

POLICY 5.183

5-B I recommend the Board approve the proposed new Policy 5.183, to be entitled "Cellular Telephones and Other Wireless Communications Devices."

[Contact: Laura Pincus]

Development

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.
- Policies 5.1812 and 5.1813 already 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 inschool 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
Pagers	No possession, display, or use	No use or display
Camera Phones	No display or use	No possession, display, or
		use
Regular Cell Phones	No display or use	No display or use
Other wireless	(Not specifically mentioned, but	No display or use
communications devices	impliedly: no display or use)	

Item	Current Classification and Consequences	Proposed Classification and Consequences
Pagers	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 extracurricular 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.
Camera Phones	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: Possession or display or use results in confiscation of the phone, and can also result in other consequences such as loss of extracurricular privileges, an in-school intervention program, or in-school alternative to suspension.
Regular Cell Phones	Level 1, Code 20 (Use or Display of Articles Disruptive to School). Display or use results in confiscation, etc.	(no change)

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

POLICY 5.183

CELLULAR TELEPHONES AND OTHER WIRELESS COMMUNICATIONS DEVICES

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

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

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

3. Restrictions

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

b. Although students may possess wireless communications devices pursuant to Fla Stat. § 1006.07(2)(e), students must abide by section (4)(a)(iii)(G) of Policies 5.1812 and 5.1813, "if students possess a cellular phone [or other wireless communications device], 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) on school grounds or during any school-sponsored program or activity, including school transportation."

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

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

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47	b.	A st	udent's po	ssessior	or use	of a ca	amer	аp	hone or	n school gro	unds or d	uring
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- b. A student's possession or use of a camera phone on school grounds or during any school-sponsored program or activity, including school transportation, shall constitute "possession and/or use of items or contraband designated by the school as inappropriate materials" under Policy 5.1812 or 5.1813, section (4)(a)(iii)(H) ("Prohibited Items, Non-Criminal") and consequences will be imposed accordingly.
- c. Additionally, "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." Fla. Stat. § 1006.07(2)(e). Furthermore, "any person who uses a two-way communications device, including, but not limited to, a portable two-way wireless communications device, to facilitate or further the commission of any felony offense commits a felony of the third degree." Fla. Stat. § 934.215.

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

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

66 <u>HISTORY: / /04</u>

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Legal Signoff:	
The Legal Department has re for development.	ewed proposed Policy 5.183 and finds it legally sufficien
Attorney	 Date