

Student Mobile Phone Procedure

SCOPE

This administrative procedure is effective in schools that permit student use of mobile phones and other personal electronic/telecommunications devices.

“SEXTING” PROHIBITED

The distribution of sexually explicit videos and photographs or “sexting” is becoming an increasing problem in schools. Children are taking photos or videos of themselves or other children and distributing them via several different social media sites and apps. Sometimes these children view this pornography as “Peer Porn” rather than as child pornography. However, both federal and state law define all images which are sexually explicit of anyone under the age of eighteen (18) whether created and/or distributed by juveniles or adults to be child pornography and therefore 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).

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 (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 enforcement.

CONFISCATION AND SEARCH OF MOBILE PHONES AND CONSEQUENCES

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

When a search of a student’s mobile phone is authorized, the principal shall contact the JCPS Security and Investigations Unit (SIU), and an officer shall conduct the search. A school administrator or other school-based staff member shall not conduct the search.

JCPS shall adhere to state and federal laws regarding the distribution of child pornography. This may include referral of the matter to LMPD and/or the Jefferson County Attorney’s Office.

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

Student Mobile Phone Procedure

CONFISCATION AND SEARCH OF MOBILE PHONES AND CONSEQUENCES (CONTINUED)

potential violation to both the JCPS SIU 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 SIU shall send a School Safety Officer (SSO) to the school to collect the mobile phone or other device and bring it to the SIU Office for analysis by a trained officer in a secure setting. If the JCSP SIU has reason to believe that a child pornography violation has occurred, they will contact appropriate law enforcement for further action.

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 Security and Investigations.

Depending upon the results of JCPS Security and Investigations investigation, the school may need to discipline the student or students involved pursuant to the SSBIH.

MANDATORY REPORTING OF CHILD ABUSE OR NEGLECT

There may be instances of child pornography sexting that could constitute or provide evidence of abuse or neglect that would implicate a duty to report the incident to the Cabinet for Families and Children or the LMPD Crimes Against Children Unit (CACU). In such instances, a school administrator shall follow JCPS reporting guidelines which are sent to all employees twice annually by the Superintendent. In addition, there may be instances in which bullying or harassment may have occurred. In those instances, a school administrator shall follow all JCPS policies relating to bullying and harassment including notifying the victim of all procedures and supports available to them.

PROCEDURES FOR SCHOOL SAFETY OFFICERS

The responding JCPS Security and Investigations Unit will attempt to determine if the images substantiate criminal activity. If the officer cannot determine this, the officer will call an investigator or prosecutor to make that decision.

- a. If criminal prosecution is being sought, the normal evidence procedures shall apply to search and seizure and the phone will not be returned to the parent/guardian of the student, but shall be retained as evidence.
- b. If the images/video are not unlawful and criminal prosecution will not be sought, the device in question shall be returned to the school administrator, who shall return the phone to the parent/guardian of the student and require them to sign form 09.4261 AP.2 Parent/Guardian Acknowledgement of Receipt of Cell Phone.
- c. If the image/video is considered to be unlawful, but prosecution will not be pursued 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.

Student Mobile Phone Procedure

PROCEDURES FOR SCHOOL SAFETY OFFICERS (CONTINUED)

- d. A parent or guardian will acknowledge the factory reset by signing a consent form provided by the SIU Unit 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.

Parent/ Guardian Acknowledgement of Receipt of Cell Phone

Jefferson County Public Schools

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

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.

Parent/Guardian Signature

Parent/Guardian Name (Print)