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**TESTIMONY**

**SB1111**

**AAC A STUDY OF CELLULAR TELEPHONES AND CELLULAR  
TELEPHONE CAMERAS IN CLASSROOMS**

Connecticut General Assembly, Committee on Education

March 16<sup>th</sup>, 2009

Good afternoon. My name is Ray Rossomando and I am an employee of the Connecticut Education Association who works directly with teachers in 9 districts in and around the Naugatuck Valley.

I want to thank Chairman Gaffey, Chairman Fleischmann, and the honorable members of the Education Committee for providing this opportunity to testify on SB1111. SB1111 would establish a task force to study the impact of cellular telephone cameras or other electronic devices with video recording capabilities in classrooms. It would also look at the impact such devices – and the resulting distribution of material they produce – can have on students and faculty.

I respectfully submit this testimony today on behalf of teachers who have expressed to me their concerns about the impact of electronic technologies on the educational process in their schools.

The recording and distribution of classroom video is becoming a growing concern of parents, teachers, administrators, and board members. This is an issue that is frequently reported in the media and one that has raised concern in the districts I represent. Such concern does not stop with video, still pictures taken in the classroom setting are also proliferating and raise similar concerns with respect to student privacy and the work environment for faculty.

I respectfully ask the committee to include the impact of still-images as part of the charge of the task force and in any resulting bill addressing the students' use of electronic recording devices or equipment in schools. I have attached potential statutory language on this issue for the consideration of the task force, should this bill become law.

### **The Problem**

Surreptitious video-recordings of teachers has been an increasing concern since the advent of publicly accessible video-sharing websites such as YouTube and Facebook and the ubiquity of small hand-held and cell-phone based video recording devices. Incidents of teachers being unknowingly filmed and broadcast on YouTube are increasing. A February 8, 2007 ABC News report also drew attention to this growing phenomenon, noting thousands of videos involving school teachers in classrooms.

Connecticut is not immune. Earlier this year, a Naugatuck Valley teacher was video-taped by a student during classroom instruction and the clip posted on YouTube.

In Fairfield County district, students have used camera phones to take short videos of other students in class. Teachers there asked the students to remove the videos from Facebook.

In a Litchfield County district, a couple of students were kiddingly hitting each other with their binders – a brief occurrence that was addressed by the teacher. However, a student had filmed the horseplay and posted it on YouTube, raising additional questions about the student privacy. In this case, the children involved were 6th graders.

Also, although 10-233(j) allows Boards of Education to prohibit or restrict the use of cell phones in schools, not all choose to do so. A similar incident occurred in a New Haven County district that permits students to carry cell phones. Restricting what students can do with the video (and photo) capability of these devices in schools is a logical next-step.

It should also be noted that video-recordings in the classroom create situations whereby the privacy of other students could be compromised. Additionally, there is growing concern that video devices can be used to compromise testing and the integrity of the assessment process.

In a recent Education Week article, a teacher describes the potential for classroom teaching to be misrepresented to the detriment of the teacher.<sup>1</sup> In this article, a teacher describes an experiment he does with his students. The

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<sup>1</sup> "Cell phones in Classrooms Land Teachers on Online Video Sites" *Education Week* (Vol. 27 Issue 11. Pages 1.12)

teacher asks students to take out their cell phones, while he rests his head on his desk for a few seconds.

The teacher then asks what people would think of his teaching, if a student had taken a picture of this brief action and posted it on YouTube. "They come up with answers like 'lazy,' and 'doesn't care.' I say I would be judged by your peers on one second of a 45-minute class," the teacher told the reporter.

Instances like this are actually happening and the impact to the teacher and the reputation of the school are put at risk. Such misrepresentations also harm the students whose teacher and school may have been stigmatized by a student's video posting and unfair characterization of the video's content.

To address these concerns, statutory protections could be instituted to protect those who are increasingly vulnerable to unwanted and unwarranted exposure driven by the growing use of surreptitious recording devices in schools.

### **The Legal Environment**

Connecticut state laws addressing video-recordings of persons do not address the classroom environment. And, the courts have generally ruled that teachers' privacy in the classroom is not protected (See: *Evens v. L.A. Unified School District* and *Roberts v. Houston Independent School District*). However, the consequences of this vulnerability negatively impact the working environment, pose risks to a teacher's professional status, and compromise the privacy of students.

Surprisingly, there are no privacy protections for students video-taped or photographed in a classroom. Federal student privacy laws such as the Family Educational Rights and Privacy Act (FERPA) treat video-tapes of students as protected records only if they are kept and maintained by the school system. Consequently, a video-recording of classroom activity leaves students vulnerable to online exposure without their (or their parent's) knowledge.

### **Statutory Context**

The state penal code restricts certain surreptitious video recordings (such as CGS 53a-189a and 53a-189b, which address voyeurism and the dissemination of voyeuristic material). There is no statute that adequately deals with the classroom environment.

CGS 10-233j addresses the possession of telecommunication devices in schools by permitting (but not requiring), local boards of education to restrict the possession of such devices. 10-233j has evolved over time as technology advanced from beepers to cell phones.

Technology has now so advanced that cell phones and other small (and potentially concealed) devices have video and still-image recording capabilities. These devices are also relatively inexpensive and therefore becoming ever-present.

### **Potential Statutory Language**

I respectfully submit the attached draft language for consideration of the task force. This language was developed with the goal of balancing students' free speech rights with their privacy rights. It was also developed with the goal of ensuring that classrooms protect students from distractions that are detrimental to the educational process.

More specifically, the attached language seeks to limit the video and still-image recording devices that would be permitted to be brought into and/or used in a classroom (similar to what was done by this committee 12 years ago to limit the possession of cell phones in class). It also addresses the dissemination of material recorded in the classroom, when such material depicts other persons – particularly students.

It attempts to prevent unwanted video or still-image recordings in classrooms, while not limiting the legitimate use of such devices by students and in places outside of the classroom (e.g. basketball games, concerts, etc.).

It also recognizes that students, who can unknowingly be the subject of such recordings, are at risk of their privacy being compromised. To resolve this concern, the proposed language would require written waivers from the student, students' parents (or legal guardians), teachers, or other persons located in a classroom, before video is taken or disseminated.

On behalf of the teachers I represent, I respectfully request that this committee supports SB1111 and continues to consider this issue in its deliberations on other legislation addressing the increasing use of new technologies and electronic communications.

Thank you.

Please see draft language proposal next page

## **Potential Language**

### **Sec. 10-233j. Student possession and use of telecommunication**

**devices.** (a) No student in a public school in the state shall possess or use a remotely activated paging device unless such student obtains the written permission of the school principal for such possession and use. The principal shall grant such permission only if the student or his parent or guardian establishes to the satisfaction of the principal that a reasonable basis exists for the possession and use of the device.

(b) A local or regional board of education may restrict the student possession or use of cellular mobile telephones in the schools under its jurisdiction. In determining whether to restrict such possession or use, the local or regional board of education shall consider the special needs of parents and students.

**c) No student in a public school classroom in the state shall possess a device for recording video or still images, or use the video or still image recording capabilities of any device unless such device is provided to the student by the board in conjunction with school activities or such student obtains the written permission of the school principal for such possession and use.**

**(d) No student may use the video or image recording capabilities of any device to record another person in a classroom without the written permission of such person or such person's legal guardian.**

**(e) No student may disseminate or cause to disseminate any video or still image recording of persons in a classroom without the written permission of the school principal and the written permission of any such person or such person's legal guardian.**

[Note: The term "classroom" is not defined in the statutes, but is frequently used. We may need to define "classroom" more specifically for the purposes of this section. One way to do this could be to define a classroom as a place where instruction is being conducted by a certified teacher (or substitute) during the school day.]