



# From the Legislature

**To:** *Trustees, Superintendents, Secretary-Treasurers, Executive Assistants, and additional courtesy list*

**From:** *Judith Clark, BCSTA General Counsel*

## Video Surveillance Policies and new Role for School Planning Councils

Following up a commitment made in its election platform, the government introduced an amendment to the *School Act* that provides a new role for school planning councils with respect to school safety and video surveillance. The amendments are found in sections 42-44 of *Bill 20, [Miscellaneous Statutes Amendment Act](#)* (No. 3), 2010, given first reading on April 29, 2010. Section 8.2 of the *School Act* will be amended and a new section 74.01 added. If passed by the Legislature, the amendments come into force on a date to be set by regulation of the Lieutenant Governor in Council.

The amendments are helpful to boards that decide to establish video surveillance systems in schools in that they specifically authorize boards to collect information about students in this way, for the stated purposes of protecting individuals' safety, personal belongings and school property, in schools and on school grounds. The amendments also limit the authority of boards and principals by requiring approval of the school planning council before cameras can be installed in a school or on school property.

The major points:

- A board may only install a video surveillance camera at a school or on a school ground if the school planning council (SPC) approves.
- The SPC has a right to be consulted on whether video surveillance cameras are installed in the school and on other school safety issues.
- An annual review is required of each installation.
- The requirements do not apply to temporary installations for specific investigative purposes.
- The requirement for SPC consent does not apply to cameras that have been installed before the date the amendment comes into force.

Many boards have video surveillance policies. In 2001, BCSTA prepared a template policy and comments that it distributed to member boards. The BCSTA template includes a provision to delegate the decision as to whether surveillance cameras are put in individual schools to building or district administrators, subject to the guidelines in the policy, and provides for an annual report by the superintendent to the board. There is no reference to school planning councils, which did not exist at that time.

## Implications for Boards of Education

### Who will make the decision as to whether there will be video surveillance cameras at a given school?

- The board or its officers, not the SPC, make the decision; but if the SPC does not approve, then the cameras cannot be installed.

### What action will require SPC approval?

- A school that has not previously had video surveillance cameras in the school or on school property will need SPC approval before cameras can be installed.
- A school that already has video surveillance cameras in the school or on the property will need SPC approval for new cameras that change coverage or make other significant changes.
- There is a question as to whether a school with cameras can replace them without having to get new SPC approval. In my view, the legislation could not have intended that SPCs have to approve purely mechanical operations such as replacing a broken camera.
- The amendments do not appear to be intended to apply to school buses, which are usually managed through the district office rather than schools, and so would not usually be a matter for the school planning council.

### What actions require SPC consultation?

- Under *School Act* section 8.2, boards are presently required to consult with SPCs about allocation of staff and resources in the school, matters in the board's achievement contract relating to the school, and educational services and educational programs in the school. To this list, the amendments add "school safety, including installation and operation of video surveillance cameras." In addition to the video surveillance decisions, this suggests that other decisions on a program level that relate to school safety should be presented to the SPC for consultation.
- SPCs can initiate the conversation about video cameras in the school (new s. 74.01(2)).

### What decisions can the board delegate to its officers (such as district or school administrators)?

- The *School Act* permits boards to delegate managerial and administrative functions to its staff (SA s. 65 (2) (c)). Boards are generally encouraged to focus on policy governance and set the framework within which staff operates, rather than make decisions about the management of individual sites. Principals are responsible for administering and supervising the school (*School Regulation* s. 5(7)), subject to the *Act* and regulations, the policies of the board, the direction of the superintendent, etc. The amendments appear to assume that the board of trustees approve each camera installation. This would be a radical departure for some boards from their accustomed role.

- Boards may wish to consider whether, and the extent to which, to delegate the decision on installation to staff as a managerial decision, once it has established criteria through its policy, and subject to any direction from the board based on the annual review process.
- The amendment requires the board to conduct an annual review of each site. This suggests a report to the board of trustees.

#### **What follow-up is required after cameras are installed?**


- The new section 74.01(3) will require an annual review “that assesses if the installation and operation of the video surveillance camera is accomplishing a purpose set out in subsection (1)” (protecting safety of individuals, individual’s belongings or school property).
- It is not clear how such assessments can be based on valid data analysis, especially at an individual school level. Many factors affect the safety of individuals and the incidence of theft and vandalism. The “before” data will become increasingly irrelevant over time. The number of “offenders caught” does not take into account the deterrent effect. However, some baseline information will be necessary in any case to make an informed decision about whether a surveillance system is needed in a school.

#### **Will the board of education still need to justify the need for a surveillance system to the Information and Privacy Commissioner if there is a complaint?**

- By expressly authorizing collection of information from video surveillance cameras at schools for the stated purposes, the amendment will remove the requirement for the board to establish that information collected relates directly to and is necessary for an operating program or activity of the board (*Freedom of Information and Protection of Privacy Act* s. 26).
- It is likely that the Commissioner will continue to encourage boards of education to carefully weigh the actual effectiveness of video surveillance systems against their privacy impacts.
- *The Freedom of Information and Protection of Privacy Act* continues to apply to the collection, use, disclosure, storage and retention of the information collected through the video surveillance system.

#### **Will boards need to amend existing policies? If a board does not presently have a policy on video surveillance in schools, does it need to adopt one?**

- Existing policies on video surveillance in schools will definitely be impacted by the requirements for annual review and SPC approval and should be reviewed. About 2/3 of boards have policies in place.
- If the board intends to delegate approval of installations to staff, a policy could establish guiding principles or parameters for staff to use in making decisions on installations.
- If the board intends to approve each installation itself, a policy could support consistency in the decision-making process, e.g., by setting out the type of information that the board will need from schools requesting board approval.
- Administrative procedures would be sufficient to direct the operation of the cameras in compliance with the requirements of the *Act*.

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- If the board has an existing policy on video surveillance in schools, it will need to be reviewed in light of this legislation.

**When will the amendments come into force?**

This has not been announced at the time of writing.