Tech and Web-Based Policy: The Final Frontier

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Angie Stallbaumer, Policy Specialist/Attorney
Kansas Association of School Boards
Policy Boldly Going Where No Policy Has Gone Before:

• Using drones for instruction
• Billboard Advertising
• Online material distribution
• Web-based funding
Episode #1: Drones

• ISSUE: Districts are exploring student use of drones for technology instruction.

• TREND: The Scottys among us, dig it; the McCoys aren’t so sure.

• TRAP: Boards choosing to allow it, must ensure operation is lawful.
Setting the Scene

- Unmanned aircraft systems (“UAS” or “drones”) sales up 167% in the last two years
- Commercial use of drones includes delivery of medical supplies and food, inspection, & filming
- Also caused injury and/or public spectacle on several occasions due to malfunction and/or operator error
- Privacy and safety concerns due to their ability to use cameras for recording their surroundings and their potential to transport destructive devices
Governmental Response

• 26 states passed legislation regulating drone use

• In December 2015, the Federal Aviation Administration ("FAA") issued its State and Local Regulation of Unmanned Aircraft Systems Fact Sheet, providing all regulation of airspace use, management, safety, and efficiency is strictly FAA’s jurisdiction.
FAA’s Jurisdiction

• “The United States Government has exclusive sovereignty of airspace of the United States.”
  – 49 U.S.C. § 40103(a)(1)

Can we even regulate drone use above school property?
Breaking News: 5/9/16

• FAA Administrator Michael Huerta announced the agency is establishing a broad-based advisory committee (http://www.faa.gov/uas/legislative_programs/) that will provide advice on key unmanned aircraft system ("UAS") integration issues.

• He also announced plans to make it easier for students to fly unmanned aircraft (http://www.faa.gov/uas/regulations_policies/media/Interpretation-EducationalUseofUAS.pdf) as part of their coursework.
Breaking News, Cont…

- FAA will start allowing students to operate UAS for educational and research purposes now.
- Schools and students will no longer need a Section 333 exemption or other authorization to fly, provided they follow the rules for model aircraft.
- Faculty will be able to use drones in connection with helping their students with their courses.
- “Schools and universities are incubators for tomorrow’s great ideas, and we think this is going to be a significant shot in the arm for innovation,” Huerta said.
3 Part FAA Clarification:

- A person may operate an unmanned aircraft for hobby or recreation in accordance with section 336 of the FAA Modernization and Reform Act of 2012 (FMRA) at educational institutions and community-sponsored events provided that person is (1) not compensated, or (2) any compensation received is neither directly nor incidentally related to that person's operation of the aircraft at such events;..
3 Part FAA Clarification:

- A student may conduct model aircraft operations in accordance with section 336 of the FMRA in furtherance of his or her aviation-related education at an accredited educational institution.
3 Part FAA Clarification:

• Faculty teaching aviation-related courses at accredited educational institutions may assist students who are operating a model aircraft under section 336 and in connection with a course that requires such operations, provided the student maintains operational control of the model aircraft such that the faculty member's manipulation of the model aircraft's controls is incidental and secondary to the student's.
Example of Approved Intervention:

- The teacher can step-in to regain control in the event the student begins to lose control, to terminate the flight, etc.
Section 336(a) provides the aircraft must be:

1) Flown strictly for hobby or recreational use;
2) Operated in accordance with a community-based set of safety guidelines;
3) Limited to not more than 55 pounds unless otherwise certified through a design, construction, inspection, flight test, and operational safety program administered by a community-based org.;
• 4) Operated in a manner that does not interfere with and gives way to any manned aircraft; and

• 5) When flown within 5 miles of an airport, the operator provides the airport operator and the airport air traffic control tower, if applicable, prior notice of the operations

  – Drone operators flying from a permanent location within 5 miles of an airport should establish a mutually agreed upon operating procedure with the airport operator and the airport air traffic control tower, if applicable.
Drones must also be flown within the line of sight of the person operating it.
FAA on Student Operations:

- The use of small unmanned aircraft by students at accredited educational institutions as a component of science, technology, and aviation-related educational curricula or other coursework such as television and film production or the arts more closely reflects and embodies the purposes of "hobby or recreational" use of model aircraft and is consistent with the intent of section 336.
FAA on Student Operations:

• Student use as a component of their science, technology and aviation related educational curricula, or other coursework is "hobby or recreational use".
  
  – The student is responsible for meeting and complying with all other elements required for lawful model aircraft operations pursuant to Section 336 of the FMRA, including the student not receiving any form of compensation for operation thereof.
FAA on Teacher Use:

- Faculty teaching a course that uses unmanned aircraft as a component thereof may provide limited assistance to students operating UAS without changing the character of the student's operation as a hobby or recreational activity or requiring FAA authorization.
  
  - De minimis instructor participation in student operation of UAS as part of coursework does not rise to the level of faculty conducting an operation outside of the hobby or recreation construct.
FAA on Teacher Use:

• An instructor teaching an engineering course in which construction and operation of UAS are one part of the curriculum would be able to conduct limited UAS operations.
  – Students would fly UAS to test the validity of design or construction methods to show mastery of the principles of the course.
FAA on Teacher Use:

• This would not allow a course related to UAS flight instruction. In that case, the student's primary purpose for taking the course is to learn to fly a UAS, and flight would be expected to be demonstrated on a regular basis. In that case, the faculty member's UAS operation is closely tied to his or her purpose of instructing how to fly a UAS.
Drones, Continued…

• Anti-Drone
  – Unless granted special permission by the Superintendent or his/her designee, the use of Unmanned Aircraft Systems (UAS) for any purpose is not permitted at any school district event, activity, or classroom activity. This prohibition applies to all school district indoor/outdoor property and includes a ban at all venues including the spectator areas and parking areas.
• Pro-Drone

– Any representative of ______ USD ___...shall operate any and all district drones in accordance with this policy and all applicable Federal Aviation regulations such as FAA Advisory Circular 91-57a…

– District staff shall monitor for inappropriate use of district drone technology as defined by this policy. Violators may be subject to disciplinary action, up to and including suspension and/or expulsion for students or suspension and/or termination for employees.
Iowa’s Sample Policy:

• …[T]he use or possession of unmanned aircrafts is prohibited on district property or in the space above the property that reasonably can be considered part of the district property.

• The superintendent may make an exception to this policy in specific cases where the circumstances warrant such exception...
• In such situations and prior to approval, unmanned aircraft operators shall:
  – Supply proof of insurance meeting liability limits established by the district;
  – Present appropriate registration and authorization issued by the Federal Aviation Administration (FAA);
  – Sign an agreement holding the district harmless from any claims of harm to individuals or damage to property; and
  – Meet additional requirements as determined appropriate by the district.
• If the unmanned aircrafts are operated as part of the district curriculum, prior to adoption into the curriculum, district employees shall work with district administration to ensure the appropriate insurance, registration, and authorizations are in place.
• Unmanned aircrafts shall be operated in accordance with Iowa High School Athletic Association and Iowa Girls High School Athletic Union policy.
• Failure to abide by this policy may result in local, state, and federal penalties if applicable.
• Unless granted special permission by the KSHSAA Executive Director, the use of drones (UAS), for any purpose, is not permitted at any KSHSAA state tournament or postseason game or event. This prohibition applies to all fields of play, courts, arena, mats, gym floor or pool, and includes a ban on the entire facility being used as part of the KSHSAA event, including the spectator areas and parking areas.
Episode #2: Billboard Advertising

- ISSUE: We’re looking for a new revenue stream.
- TREND: Local businesses are allowed to buy add space on our scoreboard and perimeter of our sport facilities.
- TRAP: Viewpoint Discrimination
KI ➔ Distributing Materials

• An excerpt of Advertising in the Schools:
  – No advertising for commercial purposes shall be permitted in the school buildings or on the grounds of the district without prior board approval.
  – Advertising in student publications shall be regulated by rules and regulations developed by the superintendent. Advertising in the student publications may promote products by brand name. Ads promoting the sale of any controlled substance, drug paraphernalia or any other illegal material or activity are prohibited.
Commercial Advertising Guidelines

• Commercial advertising to promote products or services in the facilities or on the grounds of school property may be allowed only with prior written approval of the Principal/site administrator, who shall forward a copy of each approval/denial to the appropriate school director.

• In considering each request, the Principal/site administrator shall determine if the advertisement detracts from the use of instructional time and is age-appropriate for students. Such determination shall follow review standards that prohibit language or depictions that:
  – Contain profanity or obscenity;
  – Are political advertisements;
  – Promote violence or substances or activities illegal for minors; and/or
  – Contain racial, ethnic, religious, sexual or disability-related slurs, or any gang-associated affiliation.

• Funds received for approved projects involving advertising on school property shall be deposited to the school’s internal account or may be retained by a school-related booster group that is sponsoring the activity as a fundraising event.
Episode #3: eFlyer Distribution

• ISSUE: We’re saving oodles in printing, paper, and hassle.

• TREND: Traditional rules about material distribution to students are generally suspended for a come on come all approach. After all, we’re sending these directly to parents, so what’s the big deal?

• TRAPS: Endorsement/Establishment of a Religion in violation of the 1st Amendment or Viewpoint Discrimination
Endorsement of Religion:

• Schools have received challenges from both the pro-religion and anti-religion groups, challenging both inclusion and exclusion of religious-affiliated flyers.
Recommendations:

• We have advised to closely follow existing policies on material distribution, to ensure that policies are viewpoint neutral, and to ensure any content restrictions are narrowly tailored to meet educational needs.
  – If you allow access to a non-profit baseball or Scout camp, then you must allow access to non-profit religious and atheist camps.
Sample Flyer Approval Policy:

• Lake County Schools approves the distribution of:
  – Flyers that promote an educational experience for students or parents, a healthy use of leisure time, and/or a special enrichment activity not duplicated by an LCS program.
  – Information targeted to staff that announces job-related activities and instructional opportunities related to the LCS curriculum.
• All flyers must be in PDF format, contain font sizes not less than 12, and contain the name and contact information of the sponsoring entity.
• Lake County Schools does not approve the distribution of:
  – Materials for projects, activities, or programs that would publicize or promote a particular church, religious organization, or religious viewpoint.
  – Materials for projects, activities, or programs that would publicize or promote a particular political party, political organization, or political viewpoint.
Episode #4: Web-Based Funding

• ISSUE: Budget cuts, school finance woes, expensive tastes, etc.

• TREND: Schools and sometimes individual teachers are soliciting donations online

• TRAP: Title IX Violations, fraud, fairness, losing control of financial priorities and procedures
Recommendations:

• Know what your people are doing. All donations and fundraising efforts should receive board approval or at least be funneled through a central location to avoid inequity in spending, resources, equipment, etc. and to ensure individuals aren’t just pocketing this money.
Iowa’s Sample Policy:

• The [insert school district name] Board of Education believes online fundraising campaigns, including crowdfunding campaigns, may further the interests of the district. Any person or entity acting on behalf of the district and wishing to conduct an online fundraising campaign for the benefit of the district shall begin the process by seeking prior approval from the Superintendent.

• Money or items raised by an online fundraising campaign will be the property of the district only upon acceptance by the board, and will be used only in accordance with the terms for which they were given, as agreed to by the board.
• Approval of requests shall depend on factors including, but not limited to:
  – Compatibility with the district’s educational program, mission, vision, core values, and beliefs;
  – Congruence with the district and school goals that positively impact student performance;
  – The district’s instructional priorities;
  – The manner in which donations are collected and distributed by the crowdfunding platform;
  – Equity in funding; and
  – Other factors deemed relevant or appropriate by the district.
• If approved, the requestor shall be responsible for preparing all materials and information related to the online fundraising campaign and keeping district administration apprised of the status of the campaign.

• The requestor is responsible for compliance with all state and federal laws and other relevant district policies and procedures. All items and money generated are subject to the same controls and regulations as other district property and shall be deposited or inventoried accordingly. No money raised or items purchased shall be distributed to individual employees.
QUESTIONS?

Spock ponders the meaning of life...and makes a disturbing discovery.

It doesn't seem logical, but what if the hokey pokey IS what it's all about?

astallbaumer@kasb.org or
1-800-432-2471

Kansas Association of School Boards
_______ USD ___ is committed to providing all students and staff with technology-based learning opportunities. Access to Unmanned Aircraft System (“UAS” or “drone”) technology in ________ USD ___ is a privilege which brings with it responsibilities.

Responsibilities: Any representative of ______ USD ___, including but not limited to, staff members, students, coaches, sponsors, or parents representing the district or any of its affiliated clubs shall operate any and all district drones in accordance with this policy and all applicable Federal Aviation regulations such as FAA Advisory Circular 91-57a.

Included in these regulations are the following guidelines:

● Operator must not operate UAS within 5 miles of any airport without prior notification and confirmation from airport authorities, unless the operator is flying the UAS from a permanent location within 5 miles of an airport and utilizing a mutually agreed upon operating procedure developed by the district and the airport operator and airport air traffic control tower, if applicable.

● Operator must not operate UAS above an altitude of 400 feet above ground level.

● Operator must maintain safe control and line of sight with UAS during all stages of operation.

● Operator must maintain a safe operating distance from crowds.

● Data collected by UAS can only be used for hobby (educational) purposes and may not be sold for profit.

● Operator may not operate UAS over any property without first obtaining a signed consent form (available for download from District Webpage) executed by the property’s owner or personnel with authority from the property owner or the owner’s legal representative.

● Operator assumes all risk to damage to property and bodily injury that may occur due to unsafe operation of district owned UAS.

Inappropriate Use: Inappropriate uses of UAS include, but are not limited to, the following:

● Violating any KSHSAA, local, state, or federal statutes, regulations (including FAA Advisory Circular 91-57a), or rules;

● Taking pictures of property or persons without consent;

● Violating safe operating protocols as defined in UAS user manual and classroom guidelines;
● Failing to follow a district policy while using the district’s UAS technology or failing to follow any other policies or guidelines established by district administrators or their designees;

● Harassing, bullying, interfering with another’s work, intimidating, or attacking others with the UAS.

Violations. District staff shall monitor for inappropriate use of district UAS technology as defined by this policy. Violators may be subject to disciplinary action, up to and including suspension and/or expulsion for students or suspension and/or termination for employees.
1. **PURPOSE.** This advisory circular (AC) provides guidance to persons operating Unmanned Aircraft (UA) for hobby or recreation purposes meeting the statutory definition of “model aircraft” contained in Section 336 of Public Law 112-95, the *FAA Modernization and Reform Act of 2012*. This AC describes means by which model aircraft may be operated safely in the National Airspace System (NAS). Nothing in this AC changes the requirement to comply with the statute or any applicable regulations.

2. **APPLICABILITY.** This AC provides information for any person who engages in model aircraft operations using model aircraft as defined by statute. (See paragraph 6.)

3. **REFERENCES.** Title 49 U.S.C. § 40101; P.L. 112-95 (126 Stat. 77 *et seq.*).

4. **RELATED MATERIAL** (current editions).

   - Subtitle VII of Title 49, United States Code (49 USC)
   - Title 14 of the Code of Federal Regulations (14 CFR)
   - Subtitle B of Public Law 112-95 (Feb. 14, 2012)
   - *Aeronautical Information Manual* (AIM)
   - Temporary Flight Restriction (TFR) listing: [http://tfr.faa.gov/tfr2/list.html](http://tfr.faa.gov/tfr2/list.html)
   - Notices to Airman: [https://www.faa.gov/air_traffic/publications/notices/](https://www.faa.gov/air_traffic/publications/notices/)


6. **MODEL AIRCRAFT OPERATIONS.**
   a. **Terminology.**

      (1) 49 USC § 40102 defines an aircraft as “any contrivance invented, used, or designed to navigate, or fly in, the air.” 14 CFR § 1.1 defines an aircraft as “a device that is used or intended to be used for flight in the air.”
(2) Public Law 112-95 defines unmanned aircraft as an aircraft that is operated without the possibility of direct human intervention from within or on the aircraft.

(3) Section 336 of P.L. 112-95 defines a model aircraft as an unmanned aircraft that is capable of sustained flight in the atmosphere, flown within visual line of sight of the person operating the aircraft, and flown only for hobby or recreational purposes.

b. Model Aircraft Hazards in the NAS. While aero-modelers generally are concerned about safety and exercise good judgment when flying model aircraft for the hobby and recreational purposes for which they are intended, they may share the airspace in which manned aircraft are operating. Unmanned aircraft, including model aircraft, may pose a hazard to manned aircraft in flight and to persons and property on the surface if not operated safely. Model aircraft operations that endanger the safety of the National Airspace System, particularly careless or reckless operations or those that interfere with or fail to give way to any manned aircraft may be subject to FAA enforcement action.

c. Determination of “Model Aircraft” Status. Whether a given unmanned aircraft operation may be considered a “model aircraft operation” is determined with reference to section 336 of Public Law 112-95:

(1) The aircraft is flown strictly for hobby or recreational use;

(2) The aircraft operates in accordance with a community-based set of safety guidelines and within the programming of a nationwide community-based organization (CBO);

(3) The aircraft is limited to not more than 55 pounds, unless otherwise certified through a design, construction, inspection, flight test, and operational safety program administered by a CBO;

(4) The aircraft operates in a manner that does not interfere with, and gives way to, any manned aircraft; and

(5) When flown within 5 miles of an airport, the operator of the model aircraft provides the airport operator or the airport air traffic control tower (when an air traffic facility is located at the airport) with prior notice of the operation. Model aircraft operators flying from a permanent location within 5 miles of an airport should establish a mutually agreed upon operating procedure with the airport operator and the airport air traffic control tower (when an air traffic facility is located at the airport).

d. Public Law 112-95 recognizes the authority of the Administrator to pursue enforcement action against persons operating model aircraft who endanger the safety of the National Airspace System. Accordingly, model aircraft operators must comply with any Temporary Flight Restrictions (TFR). TFRs are issued over specific locations due to disasters, or for reasons of national security; or when determined necessary for the management of air traffic
in the vicinity of aerial demonstrations or major sporting events. Do not operate model aircraft in designated areas until the TFR is no longer in force.

Model aircraft must not operate in Prohibited Areas, Special Flight Rule Areas or, the Washington National Capital Region Flight Restricted Zone, without specific authorization. Such areas are depicted on charts available at http://www.faa.gov/air_traffic/flight_info/aeronav/. Additionally, model aircraft operators should be aware of other Notices to Airmen (NOTAMS) which address operations near locations such as military or other federal facilities, certain stadiums, power plants, electric substations, dams, oil refineries, national parks, emergency services and other industrial complexes. In addition to the previously mentioned link, information regarding published NOTAMS can be found at: https://www.faa.gov/air_traffic/publications/notices/.

The requirement to not fly within TFRs, or other circumstances where prohibited, would apply to operation of model aircraft that would otherwise comply with section 336 of Public Law 112-95.

e. Model aircraft operators should follow best practices including limiting operations to 400 feet above ground level (AGL).

f. All other operators and for additional information on Unmanned Aircraft Systems please visit: http://www.faa.gov/uas/ .

Elizabeth L. Ray
Vice President, Mission Support Services
Air Traffic Organization

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