

## What is the Telephone Consumer Protection Act (TCPA)?

The TCPA was created in 1991 and is administered by the Federal Communications Commission (FCC). Updated in 2015, the rules, among other things, prohibit calls made using automatic telephone dialing equipment or a prerecorded message to any telephone number assigned to a cell phone or any service for which the called party is charged for the call without prior express consent, unless the call is for “emergency purposes” as defined by the TCPA.

In the quarter century since the TCPA was enacted, the variety of communications options available to both schools and parents has multiplied. Today, nearly two-thirds (64 percent) of U.S. adults own a smartphone, up from 35 percent in 2011, according to a 2015 study by the Pew Research Center<sup>1</sup>. The same study reported that text messaging is the most widely and frequently used smartphone feature or app. The FCC considers a text message to be a call.

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## A Guide to Understanding TCPA & Best Practices

Over the summer of 2015, the FCC issued a Declaratory Ruling and Order (Ruling) related to the TCPA. In the Ruling, the FCC:

- reiterated that consent is required from the “called party,” who is designated as the consumer (e.g., parent or guardian) assigned to the number dialed and billed for the call or the non-subscriber customary user of a number in a family or business calling plan;
- reaffirmed that called parties must be able to revoke consent at any time and in any reasonable manner, and that the sender of the message (e.g., school or district) bears the burden of the proof of the consent; and
- repeated that consent is not required for calls for “emergency purposes,” defined as a call “made necessary in any situation affecting the health and safety of consumers.”

For school districts using automated notification systems, this means ensuring processes for obtaining consent, managing opt outs, carefully considering what is and is not an emergency under the law, and integrating up-to-date records of consent information with their notification systems.