



Lakeside Union School District
TY BRYSON, DISTRICT SUPERINTENDENT



"BUILDING ON EXCELLENCE"

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Re: Recording / Posting Online Lessons Developed by a Teacher;
Recording Parent-Teacher Conversations – Without Consent
Potential Violations of State and Federal Law.

Dear Parents:

We are all suffering the consequences of emergency steps taken by Governor Newsom in response to the COVID-19 situation. Currently, school districts in Kern County and around the state and nation are undertaking the difficult task of converting in-person educational programs into distance learning or blended combinations of online learning. We are not alone in these efforts, and we at the District understand this is also difficult on parents, guardians and family members.

As we commence online education efforts, it has been brought to our attention that some lessons delivered online, and some online conversations between parents and teachers, have been recorded and sometimes posted by parents on the parent's personal social media. As explained more thoroughly below, per legal advice received by the District, this practice is contrary to state and federal law and we encourage parents and guardians to refrain from this practice. The District may, on its own, record the online sessions, for the benefit of students who could not attend live or who wish to review the covered material. There is no educational need for anyone else to record online sessions, and consent to record is not given.

Recording one-on-one conversations with your child's teacher or classroom para-professional, without their consent, is a violation of California Penal Code section 632. The District has been advised that this provision makes it a crime to record any conversation that is a private communication, such as a telephone conference with your children's teacher, without first obtaining the consent of all parties to the conference. In addition, California Penal Code section 637.2 provides for a civil damages lawsuit as well as criminal prosecution. Consequently, please do not record online conversations with school personnel without first obtaining their permission.

Additionally, in most circumstances, recording online lessons delivered by your child's teacher without the permission of the District violates the federal Copyright Act. The federal Copyright Act gives the party who created material, like an online lesson, the exclusive right to duplicate or display it. The Copyright Act requires third parties, such as parents, to obtain permission from the copyright owner before they may lawfully record and display the copyright protected material. The District is the copyright holder of online lessons developed by its teachers. If you wish to record a lesson delivered online by your child's teacher, the federal Copyright Act and the District require that you first obtain permission from your child's teacher.

Finally, the District has been advised that recording the voice and image of a classroom teacher who is delivering a lesson online, and displaying or re-posting it may, in some circumstances, constitute a civil tort known as appropriation of another's likeness. The remedy for such malfeasance is money damages. Again, the issue can be avoided if permission from your child's teacher is obtained before recording the online lesson.

The same problem may exist if images of students are also recorded. The District cannot consent to private recording or posting on social media the images/voices of District students.

This does not address other issues, including the potential violation of confidentiality rules when the online sessions are published on a parent's personal social media or otherwise publicly shared without consent.

Please call or email any questions or concerns to the Principal of your child's school.