

# Legally Speaking

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## Posting Student Information on School Websites

By James A. Robinson, School Board Attorney  
David Koperski, Assistant School Board Attorney

Recently, we have addressed questions regarding schools creating password-protected sections of their websites where parents can access their students' confidential student information, such as grades and disciplinary history. These sites have been created even though the district offers all parents access to ParentCONNECTxp, the districtwide secure website where parents can access such information. Unfortunately, the school-based sites were not secure, and some of the confidential information was accessible to anyone on the internet. Because the schools cannot ensure that their own websites will prevent the inadvertent and unlawful release of confidential student information, schools should not post confidential student information on their websites, even in a "secure" area, but should instead rely on ParentCONNECTxp.

These questions raise the issue of the confidentiality of student records. One of the rights public students and their parents have is the right to privacy of the student's records. In this area, we are governed by both federal and state law, the Family Educational Rights and Privacy Act of 1974 (FERPA) and section 1002.22, F.S. The definition of "student record" was discussed in an earlier issue of this publication (Vol. V, Issue 4, page 2). In sum, student records include, without limitation, official re-

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### Mission Statement

The mission of the School Board Attorney's Office is to provide the highest quality legal services to the Pinellas County School Board and district by ensuring timely and accurate legal advice and effective representation on all legal matters.

## Brass Knuckles

By Laurie Dart, Staff Attorney

Students can find them at a flea market, the dollar store or on the web. Sometimes they are advertised as a belt buckle or even as pendent jewelry. Wherever they are found or whatever they are packaged as, there are a couple of things students and their parents should be aware of. Under Florida law, a set of metallic or brass knuckles is a weapon, and it is illegal to have possession of a weapon on school property. In fact, a student who has brass knuckles on school grounds, at a

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## Fair Debt Collection Practices

By James A. Robinson, School Board Attorney

Many people go through personal financial difficulties, and some have fallen behind in their credit card payments. Calls from collection agencies to employees at the workplace may result. This practice may escalate to the point of harassment of the employee and loss of productivity in the workplace. This article is addressed to those who are contacted by a debt collector but also will be helpful to their supervisors because it addresses restrictions on telephone calls to employees during the workday.

Be aware that both federal and state law provide protection from unfair debt collection practices.\* These laws do not apply to the creditor but to someone who regularly tries to collect debts on behalf of creditors. A debt collector may make contact when payments are behind on a personal, family or household debt, or if an error has been made in the account.

A debt collector may contact you in person or by mail, e-mail, telephone, telegram or fax but may not communicate with you or your family with such frequency as can reasonably be considered harassment. A debt collector may not contact you at work if the collector knows your employer disapproves of such contact. A collector may not contact you at unreasonable times or places, such as before 8 a.m. or after 9 p.m., unless you agree.

A debt collector is required to send you a written notice within five (5) days after you are first contacted,

telling you the amount of money you owe. The notice must also specify the name of the creditor to whom you owe the money and what action you should take if you believe you do not owe the money.

You may stop a collector from contacting you by writing a letter to the collection agency telling it to stop. Once the agency receives your letter, its employees may not contact you again except to say there will be no further contact, or to notify you if the debt collector or the creditor intends to take some specific action.

If you do not believe you owe the debt, you may write to the collection agency within thirty (30) days after you are first contacted saying you don't owe the money. The agency may not contact you after that unless you are sent proof of the debt, such as a copy of the bill.

A debt collector may not use threats of violence against a person, property or reputation; use obscene or profane language; advertise the debt; or repeatedly or continuously make telephone calls with the intent to harass or abuse the person at the called number. In addition, debt collectors are required to accurately disclose their identities to the person at the called number.

A debt collector may not use false statements, such as falsely implying that they are attorneys, or that you have committed a crime, or that they operate or work for a credit bureau.



A debt collector may not misrepresent the amount of your debt, the involvement of an attorney in collecting a debt or indicate that papers sent to you are legal forms when they are not. Debt collectors may not tell you that you will be arrested if you do not pay; that they will seize, garnish, attach or sell your property or wages unless the collection agency or creditor intends to do so and has a legal right to do so; or that a lawsuit will be filed against you when they have no legal right to file or do not intend to file such a suit.

Complaints about collections agencies may be filed either with the Office of Attorney General, State of Florida, The Capitol PL-01, Tallahassee, FL 32399-1050, or with the Federal Trade Commission, Correspondence Branch, Washington, D.C. 20580. You also may file a lawsuit against the collection agency for violating federal and/or state law. If you prevail, you may be awarded your actual damages, as well as attorneys' fees and costs. ■

\* Federal Fair Debt Collection Practices Act, 15 U.S.C. ss. 1692 et seq.; Florida Consumer Collection Practices Act, Sec. 559.55 et seq., F.S.

### *Did you know?*

According to the Office of Safe and Drug Free Schools, since the board implemented the new Policy Against Bullying and Harassment (Board Policy 1.08) in November 2008, there have been 60 complaints received at the district level as of May 1, 2009. Schools soon will report their numbers. Fifty of the 60 have been investigated, and 10 of the 50 were determined to be well founded.

## Teachers' Authority and Responsibility for the Control of Their Students

By James A. Robinson, School Board Attorney

The teaching profession presents many challenges, not the least of which is the management of classroom and individual student behavior. New teachers may have taken undergraduate courses on the subject and, as student interns, watched as veteran teachers made it seem easy. Even veteran teachers may encounter challenges when faced with a new class or a new school assignment.

Florida law requires teachers to keep good order in their classroom and in other places in which they are assigned to be in charge of students. To enable teachers to do so, the law authorizes teachers to take a number of actions to manage student behavior and to ensure the safety of all students in their class and their opportunity to learn in an orderly and disciplined environment. The following are examples of actions teachers are authorized to take:

...Establish classroom rules of conduct, and assist in enforcing the "Code of Student Conduct" and school rules on school property, during school-sponsored trans-

portation and during school-sponsored activities.

...Have disobedient, disrespectful, violent, abusive, uncontrollable or disruptive students removed from the classroom for behavior management intervention.

...Have violent, abusive, uncontrollable or disruptive students directed for information or assistance from appropriate school or district school board personnel.

...Request and receive information as to the disposition of any misconduct referrals to the administration.

...Request immediate assistance in classroom management if a student becomes uncontrollable or in case of an emergency.

...Request and receive training and other assistance to improve skills in classroom management, violence prevention, conflict resolution and related areas.

...Use reasonable force, according to standards adopted by the State Board of Education, to protect themselves or others from injury.

...Press charges if there is a reason to believe a crime has been committed on school property, during school-sponsored transportation or during school-sponsored activities.

Teachers may be notified that one of their students has been charged with a crime of violence. Such notice enables the teacher to more effectively plan for classroom and individual student behavior management.

The district offers training to teachers to help them fulfill their responsibilities for classroom management and student control. One example is Conversation, Help, Activity, Movement and Participation (CHAMPS). Training is also offered in crisis intervention through the Crisis Prevention Intervention (CPI) program. Teachers can sign up for training courses on the LMS site. Please contact your school office for further information or go to the district's professional development website: <http://www.pcsb.org/PALD/home.html> for further information. ■

### ***Brass Knuckles***

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school-sponsored event, on a school bus or at a school bus stop can be charged with a third-degree felony. You even can be charged with a third-degree felony if you are within 1,000 feet of school property, a bus stop or a school-sponsored event and you exhibit the weapon in a "rude, careless, angry or threatening manner." This means that a student who waves around brass knuckles outside of a school football game can be convicted of a third-degree felony and sentenced to up to five years in prison and ordered to pay a fine of up to \$5,000. In short, it is considered a very serious criminal offense under

Florida law. When one considers that the sole purpose of metallic knuckles is to inflict physical damage to the flesh and bone of another person, it is understandable why possession of these items is considered so serious.

Because brass knuckles are so easy to find and readily available, there has been an increase in student possession. Students should know that possession of any weapon, including brass knuckles or a knife, will result in expulsion AND that Florida law requires that the school refer the student to the criminal justice or juvenile justice system where the penalties



mentioned above may be imposed by the court. Students and their parents should be reminded that not only can possession of a weapon result in a criminal record and an expulsion from school, weapons jeopardize the safety of the students and staff and should not be anywhere near a school or school event. ■

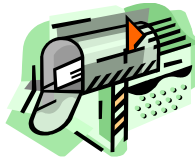
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**Posting Student Information**

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cords, files and data directly related to students that are created, maintained and used by the district, including, of course, the contents of the cumulative record folder. But all personally identifying student information must be protected from disclosure. An example would be a handwritten note or e-mail from a parent to a teacher, the principal, the superintendent or the school board members concerning a dispute over student discipline or school assignment.

"Directory information" about a student, such as name and awards received, is excluded from the definition and may be disclosed without parental consent, unless the parent opts to keep it confidential. Our "Code of Student Conduct" and **Board Policy 4.31, Annual Notification of Rights Concerning Educational Records**, define directory information in our district. The right to privacy of student records, along with the other rights given by these laws, belongs to the parent until the child either attains 18 years of age or moves on to an institution of post-secondary education. Thereafter, the rights belong to the student alone, to the exclusion of the parent, unless the student is a dependent for federal income tax purposes.

In general, student records cannot be released to

third parties without the consent of the parent. However, many statutory exceptions exist that allow disclosure without parental consent. Of the numerous exceptions, five are commonly used. First, records can be shared with other district employees who have legitimate educational interests in the information. While this seems obvious, take care not to share student information with another employee unless it is for a bona fide educational reason. Our "Student Educational Records Manual" defines "legitimate educational interest" as "an assigned responsibility or job description for working with students or student records ..." Second, student records can be shared with schools, including post-secondary schools, in which the student seeks to or intends to enroll.

Third, we can share records with law enforcement agencies with which we have an interagency agreement that seeks to improve school safety and reduce juvenile crime, truancy, suspensions and expulsions. The legal department has a list of law enforcement agencies with which we have agreements. Fourth, we can share records with the Department of Children and Families or a community-based agency acting on its behalf. Last, but not least, we can disclose student records without parental consent to appropriate parties in connection with an emergency, if the information is needed to protect the health or safety of the student or others.

Additionally, the district must release student records when a subpoena has been issued for them. However, before doing so, we must first follow certain procedures. In these cases, we immediately advise the parent in writing of the subpoena and indicate we will release the requested records in seven days if we do not receive a court order indicating otherwise. This gives the parent an opportunity to file a motion to quash the subpoena if he or she objects to the release. If the subpoena demands the records in less than seven days, we seek additional time from the subpoenaing party.



If a wrongful disclosure of confidential student records is made, the aggrieved party has a right, under Florida law, to sue to stop the disclosure and recover attorney's fees and costs. On the federal level, the federal agency enforcing FERPA also will direct the district to come into compliance or risk losing federal funding.

Student record privacy is a sensitive topic and one that we should all understand and make sure we comply with. If you are uncertain whether to release a student record without parental consent, err on the side of not releasing the information and then investigate further with your supervisor or the legal department to reach a final decision. ■