

POLICY No. 901	Approved by: EOC Charter High School Governing Board () & Workforce Development Board ()
BODY WORN CAMERA POLICY & PROCEDURE	Effective Date: xx-xx-xxxx

I. BACKGROUND

The Yuma Private Industry Council (YPIC) and its School Board (EOC CHS Board) authorize the use of **body worn cameras (BWC) by the Educational Opportunity Center Charter High School (EOC CHS) staff and administrators to:**

1. Effectively evaluate the performance of certified teachers; and
2. Promote a safe environment:

[Arizona Revised Statute \(A.R.S.\) § 15-537](#) requires the establishment of a system to **evaluate the performance of certified teachers** each school year. BWCs are one of the tools used by the “qualified evaluator” when performing the teachers’ evaluations. Analyzing the delivery of instruction, interactions and responses of students will be eased by having recordings of the instruction at random intervals during the school year. The recordings can be reviewed at a later time by the teacher and the qualified evaluator.

The BWCs will also be utilized for safety purposes to assist in identifying the root cause of incidents within the school community; they will improve transparency when resolving disputes and complaints among members of the school community; and they may help protect the EOC CHS from civil litigation and allegations of misconduct.

Although the use of BWCs by School Resource Officers (SROs) has been increasing since 2015, the model of **assigning BCWs to school staff and administrators is not yet widely used**. By utilizing this model, the EOC CHS will be a pioneer in the State of Arizona; as such, this policy will be revised as federal and/or state legislation develops or as deemed necessary.

This policy is written in accordance with and adhering to regulations outlined in the [A.R.S. § 15-537](#); Family Educational Rights and Privacy Act ([FERPA](#)); [A.R.S. § 15-142](#); [A.R.S. § 15-1046](#); and [Legal update Body Worn Cameras: Student Privacy rights and Video Surveillance](#) by Pepperdine University Professor of Constitutional Law-Bernard

James and Graduate Student in law and Public Policy-Fhanysha Clark, and Sara C. Clark-Director of legal services According to Law article on the OSBA Journal.

II. SCOPE

This policy applies to all members of the School Community. See definition of “School Community” in the next section.

III. KEY DEFINITIONS

BWC Users: School and agency staff authorized by school administrators to wear BWCs. Authorization will be granted after the staff completes the training as outlined in this policy.

Common areas: For the purpose of this policy, “common areas” are defined as classrooms, virtual/video supported classrooms, hallways, conference rooms, recreation areas, meal serving areas, vehicles, and external areas of school and agency such as parking lots. Common areas do not include restrooms and offices of the agency or school unless the office exists in a common area without permanent or temporary walls.

Biometric Means/Information/Data: A method that involves identifying or verifying a person's identity based on physical or behavioral characteristics.

Directory Information: Information contained in the education records of a student that would not generally be considered harmful or an invasion of privacy if disclosed. Typically, "directory information" includes information such as name, address, telephone listing, date and place of birth, participation in officially recognized activities and sports, and dates of attendance. A school may disclose "directory information" to third parties without consent if it has given public notice of the types of information which it has designated as "directory information," the parent's or eligible student's right to restrict the disclosure of such information, and the period of time within which a parent or eligible student has to notify the school in writing that he or she does not want any or all of those types of information designated as "directory information."

Eligible student: A student who has reached 18 years of age or is attending a postsecondary institution at any age. This means that, at the secondary level, once a student turns 18, all the rights that once belonged to his or her parents transfer to the student.

Health Recording: Any document, audio recording, or video recording that captures images or information related to the physical or mental health of an individual.

Qualified Evaluator: Means a school principal or other person who is trained to evaluate teachers and who is designated by the governing board to evaluate the school district's certificated teachers.

School Community: Means members of the community include the EOC CHS Board, employees of YPIC, faculty, school staff, school volunteers, parties under contract to perform work at or for the EOC CHS, vendors, students and family members **while participating in education programs or activities.**

Signage Prominent Display: Displaying a sign or other form of communication in an area that is visible to a majority of the public and often includes, but is not limited to, points of entry, reception areas, hallways, breezeways, high traffic areas, and public eating areas.

IV. BODY WORN CAMERA USER RESPONSIBILITIES

A. Authorized BWC users MUST:

1. Review policy prior to the operation of the BWC;
2. Adhere to this policy;
3. Be trained in the operation and maintenance of the BWC once a year;
4. Protect the integrity of the video documentation, and protect students and community rights to some reasonable level of privacy in areas that are not designated as common areas.

Under no circumstances will BWC users, without written authorization from the Operations Director or its designee, edit or attempt to edit, alter, erase, delete, duplicate, copy, record, destroy, or distribute by any other means any and all recordings made.

- B.** Documentation of training and policy review shall be retained by YPIC's Operations Director or its designee.
- C.** BWC users will be responsible for ensuring that the BWC is fully charged on a daily basis.
- D.** Violations of this policy shall be formally documented and may become grounds for disciplinary actions.

V. WHEN CAN BWCs BE ACTIVATED?

- A. School staff, administrators, and the qualified evaluator(s) are authorized to use BWCs for the purpose of completing teacher evaluations and for professional development at any time.
- B. BWC shall be used with no conditions or limitations in all common areas by authorized BWC users.
- C. BWC users may activate their BWC when providing services to a member of the school community (this may be outside of the regular school hours, e.g. while performing home visits, while tutoring on weekends, etc.).
- D. If it is safe and practical, BWC users should **activate the camera while approaching an incident or as soon as possible**. The BWC user may supplement the BWC recording with an audio recording, and audio description of the event and describe any external factors that may not have been recorded (e.g. prior observations or surrounding conditions.)
- E. In areas and conditions considered private, audio, video and BWCs will be used only **when reasonable grounds exist for suspecting** that the recording will turn up evidence that a member of the school community has violated or is violating either law or the rules and policies established by the EOC CHS. Areas considered “private” include bathrooms, locker rooms (not currently available at the EOC CHS), and the contents of student-owned personal property in the possession of the student during the school day (e.g., book bags, purses, smart devices).

*Note: The EOC CHS requires the use of clear/transparent book bags or backpacks. As permitted by [A.R.S. § 13-3019\(C\)](#) photographing, videotaping, filming or digitally recording **for security purposes** is allowed “if notice of the use of photographing, videotaping, filming, or digital recording equipment is clearly posted in the location and the location is one which the person has a reasonable expectation of privacy.”*
- F. No personal use of BWCs will be permitted.
- G. BWC users will make every effort to document **incidents** anytime the user is interacting with members of the school community.

H. BWC users will be responsible for the safe destruction of recordings when appropriate (see section IX).

VI. SIGNAGE, NOTIFICATION and ACKNOWLEDGEMENT

A. SIGNAGE IN COMMON AREAS: Signage indicating that BWC and/or videos will be used will be prominently displayed at:

- The front of the school;
- In the school's hallway;
- In each classroom;
- Food preparation area; and
- Copy room.

B. SIGNAGE IN PRIVATE AREAS: Signage indicating that BWCs and/or videos may be used **for security purposes as permitted by [A.R.S. § 13-3019](#) will be placed in all areas considered private (e.g., restrooms, Principal's office, Academic Advisors' office)**

C. NOTIFICATION: This policy will be placed in the student handbook and the location of the policy will be identified in the table of contents. This policy will also be provided to staff during the orientation by Human Resources. A copy of the acknowledgement will be kept in the personnel files.

ACKNOWLEDGEMENT: At the time of school orientation, parents, legal guardians, and/or students must acknowledge in a writing provided by the school that they have been notified that both video recording and BWC recording may occur, for security purposes, while in school or while participating in school.

D. The written acknowledgement will contain the following information: Statement(s) that students engaged in conduct in violation of school policies, administrative regulations, codes of conduct, building rules, or any other applicable law shall be subjected to appropriate disciplinary action, and that the recording of video and/or BWC devices may be presented as evidence in disciplinary conferences, disciplinary hearings, and hearings in civil or criminal courts. The notification must state that video recordings and BWC recordings may be submitted to law enforcement agencies. The notification must include a statement that the video recording and BWC recording may become a part of the student's educational record.

VII. EDUCATION RECORD

Per FERPA guidelines, a photo or video of a student is an education record when the photo or 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.

A. **(1) DIRECTLY RELATED TO A STUDENT:** A video recording will be considered directly related to a student if **any of the following apply:**

- a. The EOC CHS uses the photo or video for disciplinary action (or other official purposes) involving the student (including the victim of any such disciplinary intent).

Example: A video showing two students fighting in a hallway, used as part of a disciplinary action, is directly related to the students fighting.

- b. The photo or video contains a depiction of an activity:
- That resulted in an educational agency or institution's use of the photo or video for potential or actual disciplinary action (or other official purposes) involving a student (or, if disciplinary action is pending or has not yet been taken, that would reasonably result in use of the photo or video for disciplinary action involving a student)
 - That shows a student violating local, state, or federal law
 - That shows a student getting injured, attacked, victimized, ill, or having a health emergency

Example: A classroom video that shows a student having a seizure is directly related to that student because the depicted health emergency becomes the focus of the video.

- c. The person or entity taking the photo or video intends to make a specific student the focus of the photo or video (e.g., photos IDs, or a recording of a student presentation).

Example: If a school maintains a close-up photo of two or three students playing basketball with a general view of student spectators in the background, the photo is directly related to the basketball players because they are the focus of the photo, but it is not directly related to the students pictured in the background. The EOC CHS **may designate photos or videos of students participating in public events as *directory information*.**

- d. The audio or visual content of the photo or video otherwise contains personally identifiable information contained in a student's education record.

Example: A video recording of a faculty meeting during which a specific student's grades are being discussed is directly related to the students because the discussion contains PII from the student's education record.

A photo or video should not be considered directly related to a student in the absence of the above factors 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 that are open to the public and without a specific focus on any individual.

(2) MAINTAINED BY THE EOC CHS

To be considered an education record under FERPA, the EOC CHS or a party acting for the EOC CHS also must maintain the record.

Example: A photo taken by a parent at a school football game would not be considered an education record, even if it is directly related to a particular student, because it is not being maintained by the school or on the school's behalf. If, however, the parent's photo shows two students fighting at the game, and the parent provides a copy of the photo to the school, which then maintains the photo in the students' disciplinary records, then the copy of the photo being maintained by the school is an education record.

VIII. PUBLIC RIGHT TO PRIVACY

The EOC CHS makes no promise of privacy; however, EOC CHS will adhere to the following privacy guidelines:

- a. No privacy exists in common areas. See definition of common areas on section II
- b. Although privacy is expected in non-common areas, BWCs will be activated if deemed necessary for security purposes (i.e., fights, bullying, vandalism, vaping, other drug related activities, etc.)
- c. Video documentation that only records directory related information, as defined in [FERPA](#), may be shared publicly without consent or notification to families and students. *Directory information* includes recordings of:
 - Certificates of honor and awards;

- Recording that depict only name, address, telephone number, date and place of birth;
- Recordings that depict dates of attendance.

Parents and eligible students may request in writing that the school do not disclose recording or documents that contain **directory information**.

- d. As permitted by Title [34, Section 99 of the Code of Federal Regulations \(C.F.R.\)](#), video documentation will disclose recordings, without consent, to the following parties or under the following conditions:
- School officials with legitimate educational interests;
 - Other schools to which a student is transferring;
 - Specified officials for audit or evaluation purposes;
 - Appropriate parties in connection with financial aid to a student;
 - Organizations conducting certain studies for or on behalf of the school;
 - Accrediting organizations;
 - To comply with a judicial order or lawfully issued subpoena;
 - Appropriate officials in cases of health and safety emergencies; and
 - State and local authorities, within a justice system, pursuant to specific state law.
- e. Media Outlets and marketing outlets may receive recordings that are considered for public viewing but limited to the following parties or conditions:
- Public ceremonies, organized/scheduled public gatherings, and public forums;
 - Board meetings and other governance meetings regulated by Arizona's Open Meeting law ([A.R.S. § 38-431](#))
 - School ceremonies, such as award ceremonies, commencement, and community celebrations
 - Planned marketing events such as photo opportunities, commercials, and video recorded promotional;
 - Video productions and announcements related to communicating the social or environmental needs and strengths of the school that are considered for public awareness;
 - Videos that capture images and/or audio recordings of festivals and fundraisers.
- f. Video documentation either through photo, video, or BWC use that would capture information related to a student's physical or mental health records and other identifiable health information will NOT occur without consent. If consent of video documentation is granted, the policy gives students rights over their health

information, including rights to examine and obtain a copy of their health recordings, and to request corrections and non-disclosures of any and all part of the recording.

- g. Unless consent is received, video or BWC recording shall not be utilized for social and emotional counseling sessions; counseling sessions that are private in nature include, but not limited to:
 - Health related and hygiene related topics;
 - Emotional trauma conversations;
 - Conversations and counseling related to social inadequacies, such as homelessness, loss of income, and sexual activity.
- h. BWC users may video record in BWC events where students are displaying severe emotional distress or public disturbance, whether the demonstration of distress or disturbance occurs in a common area, or a private conversation or setting, to include a disturbance that occurs in an office or restroom.
- i. If a recording is occurring in a common area and a conversation occurs that is private in nature, the school staff must stop the recording as soon as possible and inform the participants of the conversation that part of their conversation was captured on the recording up to that point. BWC users may request that the remainder of the conversation be captured through video, BWC, or audio recording. Staff should move participants of the private conversation to an area that secures the greatest levels of privacy for that moment.
- j. BWCs will not be used to compile and later search videos using biometric means and biometric discriminators. BWC users may not, continuously nor over a consistent period of time, record one student or one set of students unless reasonable information exists that the student or group of students are planning to carry out or are carrying out violations of policy or law.

IX. RECORDING RETENTION/REQUEST

- A. RECORDING RETENTION:** All BWC users shall comply with all applicable state and federal laws related to record maintenance, retention, disclosure of information, and release of records. All raw, unedited recorded audio or video data will be stored and retained by the BWC user for no more than 90 days, or for no more than 90 days after the completion of all relevant administrative use.

B. RECORD STORAGE: When the recording is or will be utilized for disciplinary purposes, the Principal will store recordings electronically in a password protected file until the time of destruction.

C. RECORDING REQUEST:

As required by [34 C.F.R. § 99.10](#), a parent or eligible student must be given the opportunity to inspect and review the student's education records.

The EOC CHS shall comply with a request for access to records within a reasonable period of time, but not more than **45 days** after it has received the request.

If circumstances effectively prevent the parent or eligible student from exercising the right to inspect and review the student's education records, the EOC CHS must:

- (1) Provide the parent or eligible student with a copy of the records requested;
- (2) Make other arrangements for the parent or eligible student to inspect and review the requested records.
- (3) If the education record of a student contain information on more than one student, the parent or eligible student may inspect and review or be informed of **only the specific information about that student** ([34 C.F.R. § 99.12](#)). **The record may be redacted if possible.**

The EOC CHS shall not destroy any education records if there is an outstanding request to inspect and review the records under this section.

While an educational agency or institution is not required to give an eligible student access to treatment records, a student may have those records reviewed by a physician or other appropriate professional of the student's choice.

The request for records must be in writing; the **request in writing** may be used. The form will require the signature of one parent or the student.

X. COMPLAINTS

Per [A.R.S. § 15-142](#), any person who suspects that a school district or charter school has knowingly violated the Family Educational Rights and Privacy Act (FERPA) may notify the **principal of the charter school** or the superintendent of the school district. If the matter is not satisfactorily resolved by the principal for the charter school or the superintendent of the school **within sixty (60) days** after the notice, the person may file a complaint with the superintendent of public instruction. If the superintendent of public

instruction determines that a school district or charter school is knowingly in violation of the Family educational rights and privacy act, the superintendent of public instruction shall notify the school that it is in violation of the family educational rights and privacy act. If the superintendent of public instruction determines that the school district or charter has failed to correct the violation within sixty days after a notice has been issued pursuant to this subsection, **the superintendent of public instruction may inform the family policy compliance office** of the United States department of education of a possible violation of the Family Educational Rights and Privacy Act.

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