

# CELL PHONE POLICY

The following policy was drafted by the research and legal staff of Law Advisory Group, Inc. It is intended as a guide for school administrators and their attorneys. Before adoption in any jurisdiction, it should be reviewed by an attorney licensed to practice in such area.

The following prohibition shall be known as the Cell Phone and Camera Policy.

## SECTION 1. PROHIBITION

From the commencement of the school's instructional day until dismissal of the last class of the day, the following prohibition shall be in effect:

Except as otherwise stated herein, students are prohibited from using or displaying, whether purposely or inadvertently, any cell phone, two-way pager, and any other electronic device capable of transmitting or receiving voice or data communication, as well as any electronic device capable of storing information, including any form of electronic notebook, palm pilot and similar device, or computer. Students are also prohibited from using any camera.

## SECTION 2. EXCEPTIONS TO THE ABOVE PROHIBITION:

a) A student needing to make a telephone call during the day shall proceed, with the permission of a classroom teacher, to the school office where permission may be granted by the person then in charge of the office to make the call. Students may not receive telephone calls directly. All incoming calls shall be to the office which will, when appropriate, relay the information to the student.

b) Devices to send emergency medical signals may be worn or carried if prior permission has been granted by the Principal or a designee. In such cases, the parent or student shall provide sufficient documentation from a health care provider as to the medical necessity.

c) In an emergency, a classroom teacher may allow or direct a student to use a prohibited item.

## SECTION 3. VIOLATION OF THE PROHIBITION:

A violation occurs whenever a prohibited device is in plain view, whether or not the student intended to display the item. Any teacher, teacher's assistant, or administrator seeing the device shall ask that it be surrendered immediately. A student's failure to comply shall be considered to be insubordination and shall be treated as such IN ADDITION TO ALL OTHER PENALTIES under this policy. Such insubordinate student shall be referred to the office immediately where the school staff may employ all reasonable means, including the assistance of law enforcement, to gain possession of the device. If the student still refuses to comply, the student shall be suspended from school and shall not return until the device is surrendered.

#### SECTION 4: PROCEDURE ON DISCOVERY OF VIOLATION

A. RECORDS AND DOCUMENTATION: When electronic devices are confiscated, the following documentation shall be kept by appropriate school personnel: :

1. date and time of confiscation
2. reason for confiscation (see below) and location of occurrence
3. name of the person(s) confiscating the device
4. name and address of the student possessing the device
5. name of owner if different from student
6. description of the device including serial number

B. PENALTY: The penalty for display of a prohibited device, shall be:

- a) if the device is turned completely off , the penalty shall be
  - 1) for a first offense, \_\_\_\_\_STATE PENALTY \_\_\_\_\_
  - 2) for a second offense, \_\_\_\_\_STATE PENALTY \_\_\_\_\_
  - 3) for a third and subsequent offense \_\_\_\_\_STATE PENALTY \_\_\_\_\_

**[DRAFTER PLEASE NOTE: if it is decided to require the student to pay a fine, there must be an alternative non-financial penalty. Due to Fifth Amendment Due Process considerations, the non-financial penalty should not be so severe as to be onerous in relation to the financial penalty. In plain English, the student should not be punished more for declining to pay the fine. Law Advisory suggests a \$25 fine or one hour of community service for a first offense; \$75 or 3 hours for a second offense; 3-day suspension and all work to be made up in detention at the completion of the 3 days for a third or subsequent offense] ]**

b) if the device is in the “on” position, whether or not configured to display an audible or other sensory signal to the possessor, the penalty shall be \_\_\_\_ (state penalty \_\_\_\_\_)

c) if a test is in progress when the violation takes place, in addition to all other provisions of this policy, the student shall be forthwith suspended and the student’s score on the test in progress shall be recorded as “fail” if a pass/fail system is in use or 20 points below what is established as a “failing” level by the examiner.

d) if the device is in use or has been used to unreasonably compromise another person’s privacy, the student shall be forthwith placed in in-school suspension pending a decision on suspension and potential expulsion under other school policies dealing with invasion of privacy.

#### C. INVOLVEMENT OF OTHER STUDENTS

a) if the device which gives rise to the invocation of this policy is owned by another student, the owner shall be deemed to be subject to the same penalty or penalties as the student displaying the device.

b) if examination of the device under the provision below involving confiscation determines that another student was involved in sending or receiving signals to or from the offending device in violation of this or any other school policy, including, but not limited to, cheating and invasion of privacy, the other student shall be deemed to be in violation of this policy as though the student had displayed his or her own sending/receiving device.

This policy shall take effect on \_\_\_\_\_ . It shall be published in accordance with the publication requirements for all other District policies.

#### C: DISPOSITION OF DEVICE INVOLVED IN THE OFFENSE

The confiscated device shall be dealt with as follows:

1) the first time this policy is violated, any device confiscated from the student shall be retained for at least 48 but not more than 72 hours after the penalty is satisfied, at which time it shall be returned to the student;

2) the second time this policy is violated and a device is confiscated, even if it is a device different from the first device, the parent or parents shall be notified of the infraction in a reasonably timely fashion. The assumption of this policy is that the student will notify the parent. At the parent's discretion, the device may be recovered by either parent upon acknowledgment by the parent in writing that any devices confiscated in the future will be retained for 30 days following which the item shall be destroyed without further notice. During such 30 day period the parent may request return of the item and, if denied, may appeal to the Superintendent.

3) a third and all subsequent violations of this policy shall result in notice to the student and parents of intent to destroy the seized item on a date certain more than 30 days hence. Subject to any appeals taken under subsection (2) above, the seized item shall be destroyed.

If it is determined that the seized item belongs to another party, that party shall be timely notified of the intent to destroy. If the item belongs to a lessor, the lessor may recover the item by signing a consent not to redeliver the item to the offender. Nothing in this policy obligates the school to attempt to ascertain whether there is a third party owner.

#### SECTION 5. SHORT FORM

##### **CELL PHONE AND CAMERA POLICY**

**ANY ELECTRONIC DEVICE, INCLUDING, BUT NOT LIMITED TO, CELL PHONES, PAGERS AND CAMERAS OF ANY TYPE, MAY NOT BE DISPLAYED, ACCIDENTALLY OR OTHERWISE, AT ANY TIME DURING THE SCHOOL DAY. VIOLATION IS PUNISHABLE BY A FINE OR COMMUNITY SERVICE IN ADDITION TO CONFISCATION OF THE OFFENDING ITEM.**

**One full copy of this policy may be obtained, without charge, from the school office during normal hours of operation. Additional copies shall be subject to the same per page cost normally charged for copying official documents.**

#### SECTION 6. PUBLICATION AND ADOPTION.

This policy shall be published on passage in accordance with the rules applicable to all other Board policies. In addition, it shall be prominently posted 20 days prior to enforcement in a manner reasonably designed to come to the attention of all interested students. Beginning with the next school year following passage, the following short form shall be included in the student handbook/code of conduct:

#### AFFIRMATIONS AND SIGNATURES