



POLICY 5.183

4-D I recommend the Board adopt the proposed new Policy 5.183, to be entitled "Cellular Telephones and Other Wireless Communications Devices."

[Contact: Laura Pincus]

Adoption

CONSENT ITEM

- The Board requested this new Policy via a discussion item at the June 23 regular Board meeting, to distinguish between regular cell phones and camera phones and to prohibit possession of camera phones. The Board approved the item as a first reading on August 2. The Adoption Notice was advertised August 16, 2004.
- Policies 5.1812 and 5.1813 currently prohibit *use* of any cell phones. They also discourage possession of cell phones by listing them as "articles disruptive to school." Section (4)(a)(iii)(G) of those Policies makes it clear that:

"If students possess a cellular phone, it should be turned off and kept inside a book bag, purse, or similar container, and it may not be used (and may not be allowed to emit any ringtone or other noise) [at any time] on school grounds or during any school-sponsored program or activity, including school transportation."

According to those Policies, violation of the restrictions is a Level 1, Code 20 offense that will result in confiscation of the phone and can also result in other consequences such as loss of extra-curricular privileges, an in-school intervention program, or in-school alternative to suspension.

- New statutory provisions regarding students' cell phones, pagers, and other wireless communications devices took effect on July 1, 2004. Pagers had previously been prohibited by Fla. Stat. § 1006.07(2)(d), but the amended statute legalizes possession of pagers while also requiring that the Code of Student Conduct must include a notice about misuse of wireless communications devices, and it requires school boards to adopt rules regarding use of such devices:

"Notice that use of a wireless communications device includes the possibility of the imposition of disciplinary action by the school or criminal penalties if the device is used in a criminal act. A student may possess a wireless communications device while the student is on school property or in attendance at a school function. *Each district school board shall adopt rules governing the use of a wireless communications device by a student while the student is on school property or in attendance at a school function.*"

Fla. Stat. § 1006.07(2)(e) (2004).

- Currently, pagers/beepers are listed as "Prohibited Items, Non-Criminal" under section (4)(a)(iii)(H) of Policies 5.1812 and 5.1813. Under those Policies, possession of a pager

is a Level 1, Code 21 offense that will result in confiscation of the pager and can also result in other consequences such as loss of extra-curricular privileges, an in-school intervention program, or in-school alternative to suspension. However, simple possession of a pager is no longer prohibited by state law and should no longer result in the consequences currently imposed under Policies 5.1812 and 5.1813. Therefore, this Policy will supersede any conflicting portions of those earlier Policies.

- This Policy prohibits possession or use of "camera phones" and treats them as "Prohibited Items, Non-Criminal" under section (4)(a)(iii)(H) of Policies 5.1812 and 5.1813 (as pagers have been).
- As we understand the Board's direction and state law, the current and proposed restrictions are illustrated in the following tables:

Item	Current Restriction	Proposed Restriction
<i>Pagers</i>	No possession, display, or use	No use or display
<i>Camera Phones</i>	No display or use	No <i>possession</i> , display, or use
<i>Regular Cell Phones</i>	No display or use	No display or use
<i>Other wireless communications devices</i>	(Not specifically mentioned, but impliedly: no display or use)	No display or use

Item	Current Classification and Consequences	Proposed Classification and Consequences
<i>Pagers</i>	Level 1, Code 21 (Possession or Use of Prohibited Items, Noncriminal). Consequences: Possession or use results in confiscation of the pager, and can also result in other consequences such as loss of extra-curricular privileges, an in-school intervention program, or in-school alternative to suspension.	Level 1, Code 20 (Use or Display of Articles Disruptive to School). Consequences: same for display or use, but simple possession is allowed.
<i>Camera Phones</i>	Level 1, Code 20 (Use or Display of Articles Disruptive to School). Display or use results in confiscation of the phone, and can also result in other consequences such as loss of extra-curricular privileges, an in-school intervention program, or in-school alternative to suspension.	Level 1, Code 21 (Possession or Use of Prohibited Items, Noncriminal). Consequences: <i>Possession</i> or display or use results in confiscation of the phone, and can also result in other consequences such as loss of extra-curricular privileges, an in-school intervention program, or in-school alternative to suspension.
<i>Regular Cell Phones</i>	Level 1, Code 20 (Use or Display of Articles Disruptive to School). Display or use results in confiscation, etc.	(no change)

POLICY 5.183

CELLULAR TELEPHONES AND OTHER WIRELESS COMMUNICATIONS DEVICES

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5 **1. Purpose.--** For ease of reference, this Policy updates and expands upon existing
6 portions of Policies 5.1812 and 5.1813 concerning wireless communications
7 devices, to clarify that students may possess wireless communications devices as
8 allowed by Fla. Stat. § 1006.07(2)(e) (except for camera phones), but students
9 shall not use such devices at any time on school property, at a school function, or
10 on District transportation.

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12 **2. Definitions.--** As used herein, the terms below are defined as follows:

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14 a. "Wireless communications device" means a handheld electronic device having
15 the ability to receive and/or transmit voice, text, or data messages without a
16 cable connection, such as cellular telephones, digital wireless phones, radio-
17 phones/walkie-talkies, telephone pagers, PDA phones (personal digital
18 assistants with wireless communications capabilities), or RIM ("research in
19 motion") wireless devices.

20
21 b. "Camera phone" means any cellular phone (or other wireless communications
22 device) capable of taking digital photographs.

23
24 **3. Restrictions**

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26 a. Students shall not possess, display, or use any camera phone at any time on
27 school grounds or during any school-sponsored program or activity, including
28 school transportation.

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30 b. Although students may possess wireless communications devices pursuant to
31 Fla Stat. § 1006.07(2)(e), students must abide by section (4)(a)(iii)(G) of
32 Policies 5.1812 and 5.1813, "if students possess a cellular phone [or other
33 wireless communications device], it should be turned off and kept inside a
34 book bag, purse, or similar container, and it may not be used (and may not be
35 allowed to emit any ringtone or other noise) on school grounds or during any
36 school-sponsored program or activity, including school transportation."

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38 **4. Consequences.--** The following consequences may be imposed for violation of
39 this Policy:

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41 a. As stated in section (4)(a)(iii)(G) of Policies 5.1812 and 5.1813, use or display
42 of a wireless communications device (other than a camera phone) constitutes
43 a display or use of an item that is "disruptive to the general peace and welfare

44 to a school center, school bus, or a school sponsored activity" and
45 consequences will be imposed accordingly.

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47 b. A student's possession or use of a camera phone on school grounds or during
48 any school-sponsored program or activity, including school transportation,
49 shall constitute "possession and/or use of items or contraband designated by
50 the school as inappropriate materials" under Policy 5.1812 or 5.1813, section
51 (4)(a)(iii)(H) ("Prohibited Items, Non-Criminal") and consequences will be
52 imposed accordingly.

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54 c. Additionally, "use of a wireless communications device includes the possibility
55 of the imposition of disciplinary action by the school or criminal penalties if the
56 device is used in a criminal act." Fla. Stat. § 1006.07(2)(e). Furthermore, "any
57 person who uses a two-way communications device, including, but not limited
58 to, a portable two-way wireless communications device, to facilitate or further
59 the commission of any felony offense commits a felony of the third degree."
60 Fla. Stat. § 934.215.

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62 STATUTORY AUTHORITY: §§ 1001.41(2); 1001.43(1); 1006.07(2), Fla. Stat.

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64 LAWS IMPLEMENTED: §§ 1001.32(2); 1006.07(2)(e), Fla. Stat.

65
66 HISTORY: ___ / ___ /04

Legal Signoff:

The Legal Department has reviewed proposed Policy 5.183 and finds it legally sufficient for development.

Attorney

Date