



By First Class Mail & Email: h nolte@dc3.edu

March 14, 2017

Dr. Harold Nolte, President
Dodge City Community College
Office of the President
2501 N. 14th Avenue
Dodge City, KS 67801

Re: English-only Policy & Discrimination against Spanish Speakers

Dear Dr. Nolte:

Recently, the American Civil Liberties Union Foundation of Kansas (ACLU-KS) has received reports that the Dodge City Community College requires cosmetology students to sign a form in which they agree not to speak Spanish during school hours – both in and out of classes. Moreover, the ACLU-KS has received a report that, when asked whether a cosmetology student could speak Spanish with a client who only speaks Spanish, a professor in the cosmetology program responded that “I guess they [the Spanish-speaking client] can’t get services here.” In explaining the reason for these English-only rules, the director of the cosmetology program stated that she believes it is “disrespectful of students to speak the Spanish language when she does not understand it.” I write to express the ACLU’s grave concerns about both of these issues.

First, any requirement that cosmetology students speak only English and refrain from speaking Spanish is unconstitutional. In a pair of cases decided forty-five years ago, the Supreme Court held that college students have the same rights of free speech as any other person. In *Healy v. James*, the Court stated that “state colleges and universities are not enclaves immune from the sweep of the First Amendment.” 408 U.S. 169, 180 (1972). And, in *Papish v. Board of Curators*, the Court found that “the First Amendment leaves no room for the operation of a dual standard in the academic community with respect to the content of speech.” 410 U.S. 667, 671 (1973). The Supreme Court has also long held that the Constitution protects the right of individuals to communicate in a foreign language. See *Meyer v. Nebraska*, 262 U.S. 390 (1923); *Bartels v. Iowa*, 262 U.S. 404 (1923); *Farrington v. Tokushige*, 273 U.S. 284 (1927). See also *Yu Cong Eng v. Trinidad*, 272 U.S. 500, 525 (1926) (invalidating on Equal Protection grounds ordinance requiring certain business records to be kept in English and other specified languages but excluding use of the Chinese

language). “The protection of the Constitution extends to all, to those who speak other languages as well as to those born with English on the tongue. Perhaps it would be highly advantageous if all had ready understanding of our ordinary speech, but this cannot be coerced by methods which conflict with the Constitution -- a desirable end cannot be promoted by prohibited means.” *Meyer*, 262 U.S. at 401.

Second, Title VI of the Civil Rights Act of 1964 expressly provides that “[n]o person in the United States shall, on the ground of . . . national origin, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” 42 U.S.C. § 2000d. In regulations issued under Title VII of the Civil Rights Act of 1964, the Equal Employment Opportunity Commission has expressly determined that “[p]rohibiting employees at all times, in the workplace, from speaking their primary language or the language they speak most comfortably, disadvantages an individual’s employment opportunities on the basis of national origin. It may also create an atmosphere of inferiority, isolation and intimidation based on national origin which could result in a discriminatory working environment.” 29 C.F.R. § 1606.7.

The cosmetology school’s English-only rules and the director’s suggestion that the school will not serve non-English speakers violate the United States Constitution and Title VI of the Civil Rights Act of 1964.

Even if you are not persuaded by the law, I point out that demographics should exclude these policies and statements by college officials. According to data I found on the Kansas Board of Regents’ website, in academic year 2016, 38.7% of Dodge City Community College’s students were Hispanic and that percentage has steadily increased in recent years. Moreover, census data shows that, in 2015, 53.5% of Ford County residents were Hispanic. Thus, these English-only policies and biases make absolutely no sense in light of the community that your institution serves.

As part of the ACLU’s investigation of these recent reports, I request the following public records pursuant to the Kansas Open Records Act (KORA), K.S.A. § 45-215, *et seq.*:

- (1) All policies of the Dodge City Community College – including but not limited to the cosmetology program – that restrict students or staff from speaking Spanish or any language other than English; and
- (2) All forms that students in the Dodge City Community College’s cosmetology program are required to sign, including but not limited to

Dr. Harold Nolte
March 14, 2017
Page 3

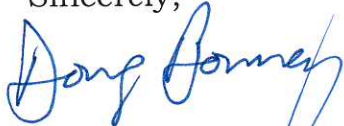
all forms that restrict the right of cosmetology students to speak languages other than English.

I request that all fees for locating and copying the records be waived. The information the ACLU obtains through this request will be used by the ACLU to inform the public about the college's rules restricting students from speaking languages other than English. If you deny our request for the waiver of fees, please let me know in advance of any search or copying if the fees will exceed \$50.00.

Please send the requested records to Doug Bonney by email at dbonney@aclukansas.org, or by regular postal mail to the American Civil Liberties Union Foundation of Kansas, c/o Doug Bonney, 6701 W. 64th Street, Suite 210, Overland Park, KS 66202, within three days of the receipt of this letter.

If portions of the requested records are closed, please segregate the closed portions and provide me with the rest of the records. If you have any questions about this request, please contact me by phone or e-mail.

Sincerely,



Doug Bonney
Chief Counsel & Legal Director
Direct Dial: 490-4102
dbonney@aclukansas.org