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School Smarts vs. Smart Phones: New Regulations for Smart Phones on Campus

On July 1, 2019, Governor Gavin Newsom signed Assembly Bill 272, adding section 48901.7 to the Education Code, which regulates student smart phone use on school campuses. Specifically, AB 272 provides that school districts, county offices of education, or charter schools may adopt a policy limiting or prohibiting student use of smart phones at a school site or when students are under the supervision and control of an employee of a school district, county office of education, or charter school. However, the new law also dictates when a school district may not prohibit the use of a smartphone. Those circumstances include:

- In the event of an emergency or perceived threat of danger;
- When a doctor has determined that use of a smart phone is necessary for a student's health or well-being;
- When use of a smartphone is required in a student's individualized education plan; and/or
- When a teacher or administrator grants permission to a pupil to possess a smartphone, subject to any reasonable limitation imposed by that teacher or administrator.

Please note that the impact of AB 272 has been incorrectly reported in some media outlets. It has been claimed that smart phone policy is now mandated, whereas the legislation just states that the education agencies may implement a policy to limit or prohibit smart phones during education activities.

AB 272 references multiple sources alleging that use of smart phones by students lowers academic performance, promotes cyberbullying, and contributes to anxiety, depression and suicide. It appears the intent of the legislation is to restrict student use of smart phones; however, the practical impact of the legislation may have the opposite effect. In order for students to have access to a smart phone in an emergency, a school district would have to allow a student to be able to access their phone. For example, if there were an active shooter on campus and student smartphones were stored in their lockers or in the possession of a teacher during class, a student would not be able to access their phone during the emergency in violation of the statute.

Most school districts currently have a Smart Phone Policy in place or imbed smart phone guidance into a Responsible Use of Technology Policy. With the passage of AB 272, these policies should be updated to include the instances bullet-pointed above when smart phone use should not be prohibited on campus. When a school district adopts or updates its Smart Phone Policy to comply with AB 272, it may also want to consider the following:

- Whether parameters for smart phone usage should be site specific or based on grade level;
- Including smart watches in the definition of smart phone;

- Any limitations for staff, students, parents, volunteers, or others from using a smart phone from taking and posting pictures online without permission;
- Guidance from administrators and staff on the legal parameters for search and seizure of student smart phones in the event of misconduct; and
- Training requirements for students and/or staff on responsible use of technology, including smart phones, and the prohibition on cyberbullying, sexting and other misconduct.

If you have any questions regarding AB 272 or Education Code section 48901.7 and Smart Phone Policy updates or recommended policy language, please do not hesitate to contact any of our 6 offices.

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