



Education Policy Center
125 Broad Street, 19th Fl
New York, NY 10004
212-607-3300
schools@nyclu.org

2025 – 2026 Legislative Memorandum

Subject: Education Law § 2803; Proposed School Cell Phone Ban

Position: Oppose

The New York Civil Liberties Union (NYCLU) opposes the amendment of Education Law §2803 to add provisions proposed in the governor’s budget legislation to prohibit student use of smartphones during the school day (“cell phone ban”).¹

The governor’s proposed amendment puts students at an increased risk of police searches and surveillance, potentially dangerous interactions with law enforcement officers, suspensions and the school-to-prison pipeline. Without a clear plan for protecting kids from these risks, the governor’s legislation will inevitably result in conflict, missed classroom time, and racially unjust enforcement.

Notably, the ban falls far short of its express purpose: to address students’ mental health needs. While young people have urgent needs for access to safe, reliable and private counseling and medical services, this bill provides none of those. Instead, this proposal will funnel precious public dollars *away* from mental health supports to purchase storage devices for phones. We urge the state to take young people’s mental health seriously, making grants to schools to hire psychologists, social workers, and school nurses instead.

I. Fourth Amendment Considerations

The US Supreme Court has recognized the sensitive nature of information stored on an individual’s smart phone and extended the protections of the Fourth Amendment to its contents.² This sensitivity of information raises urgent concerns with the proposed cell phone ban.

Improper searches and seizures of student smartphones are rampant across New York. Families regularly contact the NYCLU for assistance in disciplinary matters where a student’s email, private social media accounts, text messages, and photos or video are inappropriately searched

¹ FY 2026 New York State Executive Budget, Education, Labor and Family Assistance Article VII Legislation, Part C. Available at <https://www.budget.ny.gov/pubs/archive/fy26/ex/artvii/elfa-bill.pdf>.

² Riley v. California, 573 US 373 (2014); *see also* Carpenter v. United States, 585 US _ (2018).

by school administrators, teachers, and school resource officers. The governor’s proposal opens the door to these unlawful searches by putting phones in schools’ custody for the entire school day. The potential for educators to go on “fishing expeditions” for evidence of misbehavior is enormous and should be enormously concerning to legislators.

Students may use apps to track their menstrual cycles, manage medication, communicate with a therapist, write in a journal, and send, receive and spend money. Improper storage and access control could expose students to violations of their Fourth Amendment rights. Even with grant money available for storage solutions, it is unwise to put school administrators—or worse, school police—in the position of safeguarding students’ most personal information.

II. The School-to-Prison Pipeline

The School-to-Prison Pipeline has been well-documented in New York. Overly harsh or punitive school discipline practices push kids out of schools and into the criminal justice system. In recent years, advocates, students, and families have won major reforms to reduce suspension and arrest rates and keep kids in the classroom. The last thing the state should be doing is creating new mechanisms to punish students.

In New York and across the country, Black and Brown students are targeted for discipline and referrals to school police at higher rates than their white peers.³ They are more likely to be suspended, arrested, and more likely to drop out. The governor’s proposal moves New York in the wrong direction, toward more punitive responses and restrictions on youth behavior. It will undoubtedly result in additional suspensions and police contact.

During Michael Bloomberg’s tenure as New York City mayor, he implemented a cell phone ban, and the result was thousands of students subjected to unnecessary searches by school safety officers, leading to hundreds of avoidable conflicts, criminal charges against young people, and students missing school. At the time, the NYCLU documented how the cell phone ban was used to heap punishment on kids of color and was unequally enforced in schools with metal detector screening.⁴

New York City’s ban was rescinded in 2015, when smartphones were less ubiquitous and less important to daily life than they are now. The state should not recreate the mistakes of the past.

III. Adolescent Mental Health

The proposed cell phone ban is a band-aid that avoids actually addressing adolescent mental health. Smartphones can literally be a lifeline for students who need information about

³ See, e.g. American Bar Association, School-to-Prison Pipeline Statistics, July 11, 2023, available at https://www.americanbar.org/groups/diversity/racial_ethnic_justice/projects/school_to_prison/statistics/;

⁴ See, NYCLU, “NYCLU Commends End of Cell Phone Ban, Demands More Reforms in Schools,” January , 2015, available at <https://www.nyclu.org/press-release/nyclu-commends-end-cell-phone-ban-demands-more-reforms-schools>; NYCLU, “Exemptions From Cell Phone Ban Are Not Enough, NYCLU Says,” February 1, 2007, available at <https://www.nyclu.org/press-release/exemptions-cell-phone-ban-are-not-enough-nyclu-says>.

reproductive, mental and emotional health, gender identity and sexual orientation that they cannot otherwise obtain.

New York does not require instruction on healthy relationships, bullying and harassment, or sex ed in school, among other urgent and sensitive topics, leaving students to seek out information on their own. Young people without access to school-based counselors or health clinics may seek assistance from online counselors via text messages and chat functions. Further, students use their phones to access vital support and reassurance in online communities, often the only safe space for students struggling with gender identity and sexual orientation bullying or harassment, abusive dating relationships, or unsafe home situations. Without a plan to increase other support, the state would be cruel to remove students' most vital tool for getting this life saving information.

To get serious about addressing students' mental health in New York, lawmakers should require and fund counselors and social workers in schools at the recommended ratios of one counselor for every 250 general education students (more for students with special needs). In New York, the average ratio of counselors to students is 1:314.⁵

Additionally, we recommend supporting schools to provide instruction in online media literacy, privacy and digital hygiene. Instructing students to be good online citizens and to develop resilience against online pressures without their phones is like teaching kids how to swim without a pool. Our state can and should take a smarter approach to online safety and good habits.⁶

IV. Family Safety and Emergency Contacts

Parents buy their kids a mobile phone for the express purpose of monitoring their location and being in touch in case of an emergency. In our current political reality, this can and does include families being detained by Immigration and Customs Enforcement (ICE agents) while a child is in school.⁷ Not one week after the inauguration of President Donald Trump, the NYCLU had received reports of students coming home from school to an empty apartment, and learning their parents were in ICE custody.

Being able to share information with a family member immediately has never been more important. There are countless emergencies that can occur inside or outside of school, where a student's ability to reach a family member quickly is vital. We urge the state to consider this reality and empower schools to create cell phone use policies that work for their communities.

⁵ American School Counselor Association, Student-to-School Counselor Ratio 2023-24, Available at <https://www.schoolcounselor.org/getmedia/f2a319d5-db73-4ca1-a515-2ad2c73ec746/Ratios-2023-24-Alpha.pdf>; School Social Work Association of America, National SSW Model, Available at <https://www.sswaa.org/ssw-model>.

⁶ See, e.g. NYCPS, Digital Citizenship, available at <https://infohub.nyced.org/in-our-schools/programs/digital-citizenship>.

⁷ Cayla Bamberger, New York education officials concerned about cellphone ban amid Trump's deportations plans. January 23, 2024, available at <https://www.nydailynews.com/2025/01/23/new-york-education-officials-concerned-about-cellphone-ban-amid-trumps-deportations-plans/>.

We thank you for your attention to this matter. New York's students deserve the best we can give them, not shortcuts that put them at greater risk. Educators across the state work with students every day to develop cell phone use policies that are sensible, tailored, and that contribute to a positive school climate. We encourage you to uplift and support those success stories, rather than approaching this issue with a blanket ban.

The NYCLU opposes this legislation.