

What's Happening

IN CALIFORNIA ?

BY LAWRENCE GABLE

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SCHOOLS STRUGGLE WITH CELL PHONES ON CAMPUS

Most schools allow students to have cell phones. They also have policies for when students can actually use them. Now a new report looks at policies in school districts all around California.

The U.S. Constitution guarantees the right to privacy. In 1985 the Supreme Court made a ruling about students' right to privacy at school. It protected those rights while it defined the actions that schools can take to keep campuses safe.

Schools certainly may conduct searches of things like purses, backpacks and lockers. However, the school must have reasonable suspicion that the student has broken rules or is acting illegally. Then school officials must limit their search to finding evidence of that misbehavior.

The American Civil Liberties Union (ACLU) protects the rights of Americans. It has chapters all around the country. The ACLU of Southern California received some complaints that searches had included cell phones. That led it to study cell phone policies in many districts.

It studied the policies in 164 districts and found a lot of differences. A few districts ban cell phones from campuses completely. A few also allow students in high schools to have them, but not younger students. Many districts allow students to carry them, but not to use them during the school day.

However, most districts allow students to use their cell phones, as long as they do not interrupt classes or school activities.

The policies also describe discipline for students who misuse their cell phones. The students get a warning to turn them off, or teachers may confiscate the phones. However, some policies clearly violate the right to privacy. Some allow an administrator to search the contents of a confiscated cell phone. Two others say that students have no privacy rights. One even says that an administrator will read text messages and look at photos and videos.

In its report the ACLU describes a good cell phone policy. Students should be able carry and use phones in case of emergency. Otherwise they should keep phones turned off and out of sight during classes and programs. Schools may confiscate phones after a warning. Schools may look at a phone's contents only with reasonable suspicion or with permission of its owner. In the end, the ACLU says that a school may take away a student's right to carry a phone.

Running a school is not easy. Administrators and teachers should make each school a good, safe place to be. Students have to do their part too. Certainly they should follow rules and cooperate, but they do not have to give up their right to privacy in the process.



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BIOGRAPHY

HECTOR VILLAGRA

EXECUTIVE DIRECTOR, ACLU, SOUTHERN CALIFORNIA

In high school Hector Villagra thought about becoming a lawyer. Then on a career day at school he heard a lawyer speak. Hector thought he seemed really unhappy, so he forgot about Law. However, he did become a lawyer and is really happy. Mr. Villagra is the executive director of the Southern California chapter of the ACLU.

Hector always was a good student. He did not really like school very much though. His parents had come from Argentina and Cuba, and neither of them had gone beyond high school. They wanted him to get a good education, and they told him that studying was his job. He finished high school near the top of his class.

For college Hector left the suburbs of Los Angeles to study in New York City. At first it shocked him to be in the middle of a huge city. In the end he learned to love New York though. After four years he earned his degree in Philosophy.

After college in 1990 Mr. Villagra returned to Los Angeles. For a year he worked in the City Attorney's office. He saw that the lawyers who worked there were happy. It made him rethink his old interest in Law. In 1991 he went back to New York City for three years of law school.

The summer after the second year changed Mr. Villagra. He worked for the ACLU

in San Francisco on its Death Penalty Project. He investigated some cases of people who were sitting on death row. In his work he recognized the power of helping people with legal problems. He also admired the kindness with which

lawyers did it. That is when he decided on a career in protecting people's civil rights.

After law school Hector Villagra had a series of jobs. Two were as a clerk for judges. For two years he also worked for a law firm in New York City. Then he returned to Los Angeles to work for the Mexican American Legal Defense and Education Fund. He earned a lot less money than he had in New York, but the work was important to him.

His career with the ACLU

started in 2005. He opened a new chapter in Orange County. Once again his work involved the rights of individuals, including those of day laborers. In 2009 he moved to the chapter in Los Angeles as its legal director. For almost a year he has been its executive director.

There is no typical day at work for Hector Villagra. He manages 54 people who work for the chapter. He gives interviews to the press in English and Spanish. Often he makes presentations to community groups too. He expresses to them why he goes to work every day. That is, individuals have rights and they are worth protecting.



"I like that we are trying to help people and improve communities."

Background Information

The Fourth Amendment to the U.S. Constitution: “The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.”

The ACLU of Southern California’s report is called “H-E-L-L-O: Students have a right to privacy in their cell phones.”

The ACLU of Southern California studied 298 school districts in 14 counties. It did so by searching the districts’ Web sites for their cell phone policies. Only 164 of them showed their policies on search and seizure.

The 1985 Supreme Court decision was *New Jersey v. T.L.O.*

According to a survey in 2009, more than 80 percent of 17-year-old students have cell phones, and well over half of 12-year-olds have them too.

A national survey in 2007 revealed that, even in schools that ban cell phone possession on campus, 65 percent of students still bring them every day.

Privacy issues get more complicated when school district employees search a cell phone that a parent owns, or one that a student shares with siblings. In those cases, an unrestrained search could reveal private information of not only the student, but also of the entire family.

Some districts do not take a progressive disciplinary approach (issuing a warning at the first offense, confiscating the phone on subsequent offenses). Students in one California school district, for example, face suspension or expulsion for sending a text message or taking a picture on the first offense.

The California Supreme Court also ruled on the matter of searches at school. It said that administrators must have reasonable suspicion that they can put into words, and that “curiosity, rumor or hunch” are not sufficient grounds to search a student.

A school may not search one student’s cell phone to discover evidence of another student’s potential misconduct.

Topics for Discussion and Writing

Pre-reading:

- Name different kinds of information that people store on their cell phones.

Comprehension:

- Explain the conditions under which a school may search a student legally.

Beyond the Text:

- Why do schools limit the ways that students can use cell phones at school?
- Explain your school’s policy on cell phones, and tell whether you do, or do not, think it is reasonable.
- How do you think classes might make good use of cell phones as an educational tool?

Vocabulary

Article-specific: privacy; search; reasonable suspicion; evidence; misbehavior; chapter; to confiscate

High-use: to guarantee; to define; to conduct; to interrupt; to violate; to cooperate

Sources

Los Angeles Times November 10, 2011

KQED “Mind/Shift” August 22, 2011

ACLU of Southern California www.aclu-sc.org

CA Curricular Standards (4–12)

English - Language Arts

Reading 1.0 Vocabulary Development

2.0 Comprehension (Informational Materials)

Writing 1.0 Writing Strategies

2.0 Writing Applications

ELD—Intermediate and Advanced

Reading Vocabulary Development/Comprehension

Writing Strategies and Applications

Listening and Speaking

History-Social Science

4.5; 5.7; 8.1; 8.2; 11.1; 12.5; 12.8