



Are body cameras right for your school district?

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An Iowa school district made headlines earlier this year when it became one of the first in the nation to outfit its administrators with body cameras to record their interactions with parents and students.

In September, as part of President **Barack Obama's** commitment to “building trust and transparency between law enforcement and the communities they serve,” the U.S. Department of Justice awarded grants totaling more than \$23.2 million to law enforcement agencies in 32 states to expand the use of body cameras and explore their impact. Legislation in Texas became effective in early September to specifically require policies to regulate the use, maintenance and retention of body cameras and the footage they capture.

In light of the growing popularity of body cameras, let's look at the pros and cons of using the cameras, as well as some of the legal issues districts should consider prior to their use.

Pros and cons

School districts and law enforcement agencies that have chosen to use body cameras say they are useful for

What are body cameras?

Body cameras are small video cameras – typically attached to clothing – that capture video and audio recordings of activities and incidents from an officer or administrator's point of view. Although they vary in size, most body cameras are roughly the size of a pager.

monitoring school environments and evaluating school incidents. By providing a video record of incidents, body cameras have made school operations more transparent to the public and have helped resolve questions following an encounter among officers, administrators and students.

Unlike traditional surveillance methods, body cameras are more likely to capture close-up images of individual students and fall within the purview of FERPA.

Those in favor of using the cameras also have said the devices are helping prevent problems from arising in the first place by increasing professionalism and elevating behavior on both sides of the lens. In addition, since we operate in a world in which anyone with a cellphone camera can record video footage of an encounter with district administrators or law enforcement, body cameras can help ensure events also are captured from the district's perspective.

The potential negative impact on relationships with students is often cited as a reason for not using body cameras. Body cameras might impede a school resource officer's (SRO) ability to build connections and may serve as a barrier to the already daunting task school-based police and administrators

face in building trusting relationships with students. Those relationships are frequently seen as one of the most powerful tools in ensuring the district's safety and security.

In schools, where inappropriate use of physical force by police is far less common than it is out in the community, some believe that student privacy concerns outweigh any potential benefits from using cameras. This is the position taken by the American Civil Liberties Union, which argues that body cameras present a real threat to students' privacy and contribute to the creation of an environment in schools of “pervasive surveillance.” The group argues that activities of police, on the “rare occasions when operating in schools is justified,” should be closely and actively monitored by school officials, not by body cameras.

Student privacy rights

School officials are regularly asked to balance the interests of safety and privacy for individual students. In the realm of student privacy rights, the federal Family Educational Rights and Privacy Act (FERPA) prohibits school districts from disclosing personally identifiable information from students' education records without the consent of a parent or eligible student, unless an exception applies. “Education records” are defined as all records, files, documents and other materials containing information directly related to a student that is maintained by an education agency or institution.

Whether the images of students captured on body cameras are education records subject to FERPA depends

on a number of factors, including who in the district is wearing the cameras. For example, many school districts employ security staff to monitor safety and security in and around schools. Some schools employ off-duty police officers as SROs. Other districts designate a particular school official to be responsible for referring potential or alleged violations of law to local police.

Under FERPA, records, including electronic records, created and maintained by these “law enforcement units” are not considered “education records.” That means schools may disclose information from law enforcement unit records to anyone — including outside law enforcement authorities — without parental consent.

This is true even if the unit performs some non-law enforcement duties, such as conducting investigations or allowing other school officials to view the footage for student disciplinary purposes. In other words, a law enforcement official could share a copy of the footage from his or her body camera with a school official responsible for discipline and the footage would not lose its status as a “law-enforcement record.” However, if a school official receives a copy of the footage — rather than simply viewing it — then it becomes an education record subject to FERPA since the footage is no longer being maintained by the law enforcement unit.

In situations in which the individuals wearing the body cameras are strictly school employees and not tied to a law enforcement agency, a different approach is necessary. In those situations, because the district is maintaining the footage, it’s likely that the images will be an education record subject to FERPA. This assumes that the footage “directly relates” to an individual student.

Unlike traditional surveillance methods that tend to capture students in the background not directly involved in an incident, body cameras are much

more likely to capture close-up images of individual students. As a result, it’s more likely that the footage from body cameras will “directly relate” to an individual student and fall within the purview of FERPA.

Other considerations


Prior to using body cameras, districts should consult with local law enforcement agencies, legal counsel and other stakeholders to develop body camera policies and procedures. In addition to the privacy concerns already discussed, these conversations should take into consideration the following:

- Who should wear the cameras? Should it be limited to those serving in a law enforcement capacity or will administrators be assigned or permitted to wear the cameras as well? This decision will depend on the district or agency’s resources, needs and other factors.
- What should be recorded? Should administrators and officers be required to record every interaction with students, or are there situations in which recording should be discretionary or prohibited? Administrators and officers should receive clear guidelines for when they should activate a camera or discontinue a recording currently in progress.
- How long should the recorded data be retained? The district’s RC-2 (records retention) schedule should be consulted for help in answering this question. The content of the footage, not the format of the data, is what determines how long the recorded information should be retained.
- What are the costs of implementation? The price of body cameras currently ranges from approximately \$120 to nearly \$2,000 per device. However, many districts and law enforcement agencies state that data storage is the most expensive aspect of a body camera program. The cost of that storage will depend on how many videos are produced, how long they are kept and where they are stored.

Like any new technology, body cameras have the potential to dramatically impact districts, administrators and students. To ensure that the transition to the cameras is a positive experience, districts must think critically about the issues they raise and give careful consideration when developing body camera policies and practices.

For more information about the latest trends in technology and their potential legal impact on districts, please attend the OSBA legal division’s Cyberlaw — Technology and the Law Seminar on March 18 in Columbus. To register, visit <http://links.ohioschoolboards.org/41890> or contact Laurie Miller at (614) 540-4000, (800) 589-OSBA or Lmiller@ohioschoolboards.org. ■

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