

PROCEDURE TITLE: RETENTION AND DISCLOSURE OF HARFORD COUNTY PUBLIC SCHOOLS ("HCPS") VIDEO RECORDS PROCEDURE		
ADOPTION/EFFECTIVE DATE: December 6, 2022	MOST RECENTLY AMENDED:	MOST RECENTLY REAFFIRMED:
POLICY/PROCEDURE MANUAL SUMMARY CATEGORY: Safety and Security		

I. Purpose

The Board recognizes that the use of surveillance cameras on school grounds and on school buses is an important tool in the management of student safety. Protecting the privacy of students is paramount and must be maintained in accordance with federal, state, and local laws and regulations.

II. Definitions

A. *Authorized user* means HCPS staff members responsible for management and oversight of video recordings from HCPS surveillance cameras for legitimate safety and security reasons. These individuals include the following:

1. HCPS Office of Safety and Security (OSS) chief, including OSS staff designated by the chief and School Resource Officer (SRO).
2. HCPS Office of General Counsel (OGC) or OGC designee
3. HCPS Office of Transportation (OT) director and OT staff members authorized by the OT director to access and export footage of bus cameras
4. HCPS Office of Risk Management (ORM) or ORM designee
5. HCPS Office of Technology and Information Systems (OTIS) or OTIS designee, including third party technology vendors pursuant to contract.
6. HCPS Office of Student Support Services (OSSS) or OSSS designee
7. HCPS Office of Elementary and Secondary Education Services (OESES)
8. HCPS school principals or designee
9. HCPS school-based staff authorized by the principal to access and export HCPS video footage from school security cameras

B. *Authorized viewer* means an individual who has been granted permission to view specified videos, as set forth as set forth in HCPS Form, Request to

View HCPS Security Camera Video and pursuant to paragraph I. Viewing/Accessing By Unauthorized Users.

1. HCPS Form, Request to View HCPS Security Camera Video must be completed by the principal/designee, OSS, or the OT at the request of the following individuals who seek to view security camera footage:
 - a) Eligible students or parents/guardians, as appropriate.
 - b) Law enforcement.
 - c) Other individuals who are not HCPS administrators.
 2. Review and approval of HCPS Form, Request to View HCPS Security Camera Video is the joint responsibility of OGC, OSS, OESES, and OSSS.
 3. Once a HCPS Form, Request to View HCPS Security Camera Video is completed, all pertinent video will be saved for review.
 4. Video recordings are the property of the HCPS and shall not be released without the express approval of the OGC.
 5. All requests for viewing shall be granted or denied within 10 business days of the written request.
- C. *Chain of custody* means a written record of the date and time an authorized user exports footage for an authorized viewer from an HCPS security camera and the manner in which possession of the exported video file transfers from the original source to any subsequent locations and viewers.
- D. *Video server folder* means the location on a school or OT electronic file server to which security camera footage is exported in response to a request to view security camera footage of an alleged incident.

III. PROCEDURES

A. General Provisions

1. Recordings from HCPS security cameras are subject to legal protections. HCPS complies fully with its legal requirements to protect individual privacy and disclose information, as required. For security reasons, and to comply with its legal obligations to protect individual

privacy, HCPS imposes strict limits on access to HCPS security camera videos.

2. HCPS does not guarantee that every location in or around every facility or on every bus will be equipped with audiovisual equipment or that audiovisual equipment will be in operation at a specific time. Cameras that are not functioning and/or that are in need of repair will be reported to the principal and/or OT director and OT staff members and/or OSS chief and OSS staff members. A log will be kept with the date of the report of malfunction and the date of repair. If the repair will take longer than two weeks, the log should include each step taken towards the repair with the dates the step was taken.

B. Storage and documentation of access to video footage from HCPS security cameras

1. OSS provides and periodically updates guidance specific to storage of videos, access authorization and documentation procedures, and export procedures.

2. Authorized users may access live stream video surveillance during the workday and in a manner consistent with performance of the authorized user's job functions. Review of non-live streamed video, especially including review by authorized viewers, shall be documented in the Chain of Custody.

3. Authorized users must establish and maintain a chain of custody that documents each time a video file is accessed, viewed, and/or exported from the video server folder. The chain of custody must contain data elements established by OSS. The chain of custody will be audited regularly by OSS.

4. Videos may not be extracted or downloaded on any computer or storage device unless authorized by the OGC.

C. Preservation of HCPS video recordings

1. When HCPS receives a report that an incident occurred in the school building or on school grounds, an appropriate administrator shall contact the principal/designee regarding any available video from school security cameras.

2. If the incident occurred on or near a school bus, an appropriate administrator shall contact the OT director/designee regarding any available video from school bus security cameras.

3. The principal, OT director or designee should take steps immediately to determine if relevant footage was recorded of the location, individuals involved, and/or time proximate to the incident; then the principal or OT director should export and preserve a copy of the recorded incident(s). The content exported should be of sufficient length and scope, as established in consultation with OSS and/or OGC, to inform the investigation of the incident, as appropriate, and entered into the video server log.

D. Video recordings as evidence in student disciplinary proceedings

1. Any HCPS security camera video footage accessed, viewed, or considered as evidence in a student disciplinary proceeding must be exported.

2. If the school administration is recommending disciplinary action beyond 10 days, the school must include a copy of any relevant video among the information provided as part of the appeals review process.

3. The principal or designee shall conduct a thorough investigation and compile written statements from those involved and any witnesses.

E. Exporting a video to the OSS central video server folder

1. If a video is the subject of a subpoena or if a video is viewed by law enforcement under exigent or other conditions, HCPS will retain only one copy. OSS or OTIS will export the video from the school or OT video server folder to an OSS or OTIS video server folder.

2. At that time, no copies of the video may be retained by the school or OT.

3. OSS must document the export of the video from the school or OT video server folder and establish a chain of custody of any subsequent access or transfer of the file.

F. Retention of exported video records

1. Security camera footage in a school or OT video server folder must be retained for a period of 180 days, unless the footage is exported, or a copy is produced for any reason set forth in this policy.

2. Timetables for retention of exported files shall be developed by OSS and OGC, based on the following principles:

- a) A video reviewed or otherwise considered as evidence in a student disciplinary proceeding or reviewed by law enforcement will be retained for a period no shorter than 180 days.
- b) A video that is the subject of a subpoena will be retained for a period of five years by OTIS.
- c) A video reviewed or otherwise considered as evidence in an employee disciplinary proceeding will be retained according to timelines established by the Human Resources Office.

G. FERPA Provisions

The Family Educational Rights and Privacy Act (FERPA) applies to HCPS security camera videos that are directly related to a student and/or maintained by HCPS as part of a student's record.

- 1. Whether a visual representation of a student is directly related to a student (rather than just incidentally related to the student) is context specific.
- 2. HCPS security camera videos should not be considered directly related to a student if the student's image is incidental or captured only as part of the background, or if a student is shown participating in school activities open to the public (e.g., an athletic event or a school drama performance) and without a specific focus on any individual.
- 3. Circumstances under which videos may be directly related to a student include, but are not limited to, the following:
 - a) Videos utilized for student disciplinary proceedings, as well as videos of incidents that reasonably could result in student disciplinary proceedings (even if the incident is still under investigation, disciplinary action has not yet been taken, or the school administration decides to pursue restorative practices or other consequences in lieu of disciplinary action)
 - b) Videos that show a student in violation of local, state, or federal law
 - c) Videos that show a student getting injured, attacked, victimized, ill, or having a health emergency
 - d) Videos that intentionally focus on a specific student (e.g., recordings of a student presentation)

e) Videos that otherwise contain personally identifiable information from a student's education record

4. Once a video recording is preserved for use in a student disciplinary matter or maintained as part of a student's school file for some other purpose, it becomes a student record of the student who is the subject of the video. The eligible student or student's parent/guardian may view the video.

H. Copies of Video Files

A subpoena is typically required for HCPS to provide a copy of a video to any individuals who are not HCPS administrators, and all such subpoenas for videos should be forwarded to the OGC to ensure timely review and processing.

No copies may be provided without OGC review and approval.

I. Viewing/Accessing By Unauthorized Users

1. Written Request

a) Requests for viewing of video footage must be in writing and directed to the OGC. The written request must include the following:

i) Requestor's name

ii) List who the requestor is i.e., parent/guardian, eligible student, law enforcement, other (specify)

iii) Reason the requestor is requesting to view the HCPS security camera video

iv) Description of any incident(s)

v) Incident location(s)

vi) Date(s) and time(s)

b) Once a complete written request is made, all pertinent video will be saved for review.

c) Review and approval of HCPS Form, Request to View HCPS Security Camera Video is the joint responsibility of OGC, OSS, OESES, and OSSS.

- d) Video recordings are the property of the HCPS and shall not be released without the express approval of the OGC.
 - f) All requests for viewing shall be granted or denied within 10 business days of the written request.
2. Eligible Students and Parents/Guardians
- a) An eligible student or a student's parent/guardian, as appropriate, may view video footage that is part of the student's educational record or is directly related to the student, but neither the eligible student nor the parent/guardian, as appropriate, have a right to obtain a copy.
 - b) However, before showing any video to an eligible student or parents/guardians, as appropriate, school staff must ensure that a written request was completed by the eligible student or parents/guardians, and the required authorization has been obtained to designate them as an authorized viewer, as defined in section III.B.
 - c) In order for an authorized viewer to view a video, a school staff member must be present, and the staff member must ensure that an authorized viewer does not make any recordings with their own cell phones or other devices. Staff from other HCPS offices and departments also may be present to assist in video viewings by authorized viewers, but they should always make sure that any requests for viewing are handled by the school administration in the first instance.
 - d) Videos that are part of a student's educational record cannot be disclosed to individuals outside HCPS without written permission from the eligible student or parent/guardian, as appropriate. Certain limited exceptions to this consent requirement include, but are not limited to, the following:
 - i) HCPS may, under certain circumstances, disclose a video in response to a lawfully issued subpoena, after reasonable notice to the eligible student or the student's parents/guardians, as appropriate, in accordance with established procedures.
 - ii) HCPS may disclose a video to protect the health or safety of students and others in an emergency.

iii) HCPS may disclose a video to Child Protective Services for an investigation of suspected child abuse or neglect.

3. Multiple Students

When an HCPS security camera video is part of the education records of multiple students, the U.S. Department of Education has clarified that the eligible student or parents/guardians, as appropriate, of each of those students may view the video individually.

a. Before allowing the eligible students or parents/guardians of any one of those students to view the video, however, HCPS must determine whether the portions directly related to other students can be modified to remove the other students without destroying the meaning of the record.

b. If modification cannot reasonably be accomplished, or if doing so would destroy the meaning of the record, then the eligible student or parents/guardians of each student to whom the video directly relates may access the entire record, even though it also relates directly to other students with approval of the OGC.

c. Due to these complexities, school staff must ensure that a written request is completed, and appropriate approval is obtained, before providing any eligible students/parents/guardians with access to view HCPS security camera videos directly related to multiple students.

J. Law Enforcement

1. When an HCPS security camera video has been preserved for use in a disciplinary proceeding or maintained by HCPS as part of a student record, a law enforcement officer may not view the video or obtain a copy without written permission of the eligible student/parent/guardian or a subpoena or warrant, except under certain limited circumstances.

2. HCPS staff may inform a law enforcement officer of the existence of the video without permission of the eligible student/parent/guardian or a subpoena, and staff may share generic information about the subject matter (e.g., the video shows four students in a fight).

3. In all circumstances, a written request must be completed in advance of any viewing of an HCPS security camera video by law enforcement.

4. In addition, school staff must retain a log detailing any viewing of a video by law enforcement; and a copy of the video that was viewed should be exported and preserved, as directed by OSS.

5. Approval of a written request may be given for law enforcement to view videos from HCPS security cameras without subpoena or permission of the individuals involved under the following circumstances:

a) The video has not been preserved for use in a disciplinary proceeding or otherwise maintained.

b) The school administration determines that there is an emergency and significant threat to the health or safety of a student or other individuals, and release of the information is necessary to protect the health or safety of the student or other individuals.

c) Under exigent conditions, emergency authorization may be provided by the general counsel/designee verbally; but it must be documented immediately thereafter by email, as soon as possible.

6. SRO should not investigate any activity independent of the school principal's investigation unless said activity presents a clear and imminent threat to the safety and security of an individual or investigation of a threat or occurrence outside of a school building.

K. Access to School Video Recordings That Are Part of an Employee Personnel Record or Contractors' Certification File

1. The Human Resources Office must be consulted prior to responding to any request to view personnel-related videos from HCPS security camera videos.

2. Once a video is preserved for use in an employee disciplinary matter, it is considered part of that personnel or certification file.

3. Personnel files are confidential to the fullest extent of the law.

L. Public Information Act Requests

1. School personnel may be asked by media organizations or members of the public for a copy of an HCPS security camera video, based on the Maryland Public Information Act (MPIA). School staff should ask that the specific request be provided in writing and immediately forward the request to the OGC.

2. In general, HCPS security camera videos are not made available to media or the public under the MPIA, unless certain limited exceptions apply, and shall be addressed by OGC.

M. Training of Staff

1. Staff members identified as an authorized user of this policy should receive annual training in using, viewing, retrieving, or copying images or data from video surveillance equipment.

2. Training should include the review of policies related to the privacy rights of students, staff and other adults as protected by FERPA guidelines and all local, state, and federal statutes.

3. Training may occur at individual school sites, Central Office or through electronic training platforms.

Approved By:



Sean W. Bulson, Ed.D.
Superintendent of Schools

PROCEDURE

Harford County Public Schools

Procedure Action Dates		
ACTION DATE	ACTION DATE	ACTION DATE
Adopted 12-06-2022		

Responsibility for Procedure Maintenance & References	
LAST EDITOR/DRAFTER NAME: Kimberly H. Neal, Esquire	JOB POSITION OF LAST EDITOR/DRAFTER: General Counsel
PERSON RESPONSIBLE: Ms. Julie Uehlein	JOB POSITION OF PERSON RESPONSIBLE: Supervisor of Risk Management
DESIGNEE NAME:	DESIGNEE POSITION:
PROCEDURE NUMBER PRIOR TO NOVEMBER 1, 2005:	

LEGAL REFERENCES¹

References are set forth in the Procedure.

¹ All references are to specific federal or Maryland statutes or regulations. References are provided for convenience and informational purposes only and are not to be considered as exhaustive or as precluding Harford County Public Schools from relying upon any other statutes or regulations in support of a policy.