

POLICY SERVICES

ADVISORY

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Policy advisory discussion

The following advisory and discussions regard recently released information from Federal regulatory bodies that specifically concern School Districts with elementary and secondary students. The section related to the e-rate contains mandatory requirements. The cell phone tax treatment is a change in direction affecting most © 2004 by New Mexico School Boards Association *Note:* This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation.

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schools that use cell phones for internal communications. Last is a list of potential violations of EPA regulations common to schools, presented as a reminder.

Introductory Comments.

Policy Advisory No. 90. IJNDB —Use of Technology Resources in Instruction The Federal Communications Commission issued a final rule as a result of Protecting Children in the Twenty-first Century Act at 76 Fed. Reg 56.295 (Sept. 13, 2011) as follows:

"School districts that receive E-rate funds must adopt specific internet filtering and policy requirements per the Children's Internet Protection Act (CIPA). Among other things, this final rule adds language from the Protecting Children in the 21st Century Act to the existing Federal Communications Commission (FCC) rules implementing CIPA regarding school districts adding language to their internet safety policies about educating students about appropriate online behavior. Specifically, the final rule contained in this order implements the statutory language verbatim: "This Internet safety policy must also include monitoring the online activities of minors and must provide for educating minors about appropriate online behavior, including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response." Although a school's Internet safety policy may include the development and use of educational materials, the policy itself does not have to include such materials. The FCC has declined to define "social networking" or "cyberbullying." This new requirement is effective on July 1, 2012."

Accordingly, Policy Services provides the following advisory concerning the policy, regulation and exhibit concerning IJNDB on Use of Resources in Instruction - Modifications to the model policy were made to incorporate the requirements of the changes from the Federal Regulations. The policy now contains language indicating that ***the district will provide for educating minors about appropriate on line behavior including interacting with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response.*** The model as modified does not include educational materials or programs to accomplish the requirements of the new regulations. As indicated in the announcement of the rule "the policy itself does not have to include such materials." The school district is required as a condition of receiving e-rate funding to provide education as indicated above. Policy Services suggests that the schools use Internet resources such as OnGuardOnline.gov or the Media Awareness Network at media-awareness.ca to begin this process of developing an education program to train students in online behavior and about the use of social networking, chatrooms and how to respond to cyberbullying. The educational program could be incorporated into an already established health, library, or other training programs © 2004 by New Mexico School Boards Association *Note:* This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation. **Policy Services Page 2 of 2**

or could stand alone. It should be a program approved by the Board, in which the local Board should make the decision as to what constitutes material that may be harmful to minors and prohibited in the course of monitoring access to on line content by minors and adults when using school equipment.

As the requirement indicated above is effective July 1, 2012, this advisory is sent in a timely manner to encourage each district to do the research and planning for implementation.

Policy Advisory No. 91. IRS issues Guidance on Tax Treatment of cell phones; Provides Small Business Recordkeeping Relief.

"Internal Revenue Service (IRS) Notice 2011-72 addresses the tax treatment of employer-provided cell phones. It states that when an employer provides an employee with a cell phone primarily for non-compensatory business reasons, the business and personal use of the cell phone is generally nontaxable to the employee. The business use is nontaxable as a working condition fringe benefit[s] and the personal use is nontaxable as a de minimis fringe benefit. The IRS will not require recordkeeping of business use in order to receive this tax-free treatment. In a memorandum to field examination operations, the IRS announced a similar approach to cash allowances and reimbursements for work-related use of personally-owned cell phones. Under this approach, employers that require employees, primarily for non-compensatory business reasons, to use their personal cell phones for business purposes may treat reimbursements of the employees' expenses for reasonable cell phone coverage as nontaxable. This treatment does not apply to reimbursements of unusual or excessive expenses or to reimbursements made as a substitute for a portion of the employee's regular wages. Neither guidance applies to the provision of cell phones or reimbursement for cell phone use that is not primarily business related; such arrangements are generally taxable."

It is the position of Policy Services that since the IRS will not require recordkeeping for business use of employer provided cell phones and will treat reimbursement for work-related use of personally-owned cell phones as nontaxable, a school board policy is not necessary regarding this issue. The determination by the Board regarding furnishing a cell phone or compensating for use of a personal cell phone should be a part of the compensation plan for an employee. The IRS has made the determination that burdensome recordkeeping is no longer required so long as the reimbursement or use are reasonable for the business, and personal use is minimal.

Policy Advisory No. 92. "The Environmental Protection Agency (EPA) has developed a list of potential violations of federal EPA regulations to remind K-12 schools of several of their key environmental requirements. The document lists eight federal environmental statutes that school districts must comply with. It also lists typical violations concerning the following topics: asbestos, Chlorofluorocarbon (CFC), combustion source, hazardous waste, oil storage tank, underground injection control, pesticide, and Polychlorinated Biphenyls (PCBs)."

Policy Services is providing this list as a reminder to K-12 schools in NM of their possible legal obligations regarding reporting in this area and to provide assistance in locating the sources for reporting.

A copy of the laws and regulations that may affect the policies as referenced in the above discussions can be found at the end of this advisory. © 2004 by New Mexico School Boards Association *Note:* This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation. ***Policy Services Page 2 of 2***

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USE OF TECHNOLOGY RESOURCES IN INSTRUCTION

Appropriate use of Electronic Information Services

The District may provide electronic information services (EIS) to qualified students, teachers, and other personnel who attend or who are employed by the District. Electronic information services include networks (e.g., LAN, WAN, Internet), databases, and any computer-accessible source of information, whether from hard drives, tapes, compact disks (CDs), floppy disks, flash drives, memory cards or other electronic sources. The use of the services shall be in support of education, research, and the educational goals of the District. To assure that the EIS is used in an appropriate manner and for the educational purposes intended, the District will require anyone who uses the EIS to receive instruction in and follow its guidelines and procedures for appropriate use. Instruction in appropriate online behavior shall include how to interact with other individuals on social networking websites and in chat rooms and cyberbullying awareness and response. Anyone who misuses, abuses, or chooses not to follow the EIS guidelines and procedures will be denied access to the District's EIS and may be subject to disciplinary action.

Each user will be required to sign an EIS user 'sagreement. The District may log the use of all systems and monitor all system utilization. Accounts may be closed and files may be deleted at any time. The District is not responsible for any service interruptions, changes, or consequences. The District reserves the right to establish rules and regulations as necessary for the efficient operation of the electronic information services.

The District does not assume liability for information retrieved via EIS, nor does it assume any liability for any information lost, damaged, or unavailable due to technical or other difficulties.

Web and Internet Publishing

Documents created for the Web must have a purpose that falls within at least one of the following two categories: (1) Support of curriculum, instruction, and learning, and (2) Communication with parents and the community. © 2004 by New Mexico School Boards Association *Note:* This material is written for informational purposes only, and not as legal advice. You may wish to consult an attorney for further explanation. *Policy Services* **Page 2 of 2**

All information must accurately reflect the mission, goals, policies, program, and activities of the School District. All subject matter should relate to curriculum, instruction, and general information that is appropriate, or it should relate to activities of the District or the schools within the District.

Filtering and Internet Safety

The District shall provide for technology protection measures that protect against Internet access by both adults and minors to visual depictions that are obscene, child pornography, or, with respect to use of the computers by students, harmful to students. The protective measures shall also include monitoring the online activities of students.

Limits, controls, and prohibitions shall be placed on student:

- Access to inappropriate matter.
- Safety and security in direct electronic communications.
- Unauthorized online access or activities.
- Unauthorized disclosure, use and dissemination of personal information.

The Superintendent is responsible for establishing and enforcing the District's electronic information services guidelines and procedures for appropriate technology protection measures (filters), monitoring, and use.

Adopted: date of manual adoption

LEGAL REF.: 20 U.S.C. 9134, The Children's Internet Protection Act
47 U.S.C. 254, Communications Act of 1934 (The Children's
Internet Protection Act)

CROSS REF.: EGD - Use of Technology in Office Services© 2004 by New Mexico School
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