

The Lawyers Committee on Wireless Radiation and Children's Health

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To School Administrators and Counsel:

As attorneys concerned about the welfare of all children, we write to you regarding the deployment of wireless products and devices in your schools that emit radiofrequency (RF) radiation and the negative impacts which exposures can have on the health and safety of children in your schools. **This letter should not be construed as offering legal advice, and we strongly recommend that you to consult with qualified legal professionals regarding these issues.**

That said, we want to alert you to recent studies linking low-level exposures to RF radiation with serious biological harm, as well as legal actions being taken against the Food and Drug Administration for its failure to develop and promote "best practices" for minimizing these exposures. We also very respectfully remind you of the legal principles and statutes that govern your responsibilities as school administrators.

The Science

In 2012, scientists at Yale University published a study showing that the offspring of lab animals exposed to cell phone radiation during pregnancy exhibited behavioral characteristics associated with ADHD in humans, including inability to concentrate, memory loss, and hyperactivity.¹ Subsequent examination of the brains of the sacrificed animals showed abnormal brain development, while the control group was unaffected.

In 2018, the National Toxicology Program of the National Institutes of Health released a report by an expert review panel that found "clear evidence" of an increased cancer risk as well as DNA damage from exposure to RF radiation in laboratory animal tests.² That \$30-million-dollar government study confirmed what hundreds of other independent studies have proven – that current federal exposure standards for RF radiation are not sufficient to prevent biological harm.

As the World Health Organization and the American Academy of Pediatrics have both pointed out, children are not just "little adults." Their rapidly developing physiology makes them more vulnerable to all kinds of environmental exposures, including radiation from wireless devices. An important factor, especially with young children, is that their skulls are still largely cartilaginous as opposed to the hard bone skulls of teens and adults.

¹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3306017/>

² <https://tools.niehs.nih.gov/newsreleases/index.cfm/detail/857053>

The most common physical symptoms in children reported from exposure to RF radiation include headache, dizziness, nausea, fatigue, concentration difficulties, heart palpitations, and digestive disturbances. Other reported impacts include neuropsychiatric (behavioral) effects including anxiety, depression, and cognitive impairment.

A non-profit website, www.TechSafeSchools.org, lists hundreds of additional published, peer-reviewed studies demonstrating biological harm from exposure to low levels of RF radiation. This large and robust body of studies and clinical medical evidence continues to build a *prima facie* legal case for heightened vigilance for school administrators, school boards, and parents regarding children's exposure to RF radiation.

The FDA and the Law

In 1968, Congress passed Public Law 90-602, "An Act to Amend the Public Health Service Act to provide for the protection of the public health from radiation emissions from electronic products," also known as the Radiation Control for Health and Safety Act of 1968. In its Declaration of Purpose, Congress wrote, "*The Congress hereby declares that the public health and safety must be protected from the dangers of electronic product radiation.*"

The law (21 USC 360ii), last updated in 1991, requires the FDA to perform specific activities to minimize the public's exposure to RF radiation, but for fifty years the FDA has failed to do so. The FDA has not studied how children are being affected by exposure, measured exposures in school classrooms, issued best practices for schools or taken any other steps to minimize the exposure of children as the law requires. Thus, the massive increase in the implementation of wireless technology in school classrooms is taking place in a regulatory vacuum.

In the absence of the advisories or warnings from FDA, school administrators lack any information on which to base decisions about the deployment of wireless devices and products – the very opposite of what Congress intended. Parents of children suffering from acute symptoms of exposure to RF radiation in schools are facing a difficult choice: watch their children continue to suffer, day after day, or pull them out of school and provide some form of home schooling, which, for working families, may be impossible. Their concerns about their children are often dismissed by school administrators or school nurses who are unaware of the emerging science, citing compliance with the FCC's outdated and insufficient standards as proof of safety.

The Law

The fiduciary duty of school administrators to parents and children arises from national and state policies and obligations to deliver safe and supportive learning environments, as well as the general law of fiduciaries. School superintendents and heads serve as *locus parentis* and are required by law to safeguard the interests of children entrusted to their care. The general fiduciary Duty of Care of school administrators can be analyzed into distinct and separate duties, with corresponding legally recognized rights of parents, children, and teachers.

- **Duty to be informed.** School administrators have a duty of heightened vigilance, especially when they are well informed of the foreseeable risks and preventable harms.
- **Duty to secure informed consent.** Administrators have a fiduciary obligation to secure informed consent from parents to permit their children to be exposed to a known and proven hazard while in school.
- **Duty to secure certification of safety from wireless purveyors.** Administrators have a fiduciary obligation to require purveyors of wireless technologies and devices to certify that their products are safe, especially for children and teachers in school environments.
- **Duty to demand indemnification and insurance.** Administrators have a responsibility to require wireless providers to obtain insurance to support indemnification and compensation for radiation-related claims. The liability for radiation exposure must not fall upon their own schools, nor should parents bear personal medical and other costs.
- **Duty to protect special needs children.** Administrators have a fiduciary and statutory duty to protect especially vulnerable children, including those who are suffering from Electromagnetic Sensitivity (EMS), a recognized medical condition. FCC guidelines do not preempt ADA compliance requirements.
- **Duty to monitor and measure exposure levels.** Administrators have an obligation to monitor the environments they are pledged to protect by regularly measuring RF radiation levels in their schools in real time with all devices operating, including aggregate and cumulative levels.

Federal law and an increasing number of state laws have recently been enacted to ensure data privacy and cybersecurity. Wireless technology is now recognized to be so inherently insecure and vulnerable to hacking and other intrusions that the problem has been elevated to a national security concern, and several task forces have provided detailed recommendations on the high vulnerability to the nation of cyber-insecurity. Protection of the privacy and security of databases concerning children and their parents must be a high priority of school administrators.

Reaching a Legal Tipping Point

In a recent lawsuit brought by two non-profit organizations, the FCC has been ordered by the DC Circuit Court of Appeals to re-evaluate its old thermal-based standards in light of new evidence suggesting that RF radiation is having a detrimental impact on children and the environment, even at levels currently deemed “safe.” However, waiting for FCC to update its decades-old guidelines, or for the FDA to issue official notices about reducing exposure, is not a reasonable exercise of the general Duty of Care required of all administrators. There is no harm in exercising reasonable caution to reduce exposures.

Reasonable Solutions Are Available

As science moves inexorably toward a better understanding of the role of RF radiation and magnetic field exposure on children's biological systems, the liability of school administrators and school boards is likely to increase. The good news is there are many practical, simple steps that administrators can take now to reduce exposures while not affecting technology-based learning in any way.

Please see the attached information sheets for simple, practical, and no- or low-cost steps that can reduce exposures and consult the TechSafe Schools project website for detailed information on mitigation techniques, best practices and detailed scientific information to support the statements and recommendations in this letter.

As a new school year begins, we urge you to take these reasonable actions to protect students, teachers and staff under your care.

Thank you for your efforts to protect the health and safety of all children.

Sincerely,

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