadership have publicly declared that CCSD will *not* be
6 funding or implementing IEPs with the necessary one-on-one interaction², even though other
7 students will be permitted to virtually attend school starting this month, and despite receiving state
8 and federal funds for IEPs, and clear legal requirements to do so.

9 7. As such CCSD has either ignored or instructed parents with special need children
10 that their only course of educational relief is to use the same screen based, distance learning
11 program as other children.

12 8. Screen time is *not* optimal education for children; with many parents struggling to
13 limit their children’s screen time and the resulting lethargy, apathy, and deleterious health effects.
14 Screen time-based education is specifically problematic for children with special needs; especially
15 those who cannot hear, or see, or have learning disabilities. Countless studies have emerged and
16 articles have been written that screen time is often highly addictive, harmful, and increases ADHD
17 in developing brains, and disrupts or interferes with educational paths – this is especially true for
18 special needs children.³

19 9. CCSD has undergone independent audits/evaluations, including by the DOE, and
20 released studies and rankings that found that screen based distant learning education for students in
21 K-12 is ineffectual, causes harm, and is not conducive to children’s educational needs; this is
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23 ² <https://www.reviewjournal.com/local/education/parents-fear-coronavirus-put-ccsd-special-ed-students-in-deep-hole-2031911/>; see also <https://www.8newsnow.com/news/local-news/parents-share-concerns-after-ccsd-plan-doesnt-address-special-education/>; see also <https://news3lv.com/news/local/families-of-kids-with-special-needs-worried-full-distance-learning-will-put-them-behind>; see also <https://thenevadaindependent.com/article/the-clark-county-school-district-reopening-plan-is-not-adequate>

24
25 ³ Studies include those referenced here: <https://www.fatherly.com/health-science/screen-time-hurts-kids-dopamine-addiction/#:~:text=Research%20shows%20that%20children's%20brains,to%20discover%20what%20that%20means.&text=If%20iPads%2C%20smartphones%2C%20and%20screens,to%20a%20child's%20developing%20brain>;
26 citing government resources and studies including: <https://pubmed.ncbi.nlm.nih.gov/14702261/>; see also <https://pubmed.ncbi.nlm.nih.gov/16770765/>; see also articles noting that tech leaders like Apple’s Steve Jobs and
27 Microsoft’s Bill Gates would not let their children play with screens: see <https://www.businessinsider.com/heres-why-steve-jobs-never-let-his-kids-use-ipad-apple-social-media-2017-3>; see also
28 <https://www.nytimes.com/2014/09/11/fashion/steve-jobs-apple-was-a-low-tech-parent.html>

1 especially true for special needs children like developmentally impaired, or the blind or the deaf.⁴

2 10. Defendants' actions have caused and continue to cause harm to Plaintiffs by
3 materially failing to provide FAPE and by creating or condoning the disparate impact caused by
4 such action against Plaintiffs and their children.

5 11. Upon information and belief, CCSD officials have actively prevented discussion
6 regarding and implementation of distance-learning opportunities for special needs students;
7 preventing the benefit of thousands of IEPs in August of 2020, and prohibiting parents from
8 adequately planning for their child's educational needs.

9 12. CCSD was aware that it would not return to in-person learning long before the
10 school year commenced, and actively worked to prevent a return to school. Despite that knowledge
11 and unlawful action, hundreds of employees were either actively directed, or disallowed from
12 amending or resolving alternative educational paths for special needs students.

13 13. CCSD intentionally planned, through its Board of Trustees and superintendents
14 JARA and MANCL, to prohibit schools from allowing in-person education for special needs
15 students in direct violation of IDEA requirements, and Federal and State law, even though social
16 distancing objectives set forth by the Governor of Nevada permit such one-on-one interaction.

17 14. CCSD focused its tax-payer supported time, energy, effort and resources into
18 planning weak educational opportunities for middle-class, white, non-learning disabled, English-
19 speaking students, with access to the internet, while intentionally disregarding and ignoring the
20 concerns of minority, learning-disabled, or non-English speaking students.

21 15. Thousands of Nevada students have experienced a material failure of their
22 educational and/or related services, including but not limited to those specified in their IEPs
23 and/or MPs.

24 16. Students have suffered lost educational opportunities where the Defendants have
25 materially failed to implement their IEP's and/or MPs.

26 17. Defendants have discriminated and continues to discriminate against Students based
27 on their disability by depriving them of the services and supports deemed necessary for FAPE in
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⁴ <https://www.reviewjournal.com/local/education/nevada-virtual-academy-to-end-elementary-program/>

1 their IEPs and/or MPs while providing students educational services to students who are ineligible
2 for Section 504 and/or IDEA protections.

3 18. Defendants continue to cause harm to Plaintiffs by its actions and inactions.

4 19. As a result of Defendants' wantonly discriminatory and/or illegal policies, tens of
5 thousands of Students are being deprived of critical services in violation of their civil and statutory
6 rights.

7 20. Plaintiffs seeks declaratory relief which will allow Plaintiffs the right to pursue
8 individual remedies for compensatory education in collateral actions against Defendants using
9 collateral estoppel to efficiently seek relief for Plaintiffs and the numerous DRC members.

10 21. Plaintiffs also seek an order directing Defendants to develop an equitable means of
11 remedying Plaintiffs' and DRC and/or CESC members lost educational opportunity by establishing
12 criterion and procedures that involve, among other things, Plaintiffs', DRC and CESC Guardians,
13 data, standardization, categorization and formula to efficiently and fairly apply said determination.

14 **JURISDICTION AND VENUE**

15 22. This Court has jurisdiction over this case under 28 U.S.C. §1331 (federal question)
16 and 28 U.S.C. §1343 (civil rights).

17 23. Venue is proper in the District of Nevada pursuant to 28 U.S.C. §1391(b) because
18 the events giving rise to Plaintiff's claims all occurred in this District, and continue herein.

19 24. Administrative remedies have been exhausted and/or cannot be exhausted because
20 potential remedy has been blocked and prevented by both the DOE and CCSD.

21 25. DOE and CCSD and JARA and NACL have violated Nevada Open meeting laws
22 (NRS 241) which require public access, and the opportunity to be heard during public meetings.

23 26. Since as early as April 2020, JARA and NACL, and CCSD has consistently denied
24 public access to its various deliberative, decision making, rule-making, and policy
25 creation/implementation meetings.

26 27. CCSD has refused to allow parents or students, or their representatives attend
27 meetings since as early as April 2020, and has further disallowed participation through public
28 comment in any meaningful way, including certain situations where public comments were not

1 allowed at all.

2 28. CCSD continues to refuse to allow any public comment during hearings. Despite
3 abundant technological solutions that allow live public comment, CCSD has instead used the
4 excuse of the COVID-19 pandemic to hold farcical, expedited meetings where public comment is
5 ignored or attached to meeting minutes *after* the meeting has been held. This allows for unlimited,
6 hours-long pontifications by CCSD trustees, *without public comment*.

7 29. Parents have resorted to honking their car horns outside of CCSD's administrative
8 buildings during hearings, in protest of their lack of access and CCSD's refusal to entertain public
9 comment during hearings.

10 30. NRS 241 does *not* permit alternatives to public comment without at least some
11 dedicated time to allow audible public comment *during* the meetings. CCSD's has prevented such
12 real time discussion. CCSD's merely allowing for "online review" is not an accepted practice of
13 public comment and is not provided for in any directive of the Governor during the COVID-19
14 pandemic.

15 31. NRS 241 prohibits such blatant and self-serving procedural abuse.

16 32. The result of such abuse includes CCSD policies that border on absurdity, including
17 decisions to prohibit students for gathering for education, but still gathering and spending hours on
18 busses each day to go back and forth to school for lunch.

19 33. Such CCSD edicts openly ignore the Administrative Procedure Act, and federal law
20 and belie the lack of leadership or integrity of CCSD administration.

21 34. Additionally, CCSD is opening public school on August 24, 2020 in a digital format
22 only, despite consistent public outcry, and studies (including by CCSD) that distant learning
23 educational offerings are entirely ineffectual and damaging to developing minds for grades K-12.

24 35. Given these facts, the history, and pending damage, CCSD has made it clear that
25 further administrative pleas are futile, further exhaustion is impossible and will only delay
26 resolution, and perpetuate the damage caused by CCSD's policies and leadership.

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THE PARTIES

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2 36. Plaintiffs bring this action on behalf of themselves and in a representative capacity
3 on behalf of *all* eligible Nevada children and young adults between the ages of 3 and 22; but
4 especially those where there was a material failure to implement their IEP and/or MP at times
5 during the spring of 2020, or where there was disparate educational impact caused by Defendants'
6 policies), and on behalf of their parents and/or Guardians; DRC.

7 37. Plaintiffs also bring this action on behalf of a sub-class of members of the DRC
8 that have sustained lost educational opportunity and/or financial expense and/or obligations due to
9 the allegations made against Defendant; CESC.

10 38. Defendant JESUS JARA is the current Superintendent of the Clark County School
11 District.

12 39. He is sued in his official capacity, and in his individual capacity.

13 40. Defendant DUSTIN MANCL is a current Region Superintendent of the Clark
14 County School District.

15 41. He is sued in his official capacity, and in his individual capacity.

16 42. State of Nevada, Department of Education (“DOE” also “Defendant”).

17 43. Clark County School District (“CCSD” also “Defendant”).

18 44. CCSD is the government agency responsible for administration of the public
19 education system and Part B of the IDEA and Section 504, in Clark County Nevada.

20 45. Defendants have acted and continue to act at all times relevant in their official
21 capacity under color of state law.

PLAINTIFFS’ FACTUAL ALLEGATIONS

22
23 46. FAPE is meant to provide eligible student’s with access to a publicly funded
24 education.

25 47. Under the IDEA, FAPE has been described as a “basic floor of opportunity” and
26 more recently an education reasonably calculated to enable them to “make progress appropriate in
27 light of the child’s circumstances.”

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1 48. Under the IDEA, FAPE is defined as an educational program that is individualized
2 to a specific child, that meets that child's unique needs, provides access to the general curriculum,
3 meets the grade-level standards established by the state, and from which the child receives
4 educational benefit.

5 49. FAPE, under the IDEA, must be provided in conformity with the IEP required
6 under section 1414(d) of the IDEA.

7 50. A student's IEP is designed to provide an eligible child with meaningful access to a
8 public education.

9 51. Under Section 504, FAPE consists of the provision of regular or special education
10 and related aids and services designed to meet the student's individual educational needs as
11 adequately as the needs of non-disabled students are met.

12 52. A MP provides a student eligible under Section 504 with the supports necessary to
13 create a level of parity of access with non-disable students' access to their education.

14 53. If a student is receiving extended school year ("ESY") services they have met
15 additional eligibility standards, in addition to those necessary to be eligible under the IDEA.

16 54. CCSD materially failed to implement spring 2020 ESY services and supporting
17 programs for Students who were eligible for these services.

18 55. CCSD materially failed to implement school year IEP services and/or supports for
19 Students who are eligible for IDEA protections and have an IEP, since on or about March of 2020;
20 and declared as the go-forward intent of CCSD in August of 2020.

21 56. CCSD materially failed to implement MPs services and/or supports for Students
22 who are eligible for Section 504 protections and have an MP, since about March of 2020.

23 57. Defendants are required to provide Clark County Nevada students eligible under
24 the IDEA with FAPE.

25 58. Defendants receive federal funds and distribute those funds to CCSD and all
26 Defendants are required to provide meaningful access to a public education by the provision of
27 regular or special education and related aids and services designed to meet the student's individual
28 educational needs as adequately as the needs of non-disabled students are met with disabilities,

1 pursuant to Section 504 of the Rehabilitation Act. 29 U.S.C. § 701 et seq.

2 59. DOE and CCSD's failure to implement each eligible student's IEP while attempting
3 to provide educational access to students who are not eligible under the IDEA and/or Section 504
4 is disability-based discrimination.

5 60. Defendants' actions and inactions have failed and continue to fail to provide
6 children and young adults with the mandated access the law requires.

7 61. Defendants' failures to coordinate and ensure FAPE is being provided to eligible
8 students is a systemic failure of the State, resulting in thousands of violations of civil rights day after
9 day.

10 62. A determination by this Court is needed so that Plaintiffs can seek individual
11 determinations of the type and amount of compensatory education, and proscriptive or prescriptive
12 relief that is equitable and justified.

13 63. Plaintiffs bring this action to challenge the State's systemic policies, bloated school
14 district administration, intentional misconduct, and negligent policies (including those regarding
15 cyber security, child safety, and provisioning of educational services for children) that violate their
16 rights and those of the DRC; no exhaustion of remedies is required.

17 64. Plaintiffs, unless otherwise noted are eligible students under the IDEA and/or
18 Section 504. All plaintiffs had or should have had an IEP that provided for in-class room physical
19 education. CCSD and the DOE have materially failed to provide such a learning experience despite
20 knowing months in advance of their inability or apathy to do so. Such decisions were made by
21 CCSD without parental consultation or advisement in all cases.

22 65. C.M. is the legal guardian of D.M. The DOE and CCSD have materially failed to
23 implement C.M.'s IEP since on or about March of 2020. D.M. has experienced academic and
24 educationally related regression, areas of concern addressed in his IEP. D.M. was eligible for ESY
25 services, but CCSD refused and materially failed to implement those services. D.M. sustained lost
26 educational opportunity where the DOE has materially failed to implement their IEP's and/or
27 MPs. D.M. has been disparately impacted by the educational policies of Defendant.

28 66. B.C. is the legal guardian of C.C. The DOE and CCSD have materially failed to

1 implement C.C.'s IEP since on or about March of 2020. C.C. has experienced academic and
2 educationally related regression, areas of concern addressed in his IEP. C.C. was eligible for ESY
3 services, but CCSD refused and materially failed to implement those services. C.C. sustained lost
4 educational opportunity where the DOE has materially failed to implement their IEP's and/or
5 MPs. C.C. has been disparately impacted by the educational policies of Defendant.

6 67. L.C. is the legal guardian of C.C. The DOE and CCSD have materially failed to
7 implement C.C.'s IEP since on or about March of 2020. D.M. has experienced academic and
8 educationally related regression, areas of concern addressed in his IEP. C.C. was eligible for ESY
9 services, but CCSD refused and materially failed to implement those services. C.C. sustained lost
10 educational opportunity where the DOE has materially failed to implement their IEP's and/or
11 MPs. C.C. has been disparately impacted by the educational policies of Defendant.

12 68. D.C. is the legal guardian of C.C. The DOE and CCSD have materially failed to
13 implement C.C.'s IEP since on or about March of 2020. D.M. has experienced academic and
14 educationally related regression, areas of concern addressed in his IEP. C.C. was eligible for ESY
15 services, but CCSD refused and materially failed to implement those services. C.C. sustained lost
16 educational opportunity where the DOE has materially failed to implement their IEP's and/or
17 MPs. C.C. has been disparately impacted by the educational policies of Defendant.

18 69. C.S. is the legal guardian of D.S. The DOE and CCSD have materially failed to
19 implement D.S.'s IEP since on or about March of 2020. D.M. has experienced academic and
20 educationally related regression, areas of concern addressed in his IEP. D.S. was eligible for ESY
21 services, but CCSD refused and materially failed to implement those services. D.S. sustained lost
22 educational opportunity where the DOE has materially failed to implement their IEP's and/or
23 MPs. D.S. has been disparately impacted by the educational policies of Defendant.

24 70. L.K. is the legal guardian of M.K. The DOE and CCSD have materially failed to
25 implement M.K.'s IEP since on or about March of 2020. D.M. has experienced academic and
26 educationally related regression, areas of concern addressed in his IEP. M.K. was eligible for ESY
27 services, but CCSD refused and materially failed to implement those services. M.K. sustained lost
28 educational opportunity where the DOE has materially failed to implement their IEP's and/or

1 MPs. M.K. has been disparately impacted by the educational policies of Defendant.

2 **COUNT I**

3 **VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983) SECTION 504**

4 **REHABILITATION ACT (29 U.S.C. § 701)**

5 71. Plaintiffs repeat, reallege, and incorporate by reference herein all preceding
6 paragraphs as though fully set forth herein.

7 72. Plaintiffs are qualified individuals with a disability under Section 504 of the
8 Rehabilitation Act in that their disabilities are a physical or mental impairment that substantially
9 limits one or more major life activities.

10 73. Defendants receive federal financial assistance for the relevant programs.

11 74. Defendants violated the civil rights of these Plaintiffs secured by Section 504 by
12 failing implement their IEPs or Section 504 MPs while providing educational services to students
13 that are ineligible under the IDEA and/or Section 504.

14 75. Defendants violated the civil rights Plaintiffs eligible or with eligible wards under
15 Section 504 by utilizing criteria and methods of administration of educational services that subject
16 them to discriminatory effect.

17 76. Defendants violated the civil rights of these constituents secured by Section 504 by
18 not affording them as adequately as afforded non-disabled students.

19 77. Defendants actively worked to obtain solutions to distance learning for special
20 needs students, while completely ignoring the needs of special needs students.

21 78. Defendants violated the civil rights Students secured by Section 504 by not making
22 reasonable accommodations, and denying meaningful access to a public benefit, where that benefit
23 was provided to non-disabled Students.

24 79. As the result of the DOE policies, Students' access to educational services has been
25 impacted more significantly then their non-disabled peers.

26 80. Plaintiffs are suffering ongoing harm by Defendants violations.

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COUNT II

VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)

IDEA (20 U.S.C. §§1400, 1414)

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4 81. As the result of the Defendants policies, Students’ access to educational services has
5 been impacted more significantly than their non-disabled peers.

6 82. Students’ access to educational services are defined by their IEPs, which the DOE
7 has materially failed to implement, while providing access to educational services for non-disabled
8 students.

9 83. Defendants have engaged in unilateral decision making related to IEP’s, prohibiting
10 parental participation, or in the alternative, failing to provide any method for parental participation,
11 as it relates to educational placement of students with disabilities, violating parents fundamental
12 rights and the rights of their children.

COUNT III

VIOLATION OF NEVADA OPEN MEETING LAWS

N.R.S. 241

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16 84. Nevada Open meeting laws (NRS 241) require public access, and the opportunity to
17 be heard during public meetings.

18 85. Since as early as April 2020, CCSD has consistently denied public access to its
19 various deliberative, decision making, rule making, and policy creation/implementation meetings.

20 86. JARA, NACL, and CCSD have refused to allow parents or students, or their
21 representatives attend meetings since as early as April 2020, and has further disallowed participation
22 through public comment in any meaningful way, including certain situations where public
23 comments was not provided at all.

24 87. JARA, NACL, and CCSD continue to refuse to allow parents or students, or their
25 representatives attend meetings since as early as April 2020, or participate in any meaningful way
26 based on concerns related to COVID-19.

27 88. Rather than allowing for reasonable alternatives or accommodations for public
28 comment, CCSD has instead used the opportunity presented by the COVID-19 pandemic to hold

1 expedited meetings where public comment is either ignored or attached to meeting minutes after
2 the meeting has been held. This allows for unlimited, hours-long discussion by elected trustees,
3 with no public comment.

4 89. NRS 241 allows for no such practice.

5 90. JARA, NACL, and CCSD have made decisions that materially impact all Nevadans,
6 and squandered Nevada tax payer funds, without respect of the rule of law, or in compliance with
7 Nevada's Open Meeting Laws.

8 91. JARA, NACL, and CCSD have failed to take into consider the necessary
9 accommodations for all children, let alone special needs children.

10 92. As a token of such disregard and abuse, and the "group think" that arises when
11 parents fundamental rights are violated and prevented from participating in the regulatory process,
12 JARA, NACL, and CCSD have failed to update their educational device policies, even though now
13 all education will occur over CCSD issued devices.

14 **COUNT IV**

15 **VIOLATION OF ADMINISTRATIVE PROCEDURE ACT**

16 **AND ABUSE OF DUE PROCESS**

17 93. Defendants have implemented rules and interpreted regulations under the pretense
18 of open meeting law, without compliance with the constitutional requirements, of due process, and
19 in violation of the Administrative Procedure Act.

20 94. Plaintiffs have attempted and/or been prevented from exhausting their
21 administrative remedies, as Defendants have simply refused to respond to requests or petitions for
22 relief.

23 95. Defendants JARA and MANCL have refused to allow parents or students to
24 participate in any regulatory or deliberative process regarding their decisions, promulgation of
25 regulations, or rules, that affect the Students.

26 96. Although the State of Nevada has opened restaurants, and provided safety
27 guidelines to permit socially distanced gatherings, Defendants have *prevented* all students and parents
28 including the Plaintiffs or their representatives from engaging in any public meetings.

1 97. Defendants have made it impossible for Plaintiffs to seek or obtain any
2 administrative remedy, rendering the possibility of exhaustion of administrative remedies
3 unreachable.

4 COUNT V

5 CONSPIRACY

6 98. Defendant JARA and Defendant MANCL, and other DOES and ROES have
7 actively conspired to prevent Clark County School District students from returning to school, to
8 avoid the responsibilities of their administrative duties, while still receiving sizable salaries from
9 Nevada taxpayers.

10 99. CCSD is implementing online education for K-12, and repeatedly asking for more
11 funding, without providing similar service.

12 100. Such conduct is unjustified by the current pandemic, and discriminates against
13 children with working or single parents, and families without access to technology or online
14 capabilities.

15 101. On information and belief, to perpetuate this conspiracy, JARA, MANCL, and
16 others, led CCSD to order teachers to not teach their students, even online, during the quarantine,
17 to manipulate public perception and increase public pain over the lack of education.

18 102. JARA, MANCL, and CCSD directed administrators to provide false information to
19 School Organizational Teams related to Board of Trustee votes and direction, and actively
20 encouraged principals to participate in school organizational team meetings as district
21 representatives and prevent or ignore discussion of special needs students, thereby creating
22 intimidation and fear in school organizational team member operations and meetings.

23 103. This conduct was coordinated in conspiracy with JARA, MANCL and other CCSD
24 administrators, and staff, to prevent CCSD students from returning to school and avoid the
25 responsibilities of their administrative duties, while still receiving sizable salaries from Nevada
26 taxpayers.

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COUNT VI

UNJUST ENRICHMENT

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3 104. Clark County School District has long been criticized as rife with waste, fraud, and
4 corruption.

5 105. CCSD's budget "needs" erupted from \$15,000,000 in 2007 to now over
6 \$5,200,000,000 in 2019 (yes, that's \$5.2 billion).

7 106. This increase constitutes a 346.666% budget increase, for only an 18%⁵ total
8 population increase in Clark County.

9 107. This represents over half of the entire budget for the State of Nevada.

10 108. On good faith and belief, at least \$27,000,000 of the CCSD budget is
11 missing/unaccounted for, for the fiscal year of 2019. Such negligence is in the best case wasteful,
12 and in the worst-case criminal and/or systemic embezzlement and theft of tax payer funds.

13 109. Individuals engaging in such waste in corporate environments go to jail.

14 110. CCSD's leadership is responsible for this waste, starting with JARA and MANCL.

15 111. The global COVID-19 pandemic has severely limited tax revenue in Nevada,
16 making tax payer resources all the more sacred and precious for Nevada's economy.

17 112. Parents, especially single parents, parents with more than one child, and dual
18 working parents, have been forced to find educational opportunities for their children, all the while
19 continuing to pay taxes for education.

20 113. Defendants JARA and MANCL, and other DOES and ROES have been unjustly
21 enriched, collecting State funding from Nevada Tax Payers while refusing to and conspiring to
22 avoid their duty to provide educational services for which those tax funds are earmarked.

23 114. Nevada tax payers should be refunded the millions of dollars of property tax funds
24 they have paid to the state of Nevada.

25 115. Alternatively, property taxes should be enjoined until CCSD undergoes significant
26 reform to ensure *another* \$27,000,000 does not go missing, possibly finding its way into the pockets
27 of JARA and MANCL and others.

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⁵ Clark County's population grew from 1.85 million in 2007 to 2.267 million in 2019

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COUNT VII

VIOLATION OF CIVIL RIGHTS (42 U.S.C. § 1983)

'CLASS OF ONE' CLAIM

116. The DOE deprives Plaintiffs of equal protection under the color of state law in violation of 42 U.S.C. § 1983 by the disparate impact its actions have had on their access to educational services.

117. By using their color of authority, Defendants instructed employees to ignore the education of special-needs students, reasonable accommodations for such students, or discuss potential violations of IEPs with parents of students.

118. Such action justifies a “class of one” claim against Defendants.

COUNT VIII

UNCONSTITUTIONAL INVASION OF PRIVACY

119. The State and Federal Constitutions, as well as the Federal Education Records and Privacy Act (20 U.S.C. § 1232g; 34 CFR Part 99) prohibit invasion of student and educational record privacy.

120. The Defendants have laid out a plan to record children’s classes in the spirit of flexibility, but have failed to take precautions necessary to ensure that the recording of classes does not violate the privacy and FERPA related rights of the children and the parents being recorded.

121. Teachers have already voiced their concerns, yet Defendants’, true to their complete disregard for input from others, have continued undaunted despite these concerns.⁶

122. Such an invasion of privacy violates children and parents’ constitutional expectations of privacy, and poses serious cyber security, and safety risks for children.

123. The Defendants’ current plan risks a compound, multi-layered, wide-spread and ongoing unconstitutional invasion of privacy and should be enjoined via federal injunction.

124. Likewise, predominant use of devices issued by CCSD poses significant privacy risks to tracking by private corporations, exposing homes to malware and other cyber-attacks un-

⁶ https://www.fox5vegas.com/coronavirus/las-vegas-teachers-concerned-about-violating-students-privacy-during-distance-learning/article_4284b63c-e1e1-11ea-a292-7ba7ba1e198b.html

1 planned for by CCSD, and increases the likelihood of cyber-crime, voyeurism, child abuse and a
2 host of other ills.

3 **COUNT IX**

4 **STATE TORT OF NEGLIGENCE**

5 125. CCSD, JARA and MANCL, have a duty of care to meet the educational needs of
6 Nevada children, especially the special needs children of the state, and serve the parents of those
7 children in exchange for tax payer dollars.

8 126. Defendant's current plan (though it seems to be constantly changing) is to
9 perpetuate a distant learning model.

10 127. The "broken" distant learning model held up as the solution by Defendants did not
11 work for children before the world was turned upside down by COVID-19, and it will be even
12 more problematic in a world where children of single parents, or working parents, are left home
13 alone to fend for themselves.

14 128. Defendants' policies have had a direct causal link towards the increased occurrences
15 of child abuse, domestic violence occurring in Nevada.

16 129. Defendants' plan evidences a wanton disregard for the safety and security of
17 children, their mental health, or social or educational needs; especially those with special needs.

18 130. Defendants' plan breaches their collective and individual and professional duties of
19 care to the children and parents of Nevada.

20 131. As a result of Defendants' negligence, parents are unable to secure child care and
21 continue work, causing millions of dollars in lost income, and financial impact to Nevada parents'
22 limited budgets.

23 132. As a result of Defendants negligence, children are not being educated, nor will they
24 receive education, or training consistent with the social contract between the parents and the State
25 posing educational and economic impact, lost income, and a host of economic ramifications for
26 decades to come.

27 133. As a result of Defendants' negligence, the computers distributed by Defendants to
28 facilitate distant learning are collecting the personal identifiable information of children without

1 their parent’s consent in violation of federal law including COPA (47 U.S.C. § 231), and COPPA
2 (15 U.S.C. §§ 6501–6506).

3 134. Defendants’ have not revised their policies and procedures despite having nearly six
4 months to review, revise, and react to a global pandemic, which has caused a dramatic shift in how
5 CCSD provides education.

6 135. Such refusal to revise, constitutes negligence, in the most favorable light.

7 136. As a result, Defendant’s devices do not include necessary protections, filters, and
8 software to protect Nevadans, and are exposing users to malware, viruses, and other data that is
9 perpetuating unauthorized collection of data and infecting home networks.

10 137. As a result of Defendants’ negligence, the devices distributed by Defendants to
11 Nevada families and children to facilitate distant learning, do not include necessary protections,
12 filters, and software to protect Nevadans; and as such give minors unfettered, un-filtered access to
13 inappropriate and adult material.

14 138. As a result of Defendants’ negligence, the devices distributed by Defendants to
15 Nevada families and children facilitate distant learning, do not include necessary protections, filters,
16 and software to protect Nevadans, and are exposing users to malware, viruses, and other data that
17 is perpetuating unauthorized collection of data and infecting home networks.

18 139. If allowed to continue, the Defendants’ negligence, and efforts to cling to the
19 broken distant learning model, using systems that are not properly protected or filtered, will only
20 continue to harm parents, students, and all Nevadans, for years to come.

21 **COUNT X**

22 **PROFESSIONAL NEGLIGENCE**

23 **(Personal Liability pursuant to 42 U.S.C.S. § 1983)**

24 140. Plaintiffs incorporate the allegations in the preceding paragraphs as if herein.
25 Defendants JARA and MANCL, and other government actors engaged in the unlawful activity
26 discussed herein are personally liable under U.S.C.S. 7§ 1983.

27 141. Defendants JARA and MANCL and other government actors engaged in the
28 foregoing unlawful activities under the color of law by:

1 142. Using state government resources, time and means to engage in such unlawful
2 activity and communications including with the use of state computers, devices, computer networks
3 (including Wifi), offices and conference rooms, vehicles, titles, associations, and other resources; to
4 use to improperly direct teachers not to teach students to manipulate public perception, cause fear
5 and concern for student welfare, all in an attempt to enrich themselves and secure additional budget
6 allocations for CCSD from the legislature.

7 143. This scheme included fabricating educational constraints including through
8 technological failures, to perpetuate the perception that additional budget was necessary for CCSD
9 even though it already consumes over half the state of Nevada's annual budget (in excess of \$5.3
10 BILLION).

11 144. Defendants JARA and MANCL attempted to clandestinely seek additional
12 legislative support for budget increases for CCSD under such pretenses.

13 145. When Defendants efforts failed, Defendants JARA and MANCL sought to blame
14 other public officials.⁷

15 146. Defendants JARA and MANCL and other unnamed government actors knew or
16 should have known that their failure to implement certain policies and procedures to ensure proper
17 education during the quarantine and into the rest of the pandemic would result in miscarriage of
18 justice and deprive students and especially special need students of their constitutional rights.

19 147. As a result of the Defendant's unlawful actions, Nevadans have suffered losses in
20 excess of several millions of dollars, been deprived of social programs and benefits associated
21 suffered monetary damages in excess of those amounts.

22 148. Parents have been required to pay increased costs for alternative education and have
23 been deprived of their statutory and constitutional rights, and Plaintiffs are entitled to punitive
24 and/or exemplary damages as this Court sees fit, including under NRS § 42.005.

25 149. It has been necessary for Plaintiffs to retain the services of counsel to prosecute this
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27 ⁷ [https://thenevadaindependent.com/article/sisolak-accuses-jara-of-trying-to-mislead-after-poor-decision-on-](https://thenevadaindependent.com/article/sisolak-accuses-jara-of-trying-to-mislead-after-poor-decision-on-controversial-school-funding-bill)
28 [controversial-school-funding-bill](https://news3lv.com/news/local/sisolak-fires-back-at-jara-says-ccsd-requested-bill-to-sweep-school-funding); [https://news3lv.com/news/local/sisolak-fires-back-at-jara-says-ccsd-requested-bill-](https://news3lv.com/news/local/sisolak-fires-back-at-jara-says-ccsd-requested-bill-to-sweep-school-funding)
[to-sweep-school-funding](https://www.reviewjournal.com/news/politics-and-government/nevada/sisolak-top-education-official-accuse-ccsds-jara-of-lack-of-honesty-2073686/); [https://www.reviewjournal.com/news/politics-and-government/nevada/sisolak-top-](https://www.reviewjournal.com/news/politics-and-government/nevada/sisolak-top-education-official-accuse-ccsds-jara-of-lack-of-honesty-2073686/)
[education-official-accuse-ccsds-jara-of-lack-of-honesty-2073686/](https://lasvegassun.com/news/2020/jul/14/governor-top-education-official-accuse-ccsd-superi/);
<https://lasvegassun.com/news/2020/jul/14/governor-top-education-official-accuse-ccsd-superi/>

1 action and Plaintiffs are therefore entitled to damages, pro-bono attorneys' fees, and costs related
2 to the same.

3 150. Injunction based relief as requested is also appropriate.

4 151. Time is of the essence.

5 **COUNT XI**

6 **UNJUST ENRICHMENT**

7 **(Personal Liability pursuant to 42 U.S.C.S. § 1983)**

8 152. Plaintiffs have attempted and/or been prevented from exhausting their
9 administrative remedies, as Defendants have simply refused to respond to requests or petitions for
10 relief, and prevented public meeting access.

11 153. Defendant JARA and Defendant MANCL have continued to obtain sizable salaries
12 from and have refused to allow parents or students to participate in any regulatory or deliberative
13 process regarding their decisions, promulgation of regulations, or rules, that affect the Students.

14 154. Although the State of Nevada has opened casinos, restaurants, and businesses, and
15 provided safety guidelines to permit socially distanced gatherings, and virtually every other local
16 government has found a method of allowing in-person attendance at public meetings, Defendants
17 have *prevented* all students and parents including the Plaintiffs or their representatives from engaging
18 in any public meetings.

19 155. Likewise, JARA and MANCL, and other DOES and ROES have conspired to
20 prevent children from being educated during the pandemic, setting an internal policy for teachers
21 that prohibited them from teaching any children; under the guise that if one cannot be taught, no
22 one should be taught. Using this dogma as an excuse for a *de facto* pass on their responsibility, giving
23 paid leave for thousands of teachers without requiring them to work or teach Nevadan children.

24 156. As discussed herein, Defendants have made it impossible for Plaintiffs to seek or
25 obtain any administrative remedy, rendering the possibility of exhaustion of administrative remedies
26 unreachable.

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COUNT XII

VIOLATION OF COPA 47 USC § 231

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3 157. Defendants’ actions and inactions violate the Child Online Protection Act (47
4 U.S.C. § 231), which is designed to arm parents and protect children against various activity by
5 businesses engaging with children online.

6 158. Despite having nearly six months to review, revise, and react to a global pandemic,
7 which has caused a dramatic shift in how CCSD provides education, Defendants’ have not revised
8 their policies and procedures regarding school issued devices.

9 159. As a result, by Defendant’s own admissions, their devices *do not* include necessary
10 protections, filters, and software to protect Nevadans, and are exposing children users, and their
11 parents who must use their home networks to facilitate use, to malware, viruses, and other data that
12 is perpetuating unauthorized collection of data and infecting home networks.

13 160. As a result of Defendants’ negligence, the devices distributed by Defendants to
14 Nevada families and children to facilitate distant learning, do not include necessary protections,
15 filters, and software to protect Nevadans; and as such give minors unfettered, un-filtered access to
16 inappropriate and adult material, and do not help parents protect against such dangers.

17 161. As a result of Defendants’ negligence, the devices distributed by Defendants to
18 Nevada families and children facilitate distant learning, do not include necessary protections, filters,
19 and software to protect Nevadans. On the contrary, the school issued devices require the use of
20 cookies and other software, are exposing users to malware, viruses, and other data that is
21 perpetuating unauthorized collection of data and infecting home networks.

22 162. Such unlawful action and inaction violates federal law, and has caused and
23 continues to cause damage to Nevada children, their families, and home networks.

COUNT XIII

VIOLATION OF COPPA 15 USC § 6501-6506

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26 163. Defendants’ actions and inactions violate the Child Online Protection Act (15
27 U.S.C. §§ 6501–6506), which is designed to protect children against unauthorized collection of their
28 personal identifiable information and shield them from various activities by businesses engaging

1 with children online, like those providing educational services here.

2 164. Despite having nearly six months to review, revise, and react to a global pandemic,
3 which has caused a dramatic shift in how CCSD provides education, Defendants' have not revised
4 their policies and procedures regarding school issued devices.

5 165. As a result, by Defendant's own admissions, their devices *do not* include necessary
6 protections, filters, and software to protect Nevadans, and are exposing children users, and their
7 parents who must use their home networks to facilitate use, to malware, viruses, and other data that
8 is perpetuating unauthorized collection of data and infecting home networks.

9 166. As a result of Defendants' negligence, the devices distributed by Defendants to
10 Nevada families and children to facilitate distant learning, do not include necessary protections,
11 filters, and software to protect Nevadans; and as such give minors unfettered, un-filtered access to
12 inappropriate and adult material, and do not help parents protect against such dangers.

13 167. As a result of Defendants' negligence, the devices distributed by Defendants to
14 Nevada families and children facilitate distant learning, do not include necessary protections, filters,
15 and software to protect Nevadans. On the contrary, the school issued devices require the use of
16 cookies and other software, are exposing users to malware, viruses, and other data that is
17 perpetuating unauthorized collection of data and infecting home networks.

18 168. Such unlawful action and inaction violates federal law, and has caused and
19 continues to cause damage to Nevada children, their families, and home networks.

20 **COUNT XIV**

21 **REQUEST FOR DECLARATORY RELIEF**

22 169. Plaintiffs incorporate the allegations in the preceding paragraphs as if herein.

23 170. An actual and justiciable controversy now exists between Plaintiffs and Defendants
24 regarding the rights of the respective parties.

25 171. Plaintiff requests a declaration that CCSD's back to school order was unlawfully
26 evaluated and enacted, issued in a manner expressly prohibited by NRS 387, 388 and others
27 because the Denial Order was:

28 a. issued in clear violation of constitutional and statutory provisions;

- 1 b. in excess of the statutory authority of the CCSD;
- 2 c. made upon unlawful procedure;
- 3 d. affected by other error of law;
- 4 e. clearly erroneous in view of the reliable, probative and substantial evidence
- 5 on the whole record; and/or
- 6 f. done in violation of Nevada’s open meeting laws, and Defendants process
- 7 has made it clear that further attempt to exhaust remedies is untenable and
- 8 impossible; and
- 9 g. arbitrary and capricious or characterized by an abuse of discretion.

10 172. It has been necessary to retain the services of counsel to prosecute this action.

11 173. Plaintiffs are therefore entitled to damages, pro-bono attorneys’ fees, including, and
12 costs related to the same.

13 **WHEREFORE, PLAINTIFFS pray this Court to:**

14 174. Certify the Declaratory Relief Class as a class action pursuant to Rule 23(b)(2) as
15 defined above, and at such time as the Court deems proper, certify the Compensatory Education
16 Relief Sub-Class as a class action pursuant to Rule 23(b)(3) as defined above;

17 175. Enter declaratory judgement for Plaintiffs and the Declaratory Relief Class as set
18 forth herein that:

19 176. Find Defendants’ refusal to implement Students’ and DRC’s IEP and/or MP under
20 the IDEA and/or Section 504 was a material and blatant failure to meet Students’ needs.

21 177. Find the Defendants lack the ability to properly meet the needs of the Students
22 given the unmanageable size of the Clark County School District which now exceeds 350,000
23 students; one of the largest in the country.

24 178. Award Plaintiffs the monies to the Students and their Parents/Guardians, or
25 directly to the principals of their respective schools that the Federal DOE and State DOE have
26 allocated, so Plaintiffs can choose to preserve the sacred teacher/student relationships they value,
27 or seek the ability to source and fulfil an alternative education plan with alternative solutions other
28 than the Clark County School District, without further restraint or condition from CCSD or DOE.

