

## FFI - PERSONAL ELECTRONIC COMMUNICATION DEVICES PROHIBITION DURING INSTRUCTIONAL TIME

The Underwood Public School District is committed to providing the necessary support for academics and student well-being in a positive educational environment that is free from unnecessary, non-educational distractions. Personal electronic communication devices can be a distraction during instructional time and counterproductive to student focus and engagement. By prohibiting and limiting the use of personal electronic devices during the school day, this policy aims to provide students with more opportunities to engage in meaningful interactions, collaborate with peers, and cultivate the essential skills necessary for academic and life-long success. Therefore, it is the position of the State of North Dakota and the District that students and school employees shall abide by this policy, which prohibits the use of personal electronic communication devices as outlined herein.

### Definitions

For the purposes of this policy and in accordance with North Dakota law:

- a. *Instructional time* means the time from the start of the school day until dismissal at the end of the school day on school premises, for which the signal may be the ringing of a bell, including a structured or unstructured learning experience, recess, a lunch period, and time in between classes. The term does not include private student travel time to and from an area career and technology center or other offsite learning experience or instructional time occurring in virtual environments off school premises.
- b. *Parent* means a parent or guardian of a student who is authorized to make decisions regarding education for the student.
- c. *Personal electronic communication device* means a portable electronic device capable of communication by voice, text, or other data with one or more other parties or devices, or capable of connection to a smartphone, the internet, or a cellular or wireless fidelity network, including a smartphone, cell phone, bluetooth-enabled device, tablet, smartwatch or other wearable device, and gaming device. The term does not include:
  - School-owned devices provided to a student and school-approved devices used by a student in accordance with this policy.
  - Portable devices that meet the definition of a medical device under the federal Food, Drug and Cosmetic Act [21 U.S.C. 9 et seq.].
- d. *School* means a public school providing prekindergarten, elementary, or secondary education, including area career and technology centers. The term does not include virtual schools, virtual instruction, the North Dakota center for distance education, or education occurring in a home-school environment.
- e. *School-related activity* means a school sanctioned activity, event, or function, occurring outside of instructional time, at which students are under supervision of

the school, whether on or off school premises, including a bus ride, field trip, sporting event, and school dance.

- f. *Student* means an individual currently enrolled or registered at a public school as defined under this policy.
- g. *Inappropriate content* is defined as content that:
  - Violates a district student conduct policy;
  - Attacks race, color, national origin, ancestry, religion, sex, disability, or other status protected by law;
  - Promotes violence, terrorism, or other illegal activities including, but not limited to, tobacco, drug, and/or alcohol use by minors;
  - Is obscene or pornographic as defined by community standards;
  - Is reasonably forecasted to materially or substantially disrupt the educational environment;
  - Poses a direct threat to the physical safety of the school population; or
  - Infringes on the rights of others, such as, but not limited to, material that is potentially libelous or invades an individual's privacy.

### **Prohibitions**

In compliance with N.D.C.C. § 15.1-07-41, the District prohibits students from using personal electronic communication devices during instructional time. All personal electronic communication devices must be:

1. Silenced or turned off, *and*
2. Securely stowed away, *and*
3. Inaccessible to students during instructional time.

Exceptions may be made only as outlined below. The District may develop additional administrative regulations or rules outlining the specific procedures each school building will follow to ensure all three legal requirements are met during instructional time.

### **Device Access Exceptions**

The District will not prohibit a student from possessing or using a personal electronic communication device under only the following circumstances:

- a. When a school-owned device is provided to a student, including school-issued laptops, tablets, or any other electronic device capable of communication as defined under this policy.
- b. When a school-approved device is used by a student, including personal electronic communication devices that have been approved by administration to be used during instructional time for an educational-related purpose. Such approval shall be limited in scope and time according to the specific educational-related use of

the approved device. Students using a school-approved device shall only use that device for the educational-related purpose for which the device received approval. Any violation of this provision by the student or employee may result in approval being rescinded, and the student and/or employee being subject to discipline as identified in this policy.

- c. When a medical provider licensed under [N.D.C.C. Title 43](#) (Occupations and Professions) determines the possession or use of a personal electronic communication device is necessary for the health or well-being of the student.
- d. When possession or use of a personal electronic communication device is required by the student's individual education program under:
  - o The Individuals with Disabilities Education Act [[20 U.S.C. 1400](#)];
  - o Section 504 of the Rehabilitation Act of 1973 [[29 U.S.C. 794](#)]; or
  - o A plan developed in accordance with state or federal law requiring accommodation.

### **Limitations and Allowances for School-Related Activities**

The District may limit or allow student access to personal electronic communication devices outside of instructional time, during a school-related activity as defined in this policy. Such access may be approved by administration, the teacher or advisor for a curricular activity, or the coach or advisor for an extra-curricular activity. The District may develop and enforce specific limitations and allowances under administrative regulations or rules.

### **Prohibitions When Access is Allowed**

Any time a student is possessing or using a school-owned or -approved device, a personal device on a limited or allowed basis, or a personal device that falls under another exception in this policy, the following prohibitions apply:

1. Students are prohibited from using a personal electronic communication device to violate a student conduct policy including, but not limited to, policies on cheating and bullying while on school property or at a school-sponsored event;
2. Students are prohibited from using a personal electronic communication device to photograph, video record, or transmit any photo or video, of any person during the school day. Building principals are authorized to make exceptions to this rule for bona fide classroom activities and in accordance with the "exceptions" section of this policy;
3. Students are prohibited from using a personal electronic communication device to photograph or video record inappropriate content and/or transmit inappropriate content while on school property and/or participating in school-sponsored events;
4. Students are prohibited from displaying or using, and are also strongly discouraged from possessing, a personal electronic communication device in areas where there is a reasonable expectation of privacy by others on school property and at school-sponsored events;

5. Students are prohibited from using a personal electronic communication device to compromise district networks or access confidential material on district networks. The District may also take disciplinary action against a student who has used a personal electronic communication device to engage in hacking, trolling, accessing or transmitting inappropriate content, spamming, sending viruses, and/or engaging in illegal or other inappropriate activity while on school property or participating in any school-sponsored event; and
6. Students are prohibited from using a personal electronic communication device disruptively or in a manner that potentially compromises the safety of others on school property and during school-sponsored events.

### **Student Contact with Parents or Caregivers**

A student may contact the student's parent or authorized caregiver during the school day if needed by using a school telephone made available to the student in a manner and location designated by building administration. Student contact with parents or caregivers will not be unreasonably withheld, but the Superintendent may develop administrative regulations and rules to maintain the orderly operation of the District and ensure the educational process is not unnecessarily disrupted.

Other District policies and regulations may apply and should be referenced in the event of District-wide emergencies, student emergencies, and other health and safety events.

### **Enforcement Provisions**

The District enacts the following enforcement provisions to ensure strict compliance with the law and this policy by students and school employees:

1. Employee Expectations and Disciplinary Measures

The District requires strict compliance with state law and this policy by school employees. Any employee who knowingly allows a student to access a personal electronic communication device (that does not fall under a policy exception) during instructional time, in violation of this policy and while under the employee's supervision, may be subject to discipline, up to and including termination.

In complying with this policy, the following school employee expectations apply:

- a. *School Staff Direction and Reporting Requirements.* School staff must direct students under their supervision and/or instruction to comply with this policy and shall require students' personal electronic communication devices to be silenced or turned off, securely stowed away, and inaccessible during instructional time. Staff shall report to administration any alleged student violation of this policy (as described in the next section: "Student Expectations and Disciplinary Measures").
- b. *Administration Investigation and Response.* Upon receipt of a report of an alleged policy violation, administration must investigate and make a determination as to whether the student has committed a violation (as described in the next section: "Student Expectations and Disciplinary

Measures"). Only administration may determine an actual violation and administer discipline or corrective action.

- c. *Identification of Policy Exceptions.* All school employees who instruct, provide services to, or are otherwise entitled to information regarding a student who has an Individual Education Program ("IEP"), Section 504 plan, medical accommodation, or other plan requiring accommodation must identify and review any exceptions to this policy that are provided for in the student's program or plan. School employees are expressly prohibited from openly or publicly discussing students' medical conditions, accommodations, or other legally-protected confidential information. Inquiries or concerns may be directed to administration, e.g., when a staff member observes a student with a personal electronic communication device and the staff member is not entitled to the student's confidential information, and therefore does not know whether an exception to this policy applies to that student's access.
- d. *Compliance with Policy Exceptions.* The District requires strict compliance with policy exceptions, including those exceptions made for school-owned and school-approved devices; medical devices; and possession or use of a device required under the IDEA, Section 504, or a plan developed in accordance with state or federal law requiring accommodation. Accordingly, the District expressly prohibits school employees from confronting, disciplining, or removing a student's approved electronic device when that device may fall under an exception in this policy, except when administration has investigated and determined a violation was committed.
- e. *Employee Use of Personal Electronic Communication Devices.* Employees are also expected to follow acceptable use of technology and professional code of conduct policies when using their own personal electronic communication devices during instructional time.

Allegations that a school employee has violated any of the foregoing expectations or this policy should be addressed in accordance with policy KACB ("Complaints about Personnel") or other applicable complaint and investigation policies or procedures.

## 2. Student Expectations and Disciplinary Measures

The District requires strict compliance with state law and this policy by students. Violations of policy occur when a student knowingly and willfully violates this policy as determined by administration. Any student who administration has found to have violated this policy may be subject to disciplinary consequences and/or corrective measures. When determining the appropriate response to violations of this policy, administration shall take into account the totality of circumstances surrounding the violation.

Measures that may be imposed by administration include, but are not limited to:

- a. First Violation - Electronic device will be confiscated, given to the principal and parents/guardians will be contacted.

b. Second Violation - Electronic device will be confiscated, given to the principal and parents/guardians will need to pick up the electronic device. Student will serve detention.

c. Third Violation

- Elementary: Electronic device will be confiscated, parents/guardians will meet with principal to pick up the electronic device and develop a behavior plan/contract, possible ISS and will not be able to participate in school activities for 1 week after the suspension is served.
- Secondary: Electronic device will be confiscated, parents/guardians will pick up the electronic device, and student will serve ISS and will not be able to participate in school activities for 1 week after the suspension is served.

d. Fourth Violation

- Elementary: Electronic device will be confiscated, parents/guardians will meet with principal to pick up the electronic device and develop a behavior plan/contract, and student will serve ISS and will not be able to participate in school activities for 1 week after the suspension is served.
- Secondary: Electronic device will be confiscated, parents/guardians will pick up the electronic device, and student will serve OSS and will not be able to participate in school activities for 1 week after the suspension is served.

e. Fifth Violation

- Elementary: Electronic device will be confiscated, parents/guardians will meet with principal to pick up the electronic device and develop a behavior plan/contract, and student will serve OSS and will not be able to participate in school activities for 1 week after the suspension is served.
- Secondary: Electronic device will be confiscated, parents/guardians will pick up the electronic device, and student will serve OSS for 3 days and will not be able to participate in school activities for 1 week after the suspension is served and an expulsion hearing will be considered.

If administration determines that a student is in violation of this policy, the administrator may direct the student to turn over the device. If the student refuses to turn over the device to administration, the student may be further disciplined for insubordination in accordance with the District's student conduct policies. At no time should a District administrator or staff member attempt to physically or forcibly take a personal electronic communication device from a student.

Administration may otherwise also respond under other conduct and disciplinary policies and regulations when a student's conduct implicates additional policies, including but not limited to violence, threats of violence, harassment, or bullying.

Administration is required to identify students with disabilities (including those covered under the IDEA, Section 504, the ADA, and any child-find obligations) and must address any alleged student violations in compliance with special education policies, regulations, and applicable laws.

### **Searches of Devices**

When a student is possessing or using a school-owned or -approved device, a personal device on a limited or allowed basis, or a personal device that falls under another exception in this policy, administration is authorized to search the device when there is reasonable suspicion of the following:

1. The device contains evidence of conduct or activity that may constitute a violation of policy or the law; or
2. There is a threat of danger or potential harm to self or others.

Only areas of the device reasonably related in scope to the purpose of the search will be subject to a search (e.g., if a student is allegedly texting inappropriate photos, only the device's text messages will be searched). Administration is authorized to contact legal counsel to help determine the appropriate scope of the search.

If administration suspects or finds that a device contains content that violates N.D.C.C. § 12.1-27.1-03.3 related to sexually expressive images or other laws, they shall contact law enforcement. Under no circumstances shall school officials download or transfer sexually explicit content from a student's personal electronic communication device. Law enforcement, including school resource officers, upon having probable cause, may communicate the need to search a device and may provide a student or the District with a search warrant or subpoena for information or records.

### **Dissemination and Education**

The District shall communicate this policy to students, parents, and authorized caregivers, and publish the policy in student and personnel handbooks.

The District may develop and implement electronic communication device education programs for students and staff professional development activities. School administration may develop guidelines to assist students and staff with complying with this policy.

### **Annual Data Collection and Documentation**

In accordance with state law, the District must collect data annually with the goal of measuring the impact of this policy on student behavior, mental health, disciplinary incidents, school attendance, and academic performance.