

CLIENT NEWS BRIEF

Legislature Addresses Student Use Of Smartphones At School

The California Legislature recently passed Assembly Bill (AB) 272, which will become effective January 1, 2020, specifically authorizing school districts to adopt a policy to limit or prohibit student smartphone use, while also granting students certain specific rights to possess and use a smartphone at school. Even though smartphone policies or guidelines are widely used already, this bill provides specific authorization, while also defining some limitations. In particular, AB 272 provides that a student shall not be prohibited from possessing or using a smartphone at school:

- During an emergency situation or as a response to a perceived threat of danger;
- When a teacher or administrator gives permission to a student to possess or use a cell phone, subject to reasonable limitations imposed by the person giving permission;
- When necessary for the health or well-being of a student, as determined by a licensed physician and surgeon; and,
- When possession or use of the cell phone is required pursuant to a student's individualized education program (IEP).

Existing law provides that no student may be prohibited from possessing or using an electronic signaling device that is determined by a licensed physician and surgeon to be essential for the health of the student and use of which is limited to purposes related to the health of the student.

It should be noted that the statutory language of AB 272 refers to "smartphones" rather than cell phones, but this distinction may not matter soon as [approximately four out of five cell phones](#) used in America are smartphones, a figure that is only growing over time.

Although AB 272 affirms the right of school districts, county offices of education, and charter schools to regulate student possession and use of cell phones and smartphones at school, AB 272 provides for more expansive protections for students when it comes to the use of smartphones, which may present unique challenges for school administrators and teachers. For example, many educational agencies have created board policies or school rules that limit the use of cell phones during classes or the school day, and some even ban them from the campus entirely. This new law does not require that public educational agencies create a policy regarding student cell phone or smartphone possession and use. However, these agencies should review any existing policies, rules, and practices to ensure compliance with AB 272. For some of these educational agencies, this may require changes to how teachers confiscate phones from students who are using them for non-educational purposes, as well as how school sites limit possession, and possibly use, of smartphones at schools.

AB 272 creates Education Code section 48901.7, which, interestingly, is placed within the student discipline portion of the Education Code. However, the new law does not create a clear stand-alone suspendable or expellable violation.

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Accordingly, a student's violation of the smartphone policy will likely need to be linked to a related offense, such as using the smartphone to arrange a drug sale or to bully another student.

In creating or updating policy, school officials should be mindful of teachers' use of smartphones for instructional purposes, students' free speech rights, and parents' expectations of instantaneous communications with their students. Input and feedback from these and other stakeholders will help to facilitate any proposed changes to policies, procedures, and practices related to discipline and enforcement. Educational agencies should also consider providing notice to all parents/guardians at the beginning of each school year about any changes to the smartphone policies and practices.

For more information about AB 272 or about student cell phone and smartphone use at schools in general, please contact the authors of this Client News Brief or an attorney at one of our [eight offices](#) located statewide. You can also subscribe to our podcast, follow us on [Facebook](#), [Twitter](#), and [LinkedIn](#) or download our [mobile app](#).

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