

Banning Cells Phones in Schools: Can Students Take the Call?

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Cell phones are amazing devices - small in size yet packing great technological capabilities. Cell phones have the ability to record video, take pictures, send and receive e-mail and text messages instantly, and of course, if required, make phone calls. No one would argue this device is not immensely useful. Their ubiquitous nature with teenagers and even middle school students speaks for itself. No doubt, cell phones can be found right now in almost every high school classroom in America. But should they be?

Cell phones pose an increased risk of disruption in the classroom. Like the cell phone itself, the disruption can come in all forms. Students can become distracted in class waiting for a text message from a friend. Students can use cell phones for cheating by sending text messages back and forth during a test. Students can use the device for illegal activity such as coordinating drug deals or phoning in threats to bully other students. Students can also use cell phones in class to take pictures and then post them on social networking websites, such as Facebook or MySpace. One can see the pitfalls.

A currently pending lawsuit, first filed in December 2007, in the United States District Court Eastern District of Missouri, is a prime example why certain student-owned technological devices, such as cell phones, should be banned from schools. The lawsuit, *L.G. v. Rockwood School District, et al.* was filed by a student by and through his father against the Rockwood School District and three of its administrators. The lawsuit admits that the student, L.G., during his Language Arts class took several photographs of the classroom and its teacher. The lawsuit provides that L.G. after school hours using his home personal computer posted the photographs to his personal section on the Facebook social networking website. After these events, the District suspended L.G. for three days out-of-school because he used his digital camera to take pictures of his Language Arts teacher during class without her permission and then posted these pictures on the Facebook webpage and sent it to other students, thus creating a disruption in the school environment. The student's lawsuit contains one count alleging a violation of 42 USC Section 1983 because he was suspended based on the exercise of his constitutional rights of "private expressive activity" of posting and communicating with other students outside of school property and beyond the school day.

As indicated in the District's court filings, the District correctly articulates the Missouri Statutes authorizing school districts to suspend students for conduct which is prejudicial to good order and discipline in the schools or which tends to impair the morale or good conduct of the pupils. Section 167.161 RSMo. The Board Policy implemented by the District and distributed to students prohibits disruptive speech or conduct which materially and substantially disrupts the classroom work, school activities and school functions. The District maintains that the student surreptitiously took series of photos of the classroom teacher

without her knowledge, without her permission and without her authority and that this conduct, as admitted in the lawsuit, occurred during class time and therefore this conduct was disruptive to the educational environment. After the student posted the photos on the Facebook website, another student reported seeing the photos on the Facebook website to the classroom teacher and disruption also ensued in class to discuss the photographs on Facebook.

What cannot be disputed is that there is a Federal lawsuit currently pending by the student against his school and three of his administrators regarding his right to secretly take pictures in class and post them on his Facebook website. Even though the student took the pictures with a digital camera, this “right” can now be exercised by practically any student with a cell phone.

In light of the disruptive nature of cell phone usage in schools, we would suggest implementing the following Cell Phone Use Policy by the beginning of the 2008-2009 school year. With the rise of cell phone use among the student population, a number of Districts have already adopted this policy. It reads as follows:

Student Cell Phone Usage

Developments in cell phone technology in recent years have resulted in enhanced communication opportunities. However, the use of cell phones in schools poses increasing risks of school disruptions, bullying, criminal activity, and academic dishonesty. As a result, beginning with the 2008-09 school year, student cell phones will be banned during the instructional day, as well as in dressing areas during extracurricular activities. Violation of this policy during the first semester after adoption of this policy will result in in-school suspension, while second offenses will result in out-of-school suspension being imposed. After the first semester 2008-09, out-of-school suspensions will be imposed on the first and subsequent offenses.

Parents may apply to the building principal to obtain a hardship exception. In such cases, the student’s cell phone must be retained in the principal’s office. Students granted a hardship may visit the office to use their cell phone for approved purposes. Each school’s phones are also available for parents to contact their student for legitimate reasons.