

# STUDENT CELL PHONE PRIVACY



## Do I have the right to keep what's on my phone private?

**YES.** The privacy of your phone (or tablet or laptop), as well as your accounts with services like Facebook or Snapchat, is protected both by the United States and California Constitutions and by the California Electronic Communications Privacy Act (CalECPA).<sup>1</sup>

Is your school following the law? Not sure? Help the ACLU protect your rights by taking this quick [survey](https://www.aclunc.org/school-search-survey/) to let us know what's happening in your school. You can also access the survey at

<https://www.aclunc.org/school-search-survey/>.

## Can my school look through my phone without my permission?

**ONLY IN AN EMERGENCY<sup>ii</sup> OR WITH A SEARCH WARRANT ISSUED BY A JUDGE** based on "probable cause" that your phone contains evidence of a crime (meaning that a reasonable person would believe there is evidence in your phone). You have the right to keep your digital devices private, even if:

- You use your phone when you are not supposed to;
- You break any other school rule;
- You cause a disruption by using your phone; or
- Your school wants to search your phone to investigate another student's misconduct.

## What can I do if a school official asks to look through my phone?

You can **SAY NO**. You can also say you aren't sure and that you want to talk to your parents or someone else before you decide. Or that you will only agree if they tell you what parts of the phone they will look through or let you or your parents watch the search. If you do say yes, you give the school the right to look through your phone, and possibly to use what they find can be used as evidence against you or others.

## What if my school asks me to sign a waiver allowing the school to search my phone at any time?

You can **SAY NO**. Public schools **cannot** require you to waive your right to privacy in order to attend school. If your school tries (or has already tried) to get you to sign a waiver or otherwise "consent" to a search in advance, please contact the ACLU office closest to you to let us know (contact information below).

## If my school has a search warrant, can it look at *everything* on my phone?

**NO.** First, only duly-sworn law enforcement officers can execute a search warrant. Second, the search can **only** be for evidence of the specific crime that you are suspected of breaking, and the search warrant must describe the type of information and parts of the phone that may be searched. For example, school officials cannot look at photos unless they have probable cause to believe that the photos contain evidence of a crime.



Published February 2018 by the ACLU of California

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## Can my school restrict when I use my phone?

**YES.** Your school can also confiscate your phone if you violate your school’s cell phone policy. But that does not give it the authority to conduct a search.

## What can I do if my school doesn’t follow the law?

You can **DEMAND THAT YOUR INFORMATION BE DELETED** and prevent it from being used in any kind of disciplinary action or other proceeding. If the school repeatedly violates students’ rights or otherwise causes you harm, you may have additional remedies as well.

If you believe your rights have been violated, you can call any of our Intake Lines below and we’ll see what we can do to help. Contact the ACLU office closest to you:

### ACLU of Southern California

[www.aclusocal.org](http://www.aclusocal.org)

Intake Line: (213) 977-9523

Irene Rocha Rivera,  
[irivera@aclusocal.org](mailto:irivera@aclusocal.org)

### ACLU of Northern California

[www.aclunc.org](http://www.aclunc.org)

Submit your complaint online at

<https://www.aclunc.org/our-work/get-help>.

Intake Line: (415) 621-2488

### ACLU of San Diego & Imperial Counties

[www.aclusandiego.org](http://www.aclusandiego.org)

(619) 232-2121

Chloe Triplett,  
[ctriplett@aclusandiego.org](mailto:ctriplett@aclusandiego.org)

<sup>i</sup> Penal Code §§ 1546 et seq. CalECPA went into effect on Jan. 1, 2016.

<sup>ii</sup> CalECPA defines an emergency as a situation “involving danger of death or serious physical injury to any person [that] requires access to the electronic device information.” Penal Code § 1546.1(c)(6).



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