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Revised Vol. 15, No. 2 - August 2023

7440.01 - VIDEO SURVEILLANCE AND ELECTRONIC MONITORING

The Board authorizes the use of video surveillance and electronic monitoring equipment at various school sites throughout the District and on school buses. The video surveillance/electronic monitoring equipment shall be used to protect Board property and assets from theft and vandalism, through deterrence and video documentation. The system is not designed nor intended to protect individuals from being victims of violent or property crimes, nor to detect other potentially illegal and undesirable activities that may occur, although information may be used as evidence in such cases.

The monitoring of actions and behavior of individuals who come onto school property is a significant factor in maintaining order and discipline and protecting students, staff, visitors, and school and student property. Video surveillance/electronic monitoring systems serve to complement other means being employed in the District to promote and foster a safe and secure teaching and learning environment for students and staff. The Board recognizes that the use of a video surveillance/electronic monitoring system does not replace the need for the ongoing vigilance of the school staff assigned by the building principal to monitor and supervise the school building. Rather, the video surveillance/electronic monitoring system serves as an appropriate and useful tool with which to augment or support the in-person supervision provided by staff. The principal is responsible for verifying that due diligence is observed in maintaining general campus security.

The Superintendent is responsible for determining where to install and operate fixed-location video surveillance/electronic monitoring equipment in the District. The determination of where and when to use video surveillance/electronic monitoring equipment ~~will~~**shall** be made in a nondiscriminatory manner. Any person who takes action to block, move, or alter the location and/or viewing angle of a video camera shall be subject to disciplinary action.

Any information obtained from video surveillance/electronic monitoring systems may only be used to support the orderly operation of the District's schools and facilities, and for law enforcement purposes, and not for any other purposes. As such, recordings obtained through the use of video surveillance/electronic monitoring equipment may be used as evidence in any disciplinary proceedings, administrative proceedings, or criminal proceeding, subject to Board policy and regulations. Further, such recordings may become a part of a student's education record or staff member's personnel file. The Board ~~will~~**shall** not use video surveillance/electronic monitoring equipment to obtain information for the purpose of routine staff appraisal/evaluation or monitoring.

Video surveillance/electronic monitoring equipment may be placed in common areas in school buildings (e.g., school hallways, entryways, the front office where students, employees, and visitors are permitted to freely come and go, gymnasiums, cafeterias, libraries), the school parking lots and other outside areas, and in school buses. Except in extraordinary circumstances and with the written authorization of the Superintendent, video surveillance/electronic monitoring equipment shall not be used in areas where persons have a reasonable expectation of privacy (e.g., restrooms, locker rooms, changing areas, private offices (unless there is express consent given by the office occupant, or conference/meeting rooms), or in individual classrooms (not self-contained special education) during instructional times.

Use of Video Recording Devices in Self-Contained Classrooms and Audio in Restrooms of Self-Contained Classroom. ("Self-contained classroom" means a classroom at a public school in which a majority of the students in regular attendance are provided special education instruction. In accordance with WV Code 18-20-11, and further defined in WV Board of Education policy 2419. "majority" means a classroom where students with the most significant disabilities with similar needs receive instruction in all academic subjects for at least 60% of the students' time.)

The Board shall provide video surveillance/electronic monitoring equipment to a school for each self-contained special education classroom and audio recording devices in the restrooms of self-contained classrooms. The audio recording devices in the restrooms of the self-contained classrooms must be provided prior to August 1, 2023, unless granted a waiver by the WVDE to extend until August 2024. ~~that is part of that school, and the~~ The principal or other designated administrator of the school shall be the custodian of the video camera-camera, audio recording device, and all recordings generated by the video surveillance/electronic/audio monitoring equipment and access to those recordings. A District-level administrator shall also be permitted to authorize the viewing and/or release of video /audio surveillance in the absence of the principal or other designated administrator.

Each public school that receives a video camera under WV Code 18-20-11 shall operate and maintain the video camera in every self-contained classroom that is part of that school.

Each public school that receives an audio recording device under WV Code 18-20-11 shall operate and maintain the audio recording device in every restroom that is a part of a self-contained classroom that is part of that school: Provided, that each restroom of a self-contained classroom shall have posted on its door a notice that states: "Pursuant to state law, this restroom is equipped with an audio recording device for the protection of the students."

If there is an interruption in the operation of the video camera or audio recording device for any reason, a written explanation shall be submitted to the school principal and the Board explaining the reason and length for which there was no recording. The explanation shall be maintained at the board office for at least one year.

Such video surveillance/electronic monitoring equipment shall be capable of 1) monitoring all areas of the self-contained classroom, 2) recording audio from all areas of the self-contained classroom, 3) shall not monitor the restroom or any other area in the self-contained area where a student changes his/her clothes except for incidental monitoring based on the layout of the classroom, and 4) is not required to be in operation during the time in which students are not present in the self-contained classroom. Schools are required to provide written notice of the placement in self-contained classroom under State-law to employees, parents and/or guardians, as well as the Board. For existing video surveillance/electronic monitoring equipment, the recordings shall be retained consistent under the Family Education Rights and Privacy Act (FERPA) and be maintained for at least three (3) months after the date the video was recorded. However, if the three (3) month period overlaps with the annual summer break this time period shall be extended by the number of overlapping days between the end of the spring semester and the start of the fall semester. For any system installed or replaced after April 2022, each recording must be retained for at least 365 days and such retention period does not need to be extended to account for summer break days.

The recordings shall be available to only authorized persons, pursuant to State or Federal law, to view the videos. The videos shall be made available within seven (7) days of receiving the request.

If an authorized person requests to view a video, the video shall be maintained until the authorized requestor has actually viewed the video or sixty (60) days after the authorized requestor was notified that the video was to be viewed, whichever of these time periods is earlier. However, no video may be deleted any earlier than three (3) months or 365 days after the initial recording date.

The principal, designated designee, or District-level administrator shall, at least once every ninety (90) days, watch at least fifteen (15) minutes of video from each self-contained classroom.

☒ Security staff and administrators are authorized to carry and use portable video cameras when responding to incidents.
☒ The Board authorizes security personnel to use body-worn video cameras while on duty but prohibits them from being operated while the individual is routinely patrolling restrooms and locker rooms unless the staff member is responding to a specific incident.

Legible and visible signs shall be placed at the main entrance to buildings and in the areas where video surveillance/electronic monitoring equipment is in use. Signs shall be reasonably designed to notify people that their actions/behavior are being monitored/recorded. Additionally, the Superintendent is directed to annually notify parents and students via school newsletters and the Student Handbook, and staff via the Staff Handbook, of the use of video surveillance/electronic monitoring systems in their schools.

[SELECT OPTION 1 OR OPTION 2]

☐ OPTION 1

~~Under no circumstances will shall video surveillance/electronic monitoring equipment be used to make an audio recording of conversation occurring on school grounds or property.~~

☐ END OF OPTION 1

☒ OPTION 2

Ordinarily, video surveillance/electronic monitoring equipment ~~will~~ **shall** not be used to make an audio recording of conversation occurring on school grounds or property.

[END OF OPTION 2]

As per WV Code 62-1D-2, it is not a violation of the West Virginia Wiretapping and Electronic Surveillance act if an oral communication uttered in any child care center, licensed by the Department of Health and Human Resources, is intercepted, where there are written notices posted informing persons that their oral communications are subject to being intercepted.

Recordings of students ~~will~~ **shall** be treated as confidential. Consequently, because the Board is bound by the Family Educational Rights and Privacy Act (FERPA), copies of video recordings containing personal identifiable information about students shall not be released except to school officials with legitimate educational interests. Parents or guardians of minor students, and students who are eighteen (18) years of age or older, who are charged with disciplinary violations may view relevant portions of any video recording related to the charge, upon written request to the building principal, provided that

viewing the recording does not violate State and/or Federal law (i.e., the privacy rights of any other students whose images appear on the recording). Likewise, school personnel may view relevant portions of any video relating to any disciplinary charge against them, upon written request to the building principal, provided that viewing the recording does not violate State and/or Federal law (i.e., the privacy rights of any students whose images appear on the recordings). Otherwise, such confidential recordings shall only be released through subpoena or court order.

The Board shall not be required to maintain video surveillance/electronic monitoring recordings beyond the time period set forth in statute. Requests to review recordings which may have documented alleged incidents involving students or employees ~~will~~ **shall** be granted as set forth by statute, for employees or parents/guardians of students involved in alleged incidents, or any law enforcement or officials of the Department of Health and Human Resources properly investigating an incident. Any request to review a recording of a reported incident, pursuant to this policy, shall be granted and allowed within seven (7) days of the request, and the requester shall make himself/herself available to review the recording within thirty (30) days of the request, during which time the recording shall be retained. Any request to view a recording under this policy must be made within **[seven (7) to thirty (30)]** days of the event/incident. Unless a formal complaint is being investigated, there is an outstanding request to view, or legal proceedings are going, recordings may be destroyed after three (3) months from the date of the recording. If, however, action is taken by the Board/administration, as a result of a formal complaint or incident, recordings shall be kept for a minimum of one (1) year from the date of the action taken, or longer if legal proceedings are ongoing. () Recordings may also be kept beyond the normal retention period if they are going to be utilized for training purposes.

This policy does not address or cover instances where school officials record a specific event (e.g., a play, music performance, athletic contest, graduation, or Board meeting) or an isolated instance where a classroom is videotaped for educational or research purposes. Authorized videotaping for educational, instructional and/or research purposes is permitted and is not addressed by this policy.

The Superintendent is directed to develop administrative guidelines to address the use of video surveillance/electronic monitoring equipment in school buildings, school buses and on property owned and/or operated by the Board.

Video surveillance is to be implemented in accordance with this policy and the related guidelines. The Board ~~will~~ **shall** not accept or tolerate the improper use of video surveillance/electronic monitoring equipment and ~~will~~ **shall** take appropriate action in any cases of wrongful use of this policy.

[x] (x) Annually, ~~()~~ Quarterly, ~~()~~ Monthly, ~~()~~ **[insert interval]**, the Superintendent shall conduct a review to verify that this policy and its implementing guidelines are being adhered to, and report to the Board on the use of video surveillance/electronic monitoring equipment in the District.

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WV Code 18-20-11

WV Code 62-1D-2

FERPA 20 U.S.C. 1232g

34 C.F.R. 99.1-99.67

Title I of the Electronic Communication Privacy Act of 1986

18 U.S.C. 2510-2521

20 U.S.C. 1232g