

#### **4.47— POSSESSION AND USE OF CELL PHONES AND OTHER ELECTRONIC DEVICES**

Students are responsible for conducting themselves in a manner that respects the rights of others. Possession and use of any electronic device, whether district or student owned, that interferes with a positive, orderly classroom environment does not respect the rights of others and is expressly forbidden.

To protect the security of statewide assessments, no electronic device, as defined in this policy, shall be accessible by a student at any time during assessment administration unless specifically permitted by a student's individualized education program (IEP) or individual health plan;<sup>1</sup> this means that when a student is taking an AESAA assessment, the student shall not have his/her electronic device in his/her possession. Any student violating this provision shall be subject to this policy's disciplinary provisions.

As used in this policy, “electronic devices” means anything that can be used to transmit or capture images, sound, or data.

Misuse of electronic devices includes, but is not limited to:

1. Using electronic devices during class time in any manner other than specifically permitted by the classroom instructor;
2. Permitting any audible sound to come from the device when not being used for reason #1 above;
3. Engaging in academic dishonesty, including cheating, intentionally plagiarizing, wrongfully giving or receiving help during an academic examination, or wrongfully obtaining test copies or scores;
4. Using the device to take photographs in locker rooms or bathrooms;
5. Creating, sending, sharing, viewing, receiving, or possessing an indecent visual depiction of oneself or another person.

Use of an electronic device is permitted to the extent it is approved in a student's IEP or it is needed in an emergency that threatens the safety of students, staff, or other individuals.

Before and after normal school hours, possession of electronic devices is permitted on the school campus. The use of such devices at school sponsored functions outside the regular school day is permitted to the extent and within the limitations allowed by the event or activity the student is attending.

The student and/or the student's parents or guardians expressly assume any risk associated with students owning or possessing electronic devices. Students misusing electronic devices shall have them confiscated. *Confiscated devices may be picked up at the school's administration office by the student's parents or guardians.*<sup>2</sup> Students have no right of privacy as to the content contained on any electronic devices that have been confiscated.<sup>3</sup> A search of a confiscated device shall meet the reasonable individualized suspicion requirements of Policy 4.32—SEARCH, SEIZURE, AND INTERROGATIONS.

Students who use school issued cell phones and/or computers for non-school purposes, except as permitted by the district's Internet/computer use policy, shall be subject to discipline, up to and including suspension or expulsion. Students are forbidden from using school issued cell phones while driving any vehicle at any time. Violation may result in disciplinary action up to and including expulsion.<sup>4</sup>

No student shall use any wireless communication device for the purposes of browsing the internet; composing or reading emails and text messages; or making or answering phone calls while driving a motor vehicle that is in motion and on school property. Violation may result in disciplinary action up to and including suspension.<sup>5</sup>

Notes: As districts move toward one-to-one computing and other options for integrating technology into classroom instruction and student learning, ASBA advises that in changing this policy (or any other locally generated policy), districts be mindful of the potential concerns relating to equitable access to the technology. When classroom instruction involves technology devices, it is important to make sure all students have reasonably the same access and are not hampered by their socio-economic status. Permitting or requiring students who own laptops, iPads or any other such device to use them as part of the instructional/learning environment without providing similar devices to those who don't own or have access to such devices is unfair to those students.

<sup>1</sup> The ADE Testing Administration Manual requires this language. Our interpretation is that on testing days students will not be allowed to have their cell phones in their possession during any test they take.

<sup>2</sup> ASBA suggests adding another sentence that specifies the increasing severity of the penalty for repeat offenders. Given the severity of a breach of assessment security, you might consider separate penalties for such action. If you choose to do so, don't forget to amend the last sentence of the second paragraph.

<sup>3</sup> To perform a search of an electronic device, an administrator would have to possess individualized suspicion that an examination of the device would reveal evidence of student misconduct, **and** the search itself would have to be tailored to the suspicion. For instance, if there were an allegation that harassing text messages had been sent from Student A to Student B during lunch, individualized suspicion would exist as to the text message history contained on Student A's phone; however, viewing pictures or files unrelated to the suspected misconduct would be inappropriate and a violation of the student's rights under the 4<sup>th</sup> Amendment of the US Constitution. Merely confiscating a cell phone because the student received a call on it, does not give individualized suspicion to justify a search.

<sup>4</sup> This sentence is included because insurance companies have ruled that injuries occurring while driving and talking on school issued cell phones are subject to workers comp awards.

<sup>5</sup> A.C.A. § 27-51-1603 makes it illegal for anyone under the age of eighteen (18) to use a wireless communication device for any purpose while operating a motor vehicle. Additionally, A.C.A. § 27-51-1609 prohibits the use of a "wireless handheld telephone" while in a school zone for any purpose when that use is not hands free. While the policy language exceeds the statutory prohibitions, we believe the language is important for the protection of students, employees, and the public.

Legal References:     A.C.A. § 6-15-2907  
                          A.C.A. § 6-18-515  
                          A.C.A. § 27-51-1602  
                          A.C.A. § 27-51-1603  
                          A.C.A. § 27-51-1609  
                          ADE Test Administration Manual

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