

Mark P. Miller, P.E.  
4500 Scarlet Oak Dr  
Gautier, MS 39553  
228-218-9523  
iPhone@primoengineering.com

February 27, 2012

Boyd West, Principal, Gautier High School  
& Pascagoula School District Board of Trustees  
4307 Gautier-Vancleave Road  
Gautier, MS 39553

## **Dear Mr. West:**

Pursuant to our conversation, I am submitting this Letter of Appeal to return my property, an iPhone4s with case, which was taken from my Son, Paul C. Miller, by his Math Teacher, Janene Thweatt on or about Wednesday, February 8, 2012. Please return the phone or at least allow me to appeal my case to the Board of Trustees at their March 12 meeting. If the latter, please notify me in writing that I am scheduled for their agenda and include the meeting time and location. You can notify me by postal mail, email, or text. All destination addresses are listed at the top of this letter.

To present my reasons for the return of this device, I am going to quote the policy as stated in the 2011-2012 handbook (downloaded from the Internet) and follow it with my arguments.

## **Policy:**

### **POSSESSION AND/OR USE OF COMMUNICATION DEVICES (CELL PHONES, PAGERS, ETC.) IN SCHOOL (JGFBB)**

*Students shall not possess a communication device (cell phone, pager, ipod, psp, etc.) while on school property or while attending a school-sponsored activity during regular school days/hours, including time on campus prior to convening and after dismissal. Communication devices (cell phone, pager, ipod, psp, etc.) are also prohibited during school detention and Saturday detention.*

*Communication devices (cell phone, pager, ipod, psp, etc.) may be allowed at extra-curricular activities outside of those times described in the preceding paragraph. Areas of use may be designated by the building principal or his/her designee. Phones are available at all schools for student use for emergency needs.*

*Communication devices (cell phones, pagers, Ipods, psp's, etc.) will be confiscated. At the conclusion of the school year, the parent/guardian may recover the communication device (cell phone, ipod, pager, psp, etc.) upon submitting a written request to the principal.*

## **End of Policy**

**I. The iPhone 4S is not a Device described by this policy.** The Cell Phone feature is a small part of the many functions this device performs. It is more like a computer which is not addressed in this Policy. Therefore, this Policy does not apply to this device and it should be returned.

**II. You are holding Stolen Property.** The Device does not belong to the Student, the Teacher, the Principal, nor the School. It belongs to me! Quoting the Mississippi State Constitution - Article 3, Section 14. Due process. No person shall be deprived of life, liberty, or property except by due process of law. SOURCES: 1817 art I § 10; 1832 art I § 10; 1869 art I § 2. There has been no due process here. I have not even been notified by the School that the device was confiscated.

I have conducted research of Policies at other Districts across the nation. I could not find any other District that keep the phones as long as your policy dictates for the first offense. Most Districts call the parents to come get them or return them the next day. I found one that kept them for 5 days and they were engaged by at least one lawsuit. The Court did indeed favor on the side of the District citing that since the phone was returned, the reasoning of theft does not apply. But they were talking about 5 days and the phone was returned by the time the suit got to Court. So the question is how long is too long? Certainly all would agree 100 years is too long. It seems other Districts think that anything over a week is too long and most use 24 hours. The retention time should certainly not be a variable number that can go up to over 9.5 Months as your Policy dictates.

**III. The Policy is not Equitably Enforced.** Whether you recognize it or not, the Policy is broken every day by a majority of the Student Body. I can go further and challenge that you yourself have violated this Policy. Be honest with yourself. Also, when a Student gets caught, I have heard several Stories of how the Student “got away” by just giving them a “Dummy” phone, by just running away and giving it to a friend, or just saying “no, you can’t have it”, or even just sweet talking it back. It just depends on the Teacher and how he or she feels about the Student as to whether or not the Policy is enforced.

Also, the penalty is different for each offense. If the offense occurs on the last day of School, the device will be returned that same day. However, if the offense occurs on the first day of School, the device will be held for 288 Days (9 months + 14 Days). This Policy is not equitable, too severe, and unreasonable when compared to what other Districts do. Therefore you should return the Device.

#### **IV. The Policy is Antiquated.**

1. Communication devices as described in the Policy are just as much a part of our modern society today as a pencil, pen and paper were 25 years ago. In today's, "real world" it has become a necessity for darn near everyone to possess a "communication device" at all times. This current Policy encourages both Parents and Students alike to “Break” the rules by knowingly hide the devices in their back packs because the School does not Search persons and possessions without cause (and rightly so). This puts Parents in the compromised position of telling their kids it is OK to break this rule, just don’t get caught. We should be teaching our Students to follow ALL the rules.

2. There is the **Safety Issue of Communication.** Female Students being attacked, Student Bullying, and School Shootings are becoming a larger issue in our current Society and Cell Phones have served to squelch or lessen the problem. They can also provide photographic evidence of crimes committed on campus. You should actually be encouraging the use of these devices on campus. There is no place for them in the classroom, but there is in other areas of the campus. The Policy should allow their presence, just keep them off. The penalty for violation should be assessed to the Student, not the Parents. Charge them a fine and make them do Community Service like some of the other School Districts.

**3. Interpret the meaning of the Policy.** One can read the Policy and tell that it was written over a decade ago for cell phones and not “smart phones”. The principal should be afforded the ability to read the Policy, interpret it’s intended meaning and apply it. Doing so would allow him to determine that this Device does not fit the Policy even though it does function as a cell phone and he would return it to the parent.

**4. You are Blinding Parents and telling them how to Parent.** The Device can be used to track the Student’s location, screen his text messages and phone calls, and help the Parent ensure the Student is going down a wholesome path that will benefit Society. Taking the Device blinds the Parents to his Student’s activities and could even decrease the Safety of the School in some cases.

**5. Taking the Device is Counterproductive to Learning.** The Student often uses this Device to do his homework via the calculator, web browser, and specialized Apps that are purchased. It is even used to make money selling items on ebay. Taking the Device is counter productive to learning, lowers the Student’s self esteem, and can cause the Student’s Grades to fall.

**6. Unnecessary Financial Burden.** When this Policy was written, most cell phones cost under \$100. If you do not give me my Device back, it will cost me about \$700! Plus recreating the Setup and applications will add even more cost. If I choose early termination, it will still cost \$400 and the number will no longer be available for use. If nothing is done, the Service fees of \$70 monthly plus taxes, etc. calculates to about \$250 for a Service that I can’t use. This is an extremely unnecessary cost burden to me in a time of personal and nationwide economic distress. If my phone is not returned, there could be litigation to recoup the cost of my replacement phone. Of course, I realize that you would just appeal any victory and I could not afford to pursue it any farther yielding me no gain, but a lawsuit would create media attention that shows how you recklessly treat our community tax dollars defending an obviously defunct Policy.

For your Reference, here is the Ocean Springs Middle School Policy which I assume would be the same throughout their District. It is much more appropriate than your Policy. Please Take Note.

#### CELLULAR PHONES

*Cell phones are not to be used upon arrival on OSMS campus through dismissal. If a cell phone causes a disruption within the school, it will be confiscated. The student will be allowed to pick up the cell phone at the end of the day and will receive disciplinary action. Consequences for cell phone use will follow the usual discipline ladder procedures starting with a 2-hour after school detention.*

This whole ordeal has left me feeling violated, much akin to when my home was robbed back in the 1980's. Please carefully read my arguments and let me know your decision in a timely manner because if you decide to keep holding my phone, I will have to replace it and possibly seek litigation.

Respectfully,

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