

EAST STROUDSBURG AREA SCHOOL DISTRICT

NO.: 826
SECTION: OPERATIONS
TITLE: AUDIO AND VIDEO RECORDING
ADOPTED: DECEMBER 15, 2014
NOVEMBER 21, 2016

826. AUDIO AND VIDEO RECORDING	
1. Purpose	The Board is deeply concerned with maintaining the safety, security and well- being of those within the school setting.
2. Authority 24 P.S. § 5-510	The Board has determined that the use of audio and/or video surveillance can help to discourage misconduct, assist in the maintenance of safety and order on School Property, School District-owned, operated, or contracted School Buses and School Vehicles ¹ and aid in the identification, apprehension and possible prosecution or punishment of persons violating applicable laws and School District rules, regulations and policies.
3. Definitions 24 P.S. § 13-1301-A	<i>School Property</i> – any public school grounds, any school-sponsored activity or any conveyance providing transportation to/from a school entity or school-sponsored activity.
75 Pa. C.S.A. §102	<i>School Bus</i> – a motor vehicle that is designed to carry eleven (11) passengers or more, including the driver, and is used for the transportation of preprimary, primary, or secondary school students to or from public, private or parochial schools or events related to such schools or school-related activities.
75 Pa. C.S.A. §102	<i>School Vehicles</i> – a motor vehicle, except a motorcycle, designed for carrying no more than ten (10) passengers, including the driver, and used for the transportation of preprimary, primary or secondary school students while registered by or under contract to the School District. The term includes vehicles having chartered, group and party rights under the Pennsylvania Public Utility Commission and used for the transportation of school children.

¹ See Definition section for the defined terms generally provided in initial capital letters throughout this Policy.

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4. Delegation of Responsibility

The use of surveillance systems shall be under the direction of the Superintendent.

The Superintendent, and/or designee(s) must enforce the appropriate discipline policy, as required.

18 Pa. C.S.A. §5704 (18)

Based on the evidence collected, the building principal must determine the appropriate discipline for violations of the School District's discipline policy(ies), Code of Student Conduct, other School District policies, regulations, rules, and procedures.

School Buses/School Vehicles—The driver is responsible for the health, safety, and welfare of passengers while in transit, and for carrying out his/her duties assigned by the School District. The driver may review the audio and video recordings to assist in writing a conduct referral, incident report, or other required writing but he/she must conduct his review in the presence of the School District's Director of Transportation, and/or designee.

If needed, the Superintendent is granted the authority to create and enforce an administrative regulation to accompany this Policy.

18 Pa. C.S.A. §5704(18)

As an exception to Pennsylvania's *Wiretapping and Electronic Surveillance Act*, the School District is authorized to intercept oral communications for disciplinary or security purposes, or both, on a School Bus or a School Vehicle, without prior court approval, if all of the following conditions listed below are met:

- The Board has adopted this policy that authorizes audio interception on School Buses or School Vehicles for disciplinary or security purposes.
- This policy is posted on the district's publicly accessible website.
- Each school year, notice of this policy shall be included in the Code of Student Conduct.
- The Board posts a clearly visible notice on each School Bus or School Vehicle that is furnished with audio-recording equipment informing drivers and passengers (including students) that they may be audiotaped.

This authorization will not apply when a School Bus or School Vehicle is used for a purpose that is not school related.

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5. Guidelines

Tape or other recordings from surveillance equipment shall become and remains the property of the School District and shall be maintained, used and/or destroyed under the supervision, direction, and control of school officials. Recordings shall be subject to other applicable policies, regulations, rules and procedures of the School District, including policies concerning confidentiality of student and personnel records, and shall be subject to applicable requirements of local, state and federal law.

Audio and video recording systems placed on School Property and ~~on School Property and~~ School District owned, operated, or contracted School Buses and School Vehicles are the property of the School District and/or the contractor.

The School District shall provide proper notice that audio and/or video surveillance may occur on any School Property, in School Buses and in School Vehicles at any time. The School District shall post written notice and provide notice in the Code of Student Conduct and on the School District's website and as required by law.

Audio and/or video surveillance shall be used only to promote the order, safety, security, and property of students, staff, contractors and others being transported on district-owned, operated, or contracted school buses or school vehicles. Recordings may be used for review of any incidents, staff and others, as evidence of disciplinary action and may be released to law enforcement officials and/or legal counsel for the School District for use in criminal or civil proceedings.

Students, employees or guests on School Property, School Buses and School Vehicles should have no expectation of privacy in their oral communication and their actions.

All electronic video recordings shall be maintained for a minimum of 15 days and/or at the conclusion of disciplinary or criminal proceedings.

Use and Disclosure of Recordings

1) The audio and video recordings must be used to supplement the disciplinary and/or incident reports, i.e., the recording may not take the place of written reports by the driver or other employee.

2) Only authorized individuals may have access to the audio and video recordings. The audio and video recordings may be accessed by School District administrators (for example, superintendent, building principal, assistant principal,

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School Police, Director of Transportation, and Director of Technology) who need to be involved in determining whether disciplinary consequences are appropriate.

3) All individuals, authorized and unauthorized, are prohibited from tampering with, disabling, or otherwise interfering with the audio and video devices and recordings. Violations, whether students, employees, or guests, will be subject to disciplinary actions, including up to expulsion, termination, termination of a contract, or legal action.

4) Recordings that captured inappropriate behavior may be used at conferences with parents, students, bus contractors, drivers, and employees.

5) Audio and video recordings that are considered educational records must be collected, maintained, secured, disseminated, and retained in compliance with the School District's *Plan for the Collection, Maintenance, and Dissemination of Student Records*, the *Family Educational Rights and Privacy Act* ("FERPA"), its accompanying regulations, and numerous other federal and state privacy laws that protect records.

6) A parent(s)/guardian(s) of a student subject to discipline may request access to the audio and video recording(s) by contacting the student's building principal within a reasonable period of time for a scheduled time to meet.

- ◆ "Access to" means review of the recording(s); no copies may be made.
- ◆ The parent may review the portion of the recording(s) relevant to his/her child's misconduct.
- ◆ If reviewing the recording infringes on the privacy or confidentiality rights of another student(s), the administration will need to determine whether there is a way to protect the student(s) privacy or confidentiality rights. If not, the request for review may need to be denied.
- ◆ Access to the recording(s) must occur in the presence of the building principal, and/or designee(s).

7) Audio and video recordings must be preserved until the disciplinary action, and any subsequent litigation is concluded. The School District's Records Retention and Records Destruction Policy and Schedule must be adhered to.

22 Pa. Code §§
12.31 & 12.32
20 U.S.C.
§1232g, 34
C.F.R. Part 99

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Electronic devices that have the capability to record audio and/or video shall not be used for such purposes by students unless granted permission to do so in writing by the principal or his/her designee. Students are prohibited from recording audio and/or video in violation of any applicable law or Board Policy #815--Acceptable Use of the Computers, Network, Internet, Electronic Communications, Information, and Technology.

In addition to applicable discipline, failure to adhere to these rules will result in confiscation of the electronic device by school staff and a conference with the student prior to returning the electronic device. Return of the device may be delayed in accordance with the rules stated in the Code of Student Conduct. Such conferences could include a parent, and parents may be required to personally retrieve the confiscated device from the school. A student's refusal to turn over the device to staff shall be considered an act of insubordination, with the student receiving applicable and additional disciplinary consequences as per the Code of Student Conduct.

References:

PA. School Code – 24 P.S. 510, 511, 1317, 1318.

PA. State Board of Education Regulations – 22 Pa. Code §§ 12.31 & 12.32.

PA. *Wiretapping and Electronic Surveillance Act* – 18 Pa. C.S.A. 5704(18).

PA. Vehicle Code – 75 Pa. C.S.A. § 102.

Family Educational Rights and Privacy Act – 20 U.S.C. § 1232g, 34 C.F.R. Part 99.

School District Board Policies, including but not limited to 113.1, 216, 218, 805, 810, 815, Regulations, Rules, and Procedures