



<h2>Standard Operating Procedures</h2>	SOP Number:
	Effective Date: Prv. Rev. Date: Revised Date: 06/24/24
	Accreditation Standards: KACP:
Chapter: Field Operations	
Subject: Sexting	

A. PURPOSE

The distribution of private erotic or obscene matter, including videos and photographs, is becoming an increasing problem in schools. Children are taking photographs and/or videos of themselves or other children and distributing them through devices, social media platforms and apps, commonly known as “sexting.” Sometimes these children view this pornography as “peer porn” rather than child pornography. However, both federal and state law define all images which are sexually explicit of anyone under the age of 18 (eighteen), whether created and/or distributed by juveniles or adults, to be child pornography therefore are illegal contraband (18 U.S.C. §§ 2251, 2252 and 2252A, KRS 531.335 and KRS 531.340). Further, such activity may violate Title IX, a federal law that prohibits harassment of a sexual nature, and requires schools to take steps to stop, prevent, and remedy such conduct (20 U.S.C. § 1681).

B. DEFINITIONS

As set forth in KRS 531.010 and used in this procedure:

"Private erotic matter" means an obscene visual image, including a photograph, film, video recording, or digital reproduction, of an identifiable person, depicting sexual conduct or the exposure of uncovered human genitals, buttocks, or nipple of the female breast. A person may be identifiable from the image itself or from information distributed in connection with the visual image.

"Obscene" means: (a) To the average person, applying contemporary community standards, the predominant appeal of the matter, taken as a whole, is to prurient interest in sexual conduct; and (b) The matter depicts or describes the sexual conduct in a patently offensive way; and (c) The matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.

"Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, live image transmitted over the Internet or other electronic network, or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials.



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"Distribute" means to transfer possession of, whether with or without consideration.

"Sexual conduct" means acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse; or physical contact with the genitals, flagellation, or excretion for the purpose of sexual stimulation or gratification.

C. PROCEDURE

1. PROHIBITED USES OF MOBILE PHONES

Under *Violation of Personal Electronic/Telecommunication Device Policy, and in accordance with Board Policy 09.4261 Telecommunications Devices (Students)*, the Student Support and Behavior Intervention Handbook:

- a. Prohibits the use of a mobile phone or other personal device by a student “in a manner the is disruptive, including, but not limited to, use that:...
 - Violates confidentiality or privacy rights of another individual;
 - Is profane, indecent, or obscene;
 - Constitutes or promotes illegal activity; or
 - Constitutes or promotes sending, sharing, or possessing sexually explicit messages, photographs, or images using any electronic device.
- b. Permits the confiscation of a device for a violation, with the phone to be returned upon the conclusion of the investigation if permitted by law enforcement. .



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C. PROCEDURE (CONTINUED)

2. SEARCH OF MOBILE PHONES

In accordance with Board Policy 09.436 Search and Seizure (Students), the SSBIIH provides that the principal or designated administrator of a school may search a student’s personal property, which includes a mobile phone, if:

- a. The principal/designee has reasonable suspicion that a search will reveal a violation of the SSBIIH or law; and
- b. The search is conducted under the express authority of the Principal/designee

Please note: KRS 531.335 prohibits the viewing of child pornography (an image of a sexual performance of a minor), except by law enforcement, a school administrator, or the minor’s parent/guardian as part of an investigation of a possible a child pornography violation. Once child pornography is determined to be on a mobile phone or other device, a school administrator shall not view or share images or the device with anyone other than law enforcement.

3. CONFISCATION OF MOBILE PHONE AND NOTIFICATION OF POLICE

If a school administrator has reason to believe that sexting or other criminal activity may have occurred, the administrator shall confiscate the mobile phone or other device and report the potential violation to both the JCPS Police Department and the school-based deputy Title IX coordinator or District Title IX coordinator for further investigation and action.

School personnel shall not search or tamper with the phone, or delete or forward any text, images, or videos that are in question. The JCPS Police Department shall send an officer to the school to collect the mobile phone or other device and bring it to the department office for analysis by a trained officer in a secure setting. If the JCPS Police Department has reason to believe that a child pornography violation has occurred, they will contact appropriate law enforcement for further action.



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When a phone has been confiscated, the school administrator shall contact the parent/guardian of each student involved in the incident and inform them that the phone and the matter have been referred to JCPS Police Department.

4. PROCEDURES FOR OFFICERS

The responding officer shall attempt to determine if the images substantiate criminal activity. If the officer cannot determine this, the officer shall call an investigator or prosecutor to make that decision.

- a. If criminal prosecution is being sought, the normal evidence procedures will apply to search and seizure and the phone will not be returned to the parent or guardian of the student, but will be retained as evidence.
- b. If the images/video are not unlawful and criminal prosecution will not be sought, the devices in question, will be returned to the school administrator. The school administrator shall return the phone to the parent/guardian of the students and require them to sign form *09.4261 AP.2 Parent/Guardian Acknowledgement of Receipt of Cell Phone*.
- c. If the images/video are considered to be unlawful, but prosecution will not occur due to consultation with the prosecutor, the responding officer or investigator will conduct a factory reset. This will ensure the destruction of any questionable images the device may contain.
 - i. A parent or guardian shall acknowledge the factory reset by signing a consent form contained in this policy prior to the phone being returned to the parent/guardian. If the parent or guardian is unwilling to sign the consent form, the device in question will be seized and stored as evidence.
 - ii. The parent or guardian should be advised if the device was backed to a cloud-based service or other linked devices, the parent or guardian is now responsible for that content. They should also be advised that it is illegal to share or possess any image/video deemed unlawful by state and/or federal law. The parent or guardian should be advised that just because there is no prosecution at that time, further dissemination of the images might support criminal charges in the future.



Parent/ Guardian Acknowledgement of Factory Reset and Receipt of Mobile Phone

JCPS Police Department

The Student Support and Behavior Intervention Handbook (SSBIH):

1. Prohibits the use of a mobile phone or other personal device by a student “in a manner the is disruptive, including, but not limited to, use that:…
 - Violates confidentiality or privacy rights of another individual;
 - Is profane, indecent, or obscene;
 - Constitutes or promotes illegal activity; or
 - Constitutes or promotes sending, sharing, or possessing sexually explicit messages, photographs, or images using any electronic device.
2. Permits the confiscation of a device for a violation under Subsection 1, with the phone to be returned upon the conclusion of the investigation, if permitted by law.

In accordance with Board Policy 09.426 Search and Seizure (Students), the SSBIH provides that the principal or designated administrator of a school may search a student’s personal property, which includes cell phones, if:

1. The principal/designee has reasonable suspicion that a search will reveal a violation of the SSBIH or law; and
2. The search is conducted under the express authority of the Principal/designee.

JCPS staff shall adhere to state and federal laws regarding distribution of child pornography. This may include referral of the matter to LMPD and/or the Jefferson County Attorney’s Office. In that instance, a mobile phone will be returned to a parent/guardian only if permitted by law enforcement.

I am the parent/guardian of student _____, and I have reviewed the above information regarding JCPS policies and administrative procedures governing treatment of a student mobile phone or other personal electronic device.

I have been advised that my student’s mobile phone or other personal electronic device was confiscated pursuant to JCPS policies and administrative procedures and referred to the JCPS Police Department. Based on an investigation, the JCPS Police Department has determined that images/video on the device are unlawful. Because prosecution will not occur at this time after consultation with the prosecutor, the JCPS Police Department will conduct a factory reset to delete the illegal images.

I understand that:

1. If the device is connected to a cloud-based service or other linked devices, I am now responsible for that content.
2. It is illegal to share or possess any image/video deemed unlawful by state or federal law.
3. If there is no prosecution at that time, further dissemination of the image/video may support criminal charges in the future.

I acknowledge that my student’s mobile device is being returned to me after a factory reset and that I am responsible for further handling of the phone and its contents.

Parent/Guardian Signature

Parent/Guardian Name (Print)