

CLIENT NEWS BRIEF

FCC Issues Guidance on Schools' Use of Robocalls

Last month, the Federal Communications Commission (FCC) confirmed that in limited circumstances, schools may make robocalls to their student community without violating the Telephone Consumer Protection Act (TCPA). The FCC determined that schools could "lawfully make robocalls or send automated texts to student family wireless phones pursuant to an 'emergency purpose' exception or with prior express consent."

The ruling provides much-needed guidance for schools but does not provide the blanket immunity some educational organizations had anticipated. Therefore, school districts that implement automated messaging services must carefully review their policies and practices to ensure consistency with the FCC's recent decision.

The TCPA generally prohibits making any non-emergency call using an automatic telephone dialing system or an artificial or prerecorded voice to a wireless telephone number, often referred to as "robocalling," without prior express consent. The FCC has long interpreted the TCPA to apply not only to robocalls but also automated text messages. The TCPA expressly exempts from these prohibitions calls made for "emergency purposes." If the call includes or introduces an advertisement or constitutes telemarketing, then consent must be in writing. Otherwise, consent may be either oral or written. For more information about the TCPA, you can review [the FCC's summary](#).

On February 24, 2015, Blackboard, Inc. requested that the FCC issue a declaratory ruling that "all automated informational messages sent by an educational organization via a recipient's requested method of notification are calls made for an 'emergency purpose' and thus outside the requirements of the [TCPA]." The FCC issued a ruling partially granting the request, finding that "school callers may lawfully make autodialed calls and send automated texts to student family wireless phones without consent for emergencies including weather closures, fire, health risks, threats, and unexcused absences." However, the FCC declined to extend the TCPA's emergency purpose exception to all robocalls made by educational organizations.

The FCC further determined that other messages "closely related to the school's mission, such as notification of an upcoming teacher conference or general school activity" were acceptable to the extent that such calls were "made with the prior express consent of the called party when a telephone number has been provided to an educational institution by that called party." However, schools should be cautious in relying on this exception as the "scope of consent must be determine[d] upon the facts of each situation." School districts should evaluate whether their current policies and practice provide for written consent from each intended recipient that explicitly addresses the types of non-emergency robocalls that the school intends to make.

The FCC determination also highlights the need for school districts to be aware of potential liability when a phone number is reassigned. Last year, the FCC found that the TCPA required consent from each "called party" for calls that fall

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outside of the “emergency purpose” exception, regardless of whether the number had been reassigned. You can read the FCC declaratory ruling [here](#). Based upon this ruling, school districts may be liable for automated calls and text messages to numbers that have been reassigned, subject to a limited, one-call opportunity for cases when the caller is not aware of the reassignment.

In its most recent ruling, the FCC declined to reconsider its prior ruling and confirmed that robocalls made pursuant to the “emergency purpose” exception did not require consent but nonetheless encouraged “educational organizations to regularly update their emergency calling lists to ensure that emergency-purpose calls do in fact reach the parent or guardian of each affected student and are not received by consumers with no connection to the school.”

For more information about robocalls or the Telephone Consumer Protection Act, please contact the authors of this Client News Brief or an attorney at one of our [10 offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).

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