



March 3, 2017

Hon. Jim Cooper
California State Capitol, Room 6025
Sacramento, California 95814

Re: AB 165 – as introduced
Oppose

Dear Assembly Member Cooper:

We, the undersigned organizations, work with students and parents throughout the state of California, and we strongly oppose AB 165. Now more than ever, students and families are expecting California’s leaders to keep their promise to do everything they can to keep them safe. Yet, AB 165 makes them more vulnerable by gutting current privacy protections. AB 165 is the wrong path.

More than 6 million Californians of all backgrounds study in our public schools and many of these students and their families are facing serious threats in the current political climate. As of 2015, half of California children had at least one immigrant parent, and more than half of these parents were not citizens.¹ It is why school districts like San Francisco and Sacramento² have committed to being sanctuaries and safe havens to protect immigrant children and families.

We know our California schoolchildren and their families are relying on personal cell phones and online accounts to complete school assignments, to connect and communicate with family and close friends and seek out and share information about immigration, religion, health, and social and political movements. Young people from vulnerable communities are often

¹ http://www.ppic.org/main/publication_show.asp?i=258

² <https://edsource.org/2017/school-districts-step-up-protections-for-immigrants/576574>

particularly reliant on electronic devices and online information. For example, mobile phones are the only means of Internet access for many poor youth. African American youth use smartphones to seek help with homework more often than white students. And over 80% of LGBTQ youth search the Internet for health-related information and support services.³

The California Electronic Communications Privacy Act (CalECPA)⁴ allows students to use their cell phones and accounts without worrying that their private information — and that of their family members — is going to be subject to improper searches and seizures.

AB 165, however, erases the basic privacy and free speech protections of CalECPA for all of California’s public school students, teachers and staff. The bill would exempt any “local education agency” and any “individual acting for or on behalf of a local education agency” from all of the provisions of CalECPA. As a result, any school employee — administrators, teachers, even maintenance staff — could conduct a digital search:

- without external review
- without notice to either the student or her parents or guardians and
- without proper safeguards limiting how any personal information is kept, used, or shared with others, including law enforcement and federal agencies.

We are gravely concerned that AB 165 would also allow police in schools to circumvent all CalECPA protections and conduct searches of digital devices or demand personal information from online companies without a warrant. A significant number of California school districts now have their own police forces. By 2013, more than 1.8 million California K-12 students, 29% of the public school population, had a sworn police officer assigned to their campus.⁵

Allowing law enforcement officers in schools to bypass the privacy protections of CalECPA is deeply troubling given the fact that students of color and students with disabilities are particularly likely to be targeted for arrest and referral to law enforcement in schools. According to recent data from the U.S. Department of Education Civil Rights Data Collection, Black students in California are three times as likely as white students to be subject to a school-related

³ See Victoria Rideout & Vikki Katz, *Opportunity for All? Technology and Learning in Lower-Income Families*, The Joan Ganz Cooney Center at Sesame Workshop, 1, 5 (2016), http://digitalequityforlearning.org/wp-content/uploads/2015/12/jgcc_opportunityforall.pdf; *Out Online: The Experiences of Lesbian, Gay, Bisexual, and Transgender Youth” First National Report to Look In-Depth at LGBT Youth Experience Online; Young teens in U.S. use mobile devices for homework*, Reuters (Nov. 28, 2012), <http://www.reuters.com/article/us-technology-tweens-mobiles-homework-idUSBRE8AR1DC20121128>;

⁴ https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB178

⁵ American Civil Liberties Union of California, *The Right to Remain a Student: How California School Policies Fail to Protect and Serve* 3 (2016) at 10. <https://www.aclunc.org/publications/right-remain-student-how-ca-school-policies-fail-protect-and-serve>

arrest, and students with disabilities are three times as likely as students without disabilities to be arrested.⁶ CalECPA is an important safeguard against invasive digital searches and other actions to address allegations of minor student misconduct.

Many California schoolchildren and families are already fearful about their safety. We need to ensure that all Californians have the full protection of existing law, not make them more vulnerable to improper searches.

Please do not hesitate to contact us should you have any questions about our deep concerns with AB 165.

Sincerely,

Darryl White
Chair
Black Parallel School Board

Jesse Hahnel
Executive Director
National Center for Youth Law

Craig Cheslog
Vice President
Common Sense Kids Action

Renata Moreira
Executive Director
Our Family Coalition

Alberto Retana
President & CEO
Community Coalition

Anabel Agloro
Statewide Education Rights Attorney
Public Counsel

Geoffrey Winder and Ginna Brelsford
Co-Executive Directors
Genders & Sexualities Alliance Network

David A. Harris
President & CEO
Urban Strategies Council

Maria Brenes
Executive Director
Inner City Struggle

Andrew Cain
Supervising Attorney,
Legal Advocates for Children and Youth
A Program of the Law Foundation of Silicon
Valley

⁶ U.S. DEP'T OF EDUC., OFFICE FOR CIVIL RIGHTS, CIVIL RIGHTS DATA COLLECTION 2013-14, <http://www2.ed.gov/about/offices/list/ocr/docs/crdc-2013-14.html> (last visited July 12, 2016); American Civil Liberties Union of California, *The Right to Remain a Student: How California School Policies Fail to Protect and Serve* 3 (2016).