



A Guide to Understanding the Telephone Consumer Protection Act (TCPA) & Best Practices for School Communications

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Introduction

All school leaders understand the value and importance of school-to-home communications. Whether those communications are via text, phone call, email or social media, they are powerful tools for ensuring a strong school community, involving parents in their child's learning, alerting parents of changes in the school calendar, or notifying families when there are critical incidents at school, such as weather-related closings, evacuations or lockdowns.

An increasing number of school districts are turning to automated notification systems that leverage multiple channels to quickly and easily communicate with families and the school community on an ongoing basis. To maximize their investments in automated notification systems, it is crucial that schools understand and comply with a recently updated federal law called the Telephone Consumer Protection Act (TCPA).

This white paper provides an overview of TCPA for schools and highlights best practices for compliance. **This paper is not intended to and does not provide legal advice.** School leaders are urged to consult their legal counsel to best understand their districts' risks and options under the law.

What is the Telephone Consumer Protection Act (TCPA)?

The TCPA was created in 1991 and is administered by the Federal Communications Commission (FCC). Updated in 2015, the rules, among other things, prohibit calls made using automatic telephone dialing equipment or a prerecorded message to any telephone number assigned to a cell phone or any service for which the called party is charged for the call without prior express consent, unless the call is for "emergency purposes" as defined by the TCPA.

In the quarter century since the TCPA was enacted, the variety of communications options available to both schools and parents has multiplied. Today, nearly two-thirds (64 percent) of U.S. adults own a smartphone, up from 35 percent in 2011, according to a [2015 study by the Pew Research Center](#)¹. The same study reported that text messaging is the most widely and frequently used smartphone feature or app. **The FCC considers a text message to be a call.**

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Federal
Communications
Commission

Over the summer of 2015, the FCC issued a Declaratory Ruling and Order (Ruling) related to the TCPA. In the Ruling, the FCC:

- reiterated that consent is required from the “called party,” who is designated as the consumer (e.g., parent or guardian) assigned to the number dialed and billed for the call or the non-subscriber customary user of a number in a family or business calling plan;
- reaffirmed that called parties must be able to revoke consent at any time and in any reasonable manner, and that the sender of the message (e.g., school or district) bears the burden of the proof of the consent; and
- repeated that consent is not required for calls for “emergency purposes,” defined as a call “made necessary in any situation affecting the health and safety of consumers.”

For school districts using automated notification systems, this means ensuring processes for obtaining consent, managing opt outs, carefully considering what is and is not an emergency under the law, and integrating up-to-date records of consent information with their notification systems.

Potential Consequences for Noncompliance

Under TCPA, there is a private right of action. Consumers can sue for \$500 per violation (per call) and can be awarded triple that, up to \$1,500 per call, if the violations are done willfully and knowingly. The FCC has authority to assess civil monetary penalties of up to \$16,000 per violation.

Key Texts for Detailed Review

This paper provides high-level summaries of the key provisions in TCPA that may be most relevant to schools. Consult the complete text of the law for full details:

- [TCPA – 47 USC § 227](#)
- [FCC TCPA RULES – 47 CFR § 64.1200](#)
- [JULY 10, 2015 DECLARATORY RULING AND ORDER – FCC 15-72, CG DOCKET NO. 02-278](#)



Best Practices for School District TCPA Compliance

The TCPA presents school districts with a unique opportunity to update their parental engagement and communications strategies, starting with their data collection practices. Getting ahead of the curve and developing an ongoing strategy for updating communications permissions from parents and guardians allows districts to improve their TCPA compliance. Such efforts also help districts improve their communications with families by discovering and using their preferred, and therefore the most effective, communications channels

In general, a school system can improve its position with respect to TCPA compliance and communications best practices by taking several steps including:

- obtaining express consent to send messages to each specific contact number and for each specific broadcast method via an affirmative action (also known as opting in) at the time of collecting contact information, ideally through electronic systems that automatically record and update their notification system.
- never sending commercial solicitations.
- immediately blocking contact numbers upon recipient request.
- providing recipients with online and mobile tools to manage their communication preferences and notify the school of any changes in contact information.

The TCPA presents school districts with a unique opportunity to update their parental engagement and communications strategies, starting with their data collection practices.

For example, many school districts collect a variety of permissions and other information from parents at the beginning of each school year, such as field trip forms, school directory information opt outs or student health information. They typically have a system for gathering and storing this information, whether it is in a technology-based student information system or a metal filing cabinet with a lock and key. This makes back-to-school a prime time for collecting, storing and implementing communications preferences from parents as well. This is also a prime opportunity to consolidate and modernize these systems through more automated tools that minimize manual data entry, accelerate delivery and reduce human error.

Regardless of the timing for collecting this information, it is crucial that it is properly acted on and stored. For example, if a parent text messages their opt out of being contacted, this information must be immediately updated in the school notification system as well as kept on file for future reference. Small issues can become big ones if someone opts out of a communications channel but the organization does not properly act to honor the recipient's request.

This is most likely to happen when the district's central office policies and the importance of TCPA compliance are not clearly communicated to individuals at the building level who are collecting and managing this information. It is crucial that the school staff on the front lines understand these policies and the importance of properly implementing them. This is also most likely to happen when embedded and automated tools are not included in the broadcast communications to more easily record, manage and act on the called party's preferences.

TCPA	BEST PRACTICE
<p>Consent required from the “called party”</p>	<ul style="list-style-type: none"> • Obtain express consent to send messages to each specific contact number and for each specific broadcast method via an affirmative action (also known as opting in) at the time of collecting contact information. • Develop an ongoing strategy for updating communications permissions from parents and guardians, ideally through electronic systems that automatically record and update their notification system. • Never send commercial messages.
<p>Called parties must be able to revoke consent at any time and in any manner</p>	<ul style="list-style-type: none"> • Immediately block contact numbers upon recipient request to do so. • Integrate these up-to-date records of consent information with your notification system. • Ensure school staff understand these policies and the importance of properly implementing them.
<p>Consent not required for calls for “emergency purposes”</p>	<ul style="list-style-type: none"> • Carefully consider what is and is not an emergency under the law. • Implement processes to ensure consistent adherence by all staff.
<p>No specific method is required by which a caller (e.g., school) must obtain prior consent, provided consent is express consent, not implied or “presumed” consent</p>	<ul style="list-style-type: none"> • Provide recipients with online and mobile tools to manage their communication preferences and notify the school of any changes in contact information. • Consolidate and modernize systems for collecting parental information and permissions through more automated tools that minimize manual data entry, accelerate delivery and reduce human error.
<p>SMS text messages are subject to the same consumer protections under the TCPA as voice calls</p>	<ul style="list-style-type: none"> • Review overall communications practices to avoid “over-messaging” and match message content (e.g., timeliness and importance) with broadcast channel (e.g., recorded voice call, text message, email, etc.).
<p>FCC has authority to further review and update TCPA rules and guidance</p>	<ul style="list-style-type: none"> • Stay abreast of new regulatory requirements, technology solutions and best practices, including consulting legal counsel and professional associations such as the National School Public Relations Association (NSPRA).

Best Practices for School-to-Home Messaging

Taking a step back to help ensure TCPA compliance is also a good time for school leaders to review their districts' overall communications practices. Compliance does not have to represent a complete overhaul of school communications, but rather a reminder to adhere to messaging best practices.

First, school districts should make sure they are not "over-messaging." While there is no question that automated notification systems provide a great tool for school-to-home communications, parents can quickly become overwhelmed by over communication. Think about companies you deal with that ask customers to opt in to receive email or text communications and then send multiple messages weekly or even daily. The impulse is typically to either ignore, quickly hit the "X" to delete or to opt out completely.

Second, be sure to match your message to the channel – e.g., recorded voice call, text message, email or social media. When you have a message to send, think about the best channel for communicating it. For example, letting parents know that there will be a public pep rally before the next basketball game might be a great way to build school community, but also might be most effectively communicated via email when recipients can read it on their own time rather than a more intrusive text or phone call. Text messages and phone calls should be reserved for topics that require immediate attention, such as school attendance notifications or emergency closures or that night's homework assignment.

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Steven W. Anderson, one of the creators of #edchat on Twitter and best known online as @web20classroom, recommends in his white paper, "Three Simple Ways to Improve School-to-Home Communications,"² that districts ask three questions to avoid message fatigue:

- Is there information at the district level that is also duplicated at the school level? The classroom level?
- Can information sharing be streamlined so it is coming from one channel? How can the best information come from the best channel?
- Is there a way to share information with the school community less often, but still ensure that it is timely?

Another useful approach is to literally put control of contact preferences in the hands of parents or guardians through either a district mobile app or communications web portal. With this tool, parents can proactively select on their smartphone or web-enabled device which types of school communications arrive via which channels. Schools still control what is sent, but parents determine which channels make the most sense for them based on their everyday routines and how they normally receive information.

Conclusion

Automated school notification systems continue to be an effective and efficient way to engage the school community and communicate important or timely information. As school and family electronic communication needs continue to evolve and grow, school leaders are wise to stay abreast of new regulatory requirements, technology solutions and best practices. Consulting school district legal counsel and careful consideration of communications policies and procedures can improve TCPA compliance and minimize risk. In addition, organizations, such as the [National School Public Relations Association \(NSPRA\)](#)³ can provide information, tools and access to best practices to support schools as they implement overall best practices for school-to-home communications.

About SchoolMessenger

SchoolMessenger products, part of West Corporation, are K-12's most-trusted communications solutions. Thousands of schools and other educational institutions in all 50 U.S. states and Canada depend on SchoolMessenger products and services. From notifications and websites to custom mobile apps and social media, school leaders have relied on the SchoolMessenger platform since 1999 to engage with their communities in multiple languages and on any device.

The tools built into SchoolMessenger solutions can help schools and districts improve their TCPA compliance by more easily managing consent, enforcing district policy, and tailoring communications to recipient preferences.

Schedule a consultation today for a demonstration of next-generation technology designed to help improve TCPA compliance by visiting www.schoolmessenger.com or calling 888.527.5225.



References

¹ [U.S. Smartphone Use in 2015](#), Pew Research Center for Internet, Science & Tech. April 2015.

² Three Simple Ways to Improve School-to-Home Communication, SchoolMessenger/West Corporation. October 2015.

³ National School Public Relations Association (NSPRA), www.nspr.org.