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July 23, 2013

TO: Executive County Superintendents
District Superintendents
Charter School Lead Persons

FROM: Evo Popoff
Chief Innovation Officer

SUBJECT: Guidance Regarding the Anti-Big Brother Act - New Jersey Statutes Annotated (N.J.S.A.) 18A:36-39 (P.L. 2013, c. 44)

Personnel in each school district should be aware that New Jersey Statutes Annotated (N.J.S.A.) 18A:36-39 (P.L. 2013, c. 44) requires notification to students about the usage of certain electronic devices effective July 1, 2013. The statute requires that:

A school district or charter school that furnishes a student with a laptop computer, cellular telephone, or other electronic device shall provide the student with written or electronic notification that the electronic device may record or collect information on the student's activity or the student's use of the device if the electronic device is equipped with a camera, global positioning system, or other feature capable of recording or collecting information on the student's activity or use of the device. The notification shall also include a statement that the school district or charter school shall not use any of the capabilities in a manner that would violate the privacy rights of the student or any individual residing with the student. The parent or guardian of the student shall acknowledge receipt of the notification. The school district or charter school shall retain the acknowledgement as long as the student retains the use of the electronic device.

A school district or charter school failing to provide the notification required by this section shall be subject to a fine of \$250 per student, per incident.

Guidance is provided below to clarify specific terms and references to ensure the statute is implemented in accordance with the intent of the law.

- 1) “Furnishes a student ...” refers to those electronic devices that are the responsibility of the school district and issued to students with the ability to use the device outside of school, in connection with the district’s academic program. The intent of the statute does not include limiting or restricting the use of computers, tablets and other such devices in school environments.
- 2) Many electronic devices automatically store a history of the user’s online and offline activities. The intent of this law is for the district to notify the student that their electronic device will store information when the device is outside of school, and that the stored information will not be used in any way to violate the student’s privacy rights (or that of any individual residing with the student).
- 3) The method by which the parent/guardian acknowledges the receipt of the notification to the student is determined by the school district, with the understanding that the acknowledgement has to be retained in district as per the district’s record retention schedule, and is available upon request.
- 4) Notification to the student can occur either as an addition to an existing parent/guardian approval form that requires parent/guardian signature, or through the use of a separate parent/guardian approval form when the device is furnished to the student, at the discretion of the district.

It is important to consider the development of district policies that address issues that are a result of using electronic equipment outside of school. Some of the areas that may be reflected in policy are:

- Rights and responsibilities of students with remote access to the school network;
- Identification of roles and authority of district administrators, teachers and technicians in maintaining and supervising students’ use of electronic devices;
- Notification that situations may arise where the technical staff will need remote access to the electronic device for maintenance reasons;
- Situations when the district may need to access and review files, including online activity, on the electronic device; and
- Methods to ensure students and parents acknowledge and understand the procedures, regulations and other policies related to this legal requirement.

“The Anti-Big Brother Act” may be found at <http://www.njleg.state.nj.us/2012/Bills/PL13/44 .HTM>. For further information, contact the Office of Educational Technology at edtech@doe.state.nj.us.

EP/ET/1:\anti-bullying law\anti bb act memo 7-16.doc

c: Members, State Board of Education
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