

## **Students**

### **Administrative Procedure - Electronic Recordings on School Buses** <sup>1</sup>

#### **Review of Electronic Recordings** <sup>2</sup>

Electronic video and audio recordings are viewed to investigate an incident reported by a bus driver, administrator, law enforcement officer working in the District, supervisor, student, or other person. They are also viewed at random.

Viewing and/or listening to electronic video and/or audio recordings is limited to law enforcement officers working in the District and District personnel. These individuals must have: (1) a law enforcement, security, or safety reason, or (2) a need to investigate and/or monitor student or driver conduct. A written log will be kept of those individuals viewing a video recording stating the time, name of individual viewing it, and date the video recording was viewed.

If the content of an electronic recording becomes the subject of a student disciplinary hearing, it will be treated like other evidence in the proceeding.

An electronic video or audio recording may be reused or erased after 14 days unless it is needed for an educational or administrative purpose. <sup>3</sup>

#### **Notice of Electronic Recordings** 720 ILCS 5/14-3(m).

The Eavesdropping Act exempts electronic recordings on school buses from its coverage when transportation is provided for a school activity, provided the School Board adopted a policy

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<sup>1</sup> The superintendent should consult with the board attorney concerning the status of video and/or audio recordings that were made on school buses. This procedure implements the statutory prerequisites for districts using electronic audio and visual recording devices on school buses. 720 ILCS 5/14-3(m). These required prerequisites are contained in an exception to the criminal eavesdropping statute. It prohibits recording a conversation in which someone has a reasonable expectation of privacy without the consent of all parties but allows citizens to record public conversations without obtaining consent.

<sup>2</sup> Confusion surrounds whether or not electronic video or audio recordings are *education records* for purposes of the federal Family Education Rights and Privacy Act (FERPA)(20 U.S.C. §1232g) and/or *school student records* as defined in the Ill. School Student Records Act (ISSRA)(105 ILCS 10/).

The U.S. Dept. of Education *FAQs on Photos and Videos under FERPA*, at [www.studentprivacy.ed.gov/faq/faqs-photos-and-videos-under-ferpa](http://www.studentprivacy.ed.gov/faq/faqs-photos-and-videos-under-ferpa), states that a video of a student is an education record, subject to specific exclusions, when the video is: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. *Id.*, citing 20 U.S.C. §1232g(a)(4)(A); 34 C.F.R. §99.3. One such exclusion is for records created and maintained by a law enforcement unit of an educational agency or institution for law enforcement purposes. *Id.*, citing 20 U.S.C. §1232g(a)(4)(B)(ii); 34 C.F.R. §§ 99.3, 99.8. The Ill. State Board of Education (ISBE) considerably reduced the confusion by stating in its rule that *school student records* do not include video or other electronic recordings “created at least in part for law enforcement or security or safety reasons or purposes.” 23 Ill.Admin.Code §375.10. ISBE rules also specify that: (1) electronic recordings made on school buses, as defined in the exemption from the criminal offense of eavesdropping in 720 ILCS 5/14-3, are not *school student records*, (*Id.*) and (2) no image on a school security recording may be designated as directory information (23 Ill.Admin.Code §375.80(a)(2)(B)). This treatment exempts school bus videos from the multiple requirements in ISSRA. When responding to a request under the Freedom of Information Act (5 ILCS 140/) for recordings on school buses, a district will need to find an exemption other than the recording is a *school student record*.

<sup>3</sup> The superintendent may change the number of days for keeping a video recording. The Local Records Act (LRA) governs the destruction of public records. 50 ILCS 205/. Unless a record contains informational data appropriate for preservation, the LRA is not triggered and the record may be destroyed. Electronic recordings on school buses may be destroyed because they typically do not contain informational data appropriate for preservation.

authorizing their use. Notice of the adopted policy regarding video and audio recordings shall be: (1) clearly posted on the front door and interior of the school bus, (2) provided to students and parents/guardians, and (3) included in student handbooks and other documents.

Approved: