POKÉMON GO AND THE NEW SCHOOL YEAR

Practical Tips For Handling Latest Mobile Device Craze

Insights
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There is something a little bit different about going back to school this year: your school is filled with Pokémon, awaiting capture by your students, employees, and visitors. By now, you are probably familiar with Pokémon Go, an augmented reality game that has gone viral since its July 2016 release. Players use their mobile device to capture, train, and battle Pokémon that virtually appear in real life locations.

Unfortunately, the presence of virtual Pokémon creatures on school property raises concerns regarding safety, internet security, online privacy, and potential lawsuits. How should your institution prepare for the influx of Pokémon this school year?

A Primer For The Unaware
Pokémon Go involves a social component where users, both physically and virtually, interact in their quest to capture "Pokémon" – various fictional species of creatures that appear on a user's mobile device. Players have two general goals: collect as many Pokémon species as they can (hence the game's catchphrase: "Gotta Catch 'Em All!"), and then train their captured creatures so they can compete against teams owned by other players.

There are certain aspects of the game that may make your school a hotspot for Pokémon Go activity, attracting unwanted – and potentially dangerous – visitors. The game includes PokéStops (places where users collect items used to capture Pokémon) and Pokémon Gyms (places where users battle against defending Pokémon). The game has

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designated various landmarks and locations as PokéStops and Gyms.

Another feature of the game that may attract unwanted visitors is called a lure module. The lure module attracts Pokémon to a designated PokéStop, determined by a user, for 30 minutes. If a lure module is placed at a PokéStop on school property, other Pokémon Go users may flock to your school property in order to capture Pokémon, especially since the app indicates to all users when a PokéStop is under the influence of a lure module.

What Schools Need To Know
The game is immensely popular. The app has been downloaded over 100 million times and there are over 30 million daily active users. Although most would agree that the game itself is harmless fun, when the virtual world and the real world collide on school grounds, trouble could arise for school administrators. Here are the considerations you should keep in mind at the start of this school year.

Safety
Your main concern should be over security issues, as strangers could come onto school property, especially during school hours, or lurk near school property before and after school hours. These people will be either searching for Pokémon, or preying upon innocent victims who are distracted while playing the game.

In order to avoid becoming a magnet for students and unwanted visitors, school representatives should attempt to identify PokéStops or Gyms on your school's property. You can keep an eye out for unusual congregations of people, or use the Pokémon Go app to conduct a sweep of your property to determine if there are any PokéStops or Gyms on site.

If you discover that your school property has been designated as a PokéStop or Gym, you can contact the game's creator, Niantic, to request it be removed by [clicking this link](). While Niantic will not be able to directly remove lure module locations set by users (unlike PokéStops and Gyms), the removal of PokéStops from school property should also eliminate concerns about the use of lure modules at your school.

School staff should be hypervigilant about adults and strangers coming onto school property. Your institution

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should reexamine your policies concerning visitors and trespass on school grounds, and be prepared to enforce these policies to ensure the safety of students and staff. You should educate your security staff about the game in order to prevent unwanted persons from coming on school property. Additionally, security staff should be on alert to ensure that persons who may be distracted while playing Pokémon Go do not fall victim to crimes, including theft of property and assault.

In addition to being alert to strangers on school property, you must also be aware of the potential risks associated with school staff, including teachers, joining up with students to play the game. The popularity of Pokémon Go provides a great opportunity for schools to reinforce the problems associated with staff and student connection via new technology including social media, interactive games, and augmented reality games. Ultimately, you should consider whether employees should be prohibited from playing Pokémon Go with students, both in the classroom and after school hours, and from joining a team that includes students.

Internet Security And Online Privacy
When the Pokémon Go frenzy took hold earlier this summer, it drew the attention of the media, privacy experts, and even a United States Senator. Senator Al Franken openly questioned what information Niantic gained access to when users signed on through their Google accounts.

Early reports indicated that Niantic gained permission to access an individual's complete Google account, including Google Docs and the contents of Gmail accounts. Although an update has since been released purportedly addressing this issue and reducing the amount of information to which Niantic gains access, schools need to take steps to ensure internet security and maintain online privacy.

Initially, especially to the extent student or staff email accounts are Google-based, you should consult with your IT professionals to ensure that Google accounts and your school's other systems, including its servers, cannot be penetrated through the use of the app.

Additionally, you should work with your IT professionals to ensure that access to the game is blocked from your district network and district devices. This should include adjusting the internet filter. While blocking access to the game from

the district network is a good start, keep in mind that students and staff will still be able to access the app through their personal device's data plan.

In this sense, Pokémon Go is similar to other potential distractions and apps accessible on an individual's phone, such as Facebook, Instagram, Twitter, or SnapChat. With this in mind, you should review your Acceptable Use and Bring Your Own Device policies to ensure that they cover the use and possible prohibition of these types of apps. If necessary, these policies should be modified (or, if not already in place, adopted). You should educate your students and employees on the policies, and you should ensure that they are enforced.

Condition Of Property And Potential Injuries

Even if your school is not concerned about the mere fact that a PokéStop is located on school property, you should be concerned about exactly where the PokéStop is located. News stories abound regarding Pokémon Go players suffering injuries, including falling off cliffs. When playing Pokémon Go, users typically have their eyes glued to their mobile device, scanning their surroundings for Pokémon. While trying to "catch 'em all," there is potential for tripping, falling, and sustaining other injuries if the user is not paying attention to their surroundings.

The risk of physical injury can be increased depending on the exact location of the PokéStop – i.e., in an open field on school property versus in the parking lot where buses and cars are dropping off students. If a Pokémon Go user's injury is caused by a dangerous condition on school property, such as a pothole, uneven pavement, or a staircase without a railing, your school may be liable for negligence or (even in the absence of liability) subject to a lawsuit and the associated costs (both fiscal and non-fiscal, such as negative publicity).

Take this opportunity at the beginning of the school year to scan your school grounds, make note of any conditions that have the potential to cause injury, and take the necessary steps to make your school premises (both inside and outside) as safe as reasonably possible.

Conclusion

Pokémon Go is not the first, and will not be the last, augmented reality game that students, staff, and visitors will play on school grounds. Teachers and school staff must

enforce all Acceptable Use, Bring Your Own Device, and discipline policies with regard to students playing Pokémon Go in school.

If you have any questions about how augmented reality games or other new technology may affect your institution, please visit our website at www.fisherphillips.com, or contact your Fisher Phillips attorney or any member of our Education Practice Group.

This Legal Alert provides an overview of a specific legal development. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.