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ACLU RESEARCH REPORT

Digital Dystopia

The Danger in Buying What the
EdTech Surveillance Industry is Selling

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"EdTech Surveillance Industry"

A subset of the larger EdTech industry that focuses on selling surveillance technologies to schools.

- 3+ billion dollars in annual revenues
- Annual growth rate of 8%
- Is a *for-profit* industry focused on making money, not on providing a public service.

The EdTech Surveillance industry is focused, first and foremost, on making money, not on student safety — a fact school districts would be well advised to remember.

Student Surveillance Technologies

- Surveillance Cameras
- Facial Recognition Surveillance
- Access Control (via facial recognition)
- Behavior/Affect Detection
- Social Media Monitoring Software
- Student Communications Monitoring
- Online Monitoring and Web Filtering
- Weapon Detection
- Gunshot Detection and Analytics
- Remote Video Monitoring/Proctoring (with “attention monitoring”)

The EdTech Surveillance Industry's Deceptive Marketing Practices

Fearmongering and False Advertising

“It’s not that [the EdTech Surveillance industry are] villains ... but they’re certainly opportunistic. At the end of the day, they’re looking for new revenue streams.”

- Kenneth Trump

President, National School Safety & Security Services
(on how the industry capitalizes on school tragedies)

The EdTech Surveillance Industry's Deceptive Marketing Practices

No Evidence of Efficacy

*"Faith is an island in the setting sun
But proof, yes, proof is the bottom line for everyone"
- Paul Simon*

The EdTech Surveillance Industry's Deceptive Efficacy Claims

Approach #1:

Providing Specific, Unsubstantiated Success Metrics

EXAMPLE: Gaggle claims that “during the 2021-2022 academic year, [it] helped districts save the lives of 1,562 students who were planning or actively attempting suicide.”

The EdTech Surveillance Industry's Deceptive Efficacy Claims

Approach #2:

Making Claims of General Efficacy

EXAMPLE: Gaggle asserts its products are effective in “preventing suicides,” “preventing school violence,” “limiting bullying and harassment,” “stopping child abuse and harassment,” “stopping sexual abuse,” and “stopping childhood predators,” and that it is “ranked higher” at doing so than its competition.

The EdTech Surveillance Industry's Deceptive Efficacy Claims

Approach #3:

Insinuating Effectiveness

EXAMPLE: At top of its website, surveillance camera company Avigilon states that “safety for students, staff, and faculty is our top priority.” The clear insinuation is that the camera products its website markets will provide those things.

The EdTech Surveillance Industry's Deceptive Efficacy Claims

Approach #4:

Treating Opinions Like Facts

EXAMPLE: GoGuardian website, quoting school administrator, who said: “I believe GoGuardian Beacon has saved lives.”

The EdTech Surveillance Industry's Deceptive Efficacy Claims

Approach #5:

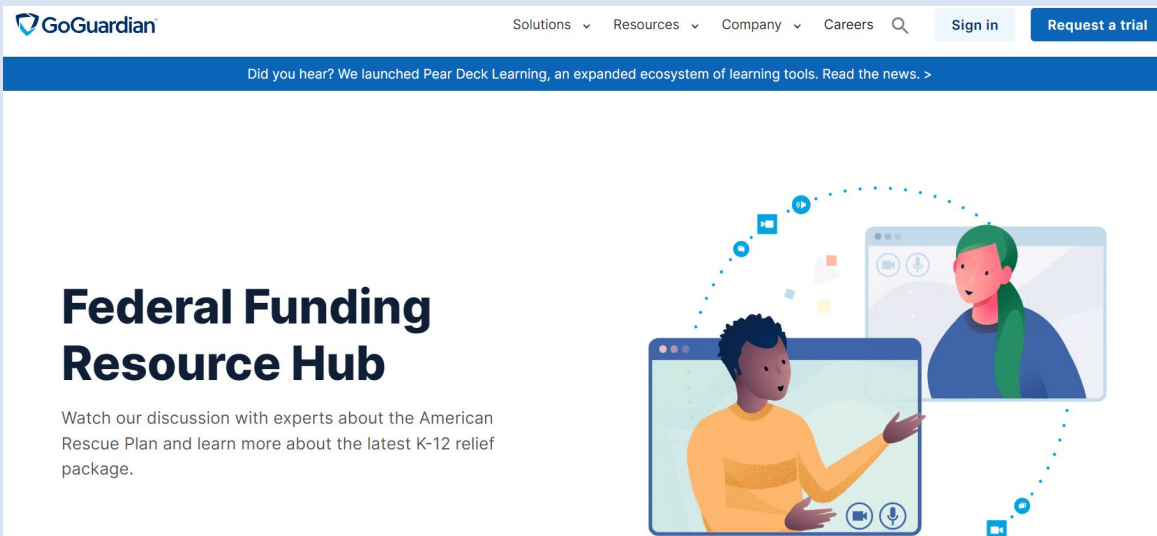
Highlighting One-Off Success Stories



Even a
broken clock
is right
twice a day

And In Case You're Still Not Convinced...

For school officials who remain skeptical, the EdTech Surveillance industry has sought to reduce the (financial) risk of buying their products...



The screenshot shows the GoGuardian website header with navigation links for Solutions, Resources, Company, and Careers, along with Sign in and Request a trial buttons. A blue banner below the header contains the text: "Did you hear? We launched Pear Deck Learning, an expanded ecosystem of learning tools. Read the news. >". The main content area features a section titled "Federal Funding Resource Hub" with a sub-headline "Watch our discussion with experts about the American Rescue Plan and learn more about the latest K-12 relief package." To the right of the text is an illustration of two people in a video call interface, with various icons and a dotted line connecting them.



Federal Funding and Bark for Schools

Help protect your students with Bark's variety of educational technology products using federal funding.



Surveillance Technology in Schools Is Hurting Kids, Not Helping Them

Student surveillance teaches our kids the wrong lessons

“If society were to deploy every surveillance and analytical tool available, schools would be hardened to a point where even the most anodyne signs of resistance or nonconformity on the part of young people would be flagged as potentially dangerous — surely an ongoing disaster for the physical, social, and emotional well-being of children, for whom testing boundaries is an essential element of figuring out both themselves and the world they live in.”

- Chris Gilliard (writing in *Wired*)

Surveillance Technology in Schools Is Hurting Kids, Not Helping Them

The harms student surveillance causes to *all* kids

Surveillance Technology in Schools Is Hurting Kids, Not Helping Them

The harms student surveillance causes to all kids

- Undermines students' privacy and related freedoms

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- Inhibits student self-help

Surveillance Technology in Schools Is Hurting Kids, Not Helping Them

The harms student surveillance causes to all kids

- Undermines students' privacy and related freedoms
- Erodes students' trust
- Inhibits student self-help
- Increases students' fear and anxiety

Surveillance Technology in Schools Is Hurting Kids, Not Helping Them

The Increased Harms Surveillance Causes to Already Vulnerable Groups of Students

Surveillance Technology in Schools Is Hurting Kids, Not Helping Them

The Increased Harms Surveillance Causes to Already Vulnerable Groups of Students

- Students of Color

Surveillance Technology in Schools Is Hurting Kids, Not Helping Them

The Increased Harms Surveillance Causes to Already Vulnerable Groups of Students

- Students of Color
- Students with Disabilities

Surveillance Technology in Schools Is Hurting Kids, Not Helping Them

The Increased Harms Surveillance Causes to Already Vulnerable Groups of Students

- Students of Color
- Students with Disabilities
- LGBTQ+ and Non-Binary Students

Surveillance Technology in Schools Is Hurting Kids, Not Helping Them

The Increased Harms Surveillance Causes to Already Vulnerable Groups of Students

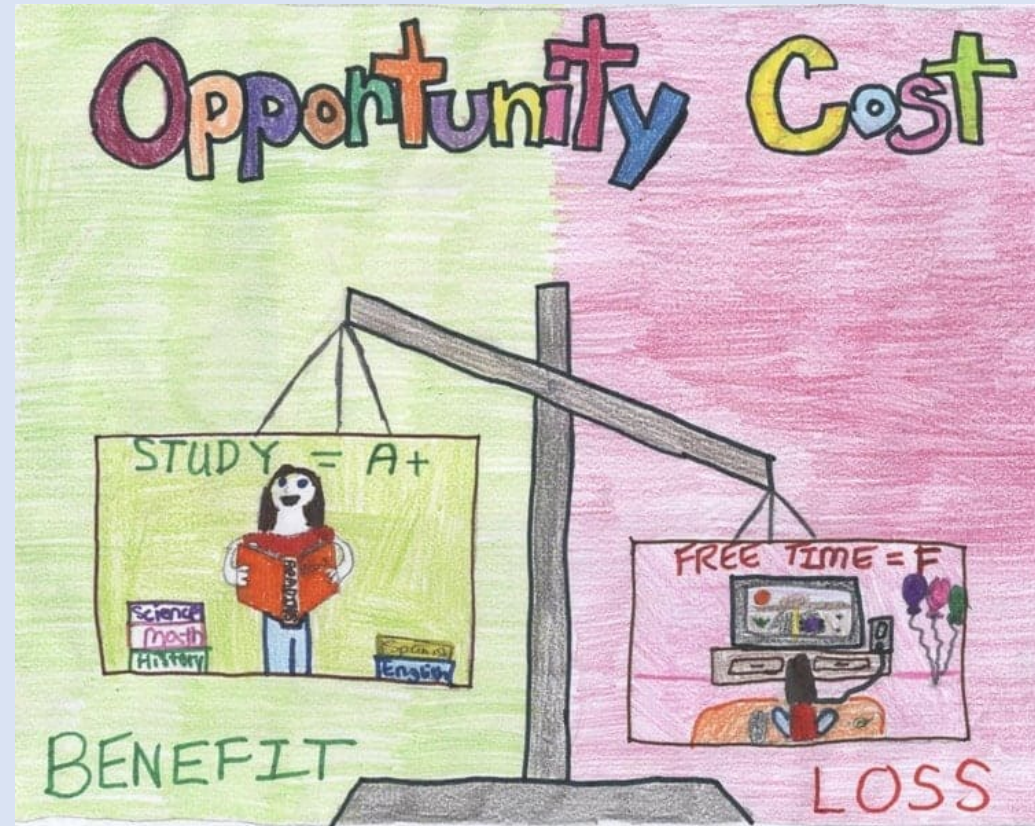
- Students of Color
- Students with Disabilities
- LGBTQ+ and Non-Binary Students
- Undocumented Students/Students With Undocumented Family Members

Surveillance Technology in Schools Is Hurting Kids, Not Helping Them

The Increased Harms Surveillance Causes to Already Vulnerable Groups of Students

- Students of Color
- Students with Disabilities
- LGBTQ+ and Non-Binary Students
- Undocumented Students/Students With Undocumented Family Members
- Low-Income Students

Opportunity Costs: What Students and Schools Lose by Investing in the Wrong Safety Tools

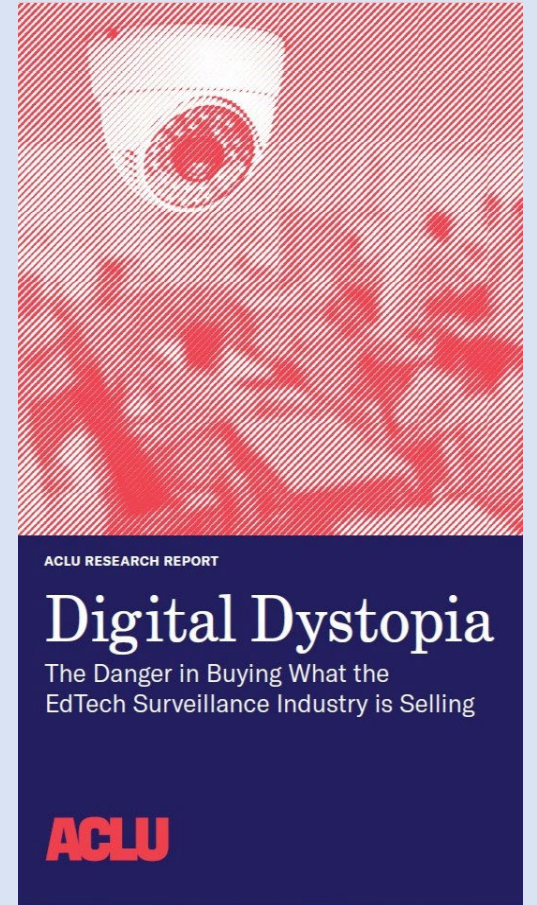


Recommendations

Educate Others and Advocate for Reform

Share the ACLU's Digital Dystopia report with school decisionmakers and influencers

www.aclu.org/digital-dystopia



Recommendations

Educate Others and Advocate for Reform

Five Key Points From Report To Highlight

#1

Do not let fear drive your decision-making

Recommendations

Educate Others and Advocate for Reform

Five Key Points From Report To Highlight

#2

Do not rely on EdTech Surveillance companies' unsubstantiated efficacy claims

Recommendations

Educate Others and Advocate for Reform

Five Key Points From Report To Highlight

#3

Be mindful that feeling safer is very different from being safer

Recommendations

Educate Others and Advocate for Reform

Five Key Points From Report To Highlight

#4

Learn about the harmful impacts of surveillance technologies on students

Recommendations

Educate Others and Advocate for Reform

Five Key Points From Report To Highlight

#5

Think about opportunity costs

Resources

All available at www/aclu.org/digital-dystopia

Model School Board Policy for the Consideration of Student Surveillance Technologies

Whereas, [NAME OF SCHOOL DISTRICT] believes adopting a consistent, thoughtful approach to how we consider the use of student surveillance technologies, which emphasizes well-informed decision-making based upon reliable, unbiased information and analysis, will result in wiser decisions and better outcomes for our school district and community.

[NAME OF SCHOOL DISTRICT] hereby adopts the following procedures, which shall be followed any time the school district is considering the acquisition or use of a student surveillance technology:

STEP ONE

Define the Precise Problem the School District is Seeking to Address

In defining the problem the school district is seeking to address, and for which a student surveillance technology is being considered as a potential intervention, school district officials shall avoid vague, broad, or ambiguous descriptions, such as "keep students safe," as such definitions can lead to the adoption of interventions that are not well-tailored to provide the benefit the school district is seeking.

Instead, school district officials shall define the problem to be addressed as precisely as possible. So, for example, a precise definition like "to safely and respectfully identify students in need of mental health interventions and to provide those interventions in a timely and supportive manner while respecting student privacy" is far preferable to "keeping students safe from themselves and others."

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STEP TWO

Evaluate the Proposed Student Surveillance Technology's Actual Benefits and Costs/Harms in Light of the Specific Problems to Be Addressed

In making a determination about the efficacy of any surveillance technology, school district officials shall not rely on the testimony, research, or analysis of any person or entity that stands to profit from the school district's acquisition or use of the surveillance technology.

Instead, school district officials should seek to answer the following questions by relying only on unbiased, reliable, verifiable information and analysis:

- What are the proven, evidence-based benefits of the surveillance technology, if any, when it comes to addressing the specific problem the school district is seeking to address? In answering this efficacy question, school district officials should beware of relying on surveillance industry produced or funded studies that are designed to appear independent.
- What are the surveillance technology's financial costs? Such costs should include acquisition, operations, maintenance, and data storage.
- What are the opportunity costs of investing in the surveillance technology? To answer this question, school district officials shall consider and evaluate what alternative safety, health, and/or educational options the school district may have to forgo if resources are spent on a surveillance technology option.

Checklist for Considering Student Surveillance Technology

Efficacy: Does the student surveillance technology actually make students safer?

- Reliable, unbiased, verifiable analyses largely demonstrate the tech improves student safety/well-being
- Only information provided by marketers of the tech claims it improves student safety/well-being
- Reliable, unbiased, verifiable analyses largely demonstrate the tech does not improve student safety/well-being

Harm: Is the technology's use likely to hurt students, in general, or any groups of vulnerable students, in particular?

- The technology's use is not likely to harm students, in general, or any groups of vulnerable students
- The technology's use is likely to harm the civil rights, civil liberties, or well-being of students, in general
- The technology's use is likely to harm the civil rights, civil liberties, or well-being of one or more groups of vulnerable students

Opportunity Costs: Are there better interventions available that the school would not be able to use if it chooses to acquire and use the student surveillance technology?

- No alternative interventions with better efficacy, less harms, or a better benefits-to-harms ratio exists
- An alternative with better efficacy and the same harms exists
- An alternative with the same efficacy but less harms exists
- An alternative with a better benefits-to-harms ratio exists

IF YOUR SCHOOL DISTRICT IS NOT ABLE TO CHECK THE GREEN BOX IN EACH OF THE ABOVE CATEGORIES, YOU SHOULD NOT BE USING A STUDENT SURVEILLANCE TECHNOLOGY

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10 Questions That Should Be Asked At Every School Board Meeting Where Student Surveillance Technologies Are Under Consideration

1. What is the precise and specific problem the school is seeking to address by potentially using a student surveillance technology?
2. What are the proven, documented benefits of using the student surveillance technology?
3. In determining the student surveillance technology's benefits, to what extent did the school rely on potentially biased information that was provided by persons who market surveillance products?
4. In determining the student surveillance technology's benefits, did the school rely on and give far greater weight to unbiased, dependable information and analysis that was prepared by persons with no financial interest in surveillance technology or the outcome of our school's decision?
5. Are you aware that the overwhelming majority of the research on surveillance has concluded that surveillance technologies do not have any significant deterrent effect on bad or harmful conduct?
6. What are the surveillance technology's total financial costs, including the costs of acquisition, operation, maintenance, and ongoing related costs like data storage?
7. What alternative safety, health, and/or educational options might our school have to forgo if resources are spent on a surveillance technology?
8. Do any of the alternative options we might have to forgo have more reliably established benefits, or a better benefits-to-costs/harms ratio, than the student surveillance technology under consideration?
9. What unintended harms might the use of the student surveillance technology cause to the general student population, as well as to any specific groups of already vulnerable students?
10. Have you undertaken an analysis of whether the proposed student surveillance technology's proven benefits outweigh its costs and harms in light of the specific problem the school district is seeking to address, and what was your determination?

¹ based on a detailed and precise answer. While "to safely and respectfully identify students in need of mental health interventions and to provide those interventions in a timely and supportive manner while respecting student privacy" would be an acceptable framing, "to keep students safe from themselves and others" would not.

² based on a detailed answer. Do not accept answers like, "yes, we engaged in an analysis and determined the benefits outweigh the costs."

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Public Records Request For School Surveillance Technologies

[ADDRESS AND SALUTATION, ETC.]

Under the [STATE OPEN RECORDS LAW CITATION], we are requesting the following records in the possession of the [NAME OF SCHOOL DISTRICT], including electronic records and records that were created by a member of another government agency or a member of the public, including third party persons and entities. Our requests apply to records maintained by or within the possession, custody, or control of [NAME OF SCHOOL DISTRICT], as well as any authorized sub-entity, agent, vendor, or contractor.

For purposes of these requests, please note the following definitions and instructions should apply:

The terms "documents" or "communications" are to be construed as broadly as possible, so as to include both paper and electronically maintained information, e-mails, writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations—stored in any medium from which information can be obtained and further including all drafts and non-exact duplicates. Any responsive information maintained electronically or in "database" form should be produced in native or equivalent "database" form so that all functionality allowing for retrieval, sorting and/or analysis of the information produced is preserved and not compromised by the production.

"Surveillance technology" shall mean an electronic device, hardware, or software that is capable of collecting, capturing, recording, retaining, processing, intercepting, analyzing, monitoring, or sharing audio, visual, digital, location, thermal, biometric, behavioral, or similar information or communications specifically associated with, or

capable of being associated with, any specific individual or group.

For each of the surveillance technologies listed below, please provide copies of any and all documents, including communications, created or received within five (5) years of the date of this request, that discuss or otherwise mention:

1. Surveillance cameras, or any other surveillance technology that provides your school district, or someone acting on its behalf, with the ability to watch students via live video feeds or to capture video recordings.
2. Facial recognition software, or any other surveillance technology that provides your school district, or someone acting on its behalf, with the ability to compare images captured by still and/or video cameras against photo databases to identify persons in the images.
3. Electronic school access control, or any other surveillance technology that provides your school district, or someone acting on its behalf, with the ability to combine the use of still or video cameras with facial recognition technology or other biometric technology to screen visitors.
4. Behavior detection software, or any other surveillance technology that provides your school district, or someone acting on its behalf, with the ability to use artificial intelligence (AI)-driven technology to watch and analyze video subjects or to analyze audio for behaviors or attributes it is either taught as problematic or which it concludes, via self-learning, may be anomalous, and to notify your school district, or someone acting on its behalf, thereof.

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Resources

All available at www/aclu.org/digital-dystopia Student Surveillance Technology Acquisition Standards Act

August 2023 Version



Student Surveillance Technology Acquisition Standards Act

WHEREAS, the *[Name of Legislative Body]* finds that, over the past several years and especially since the onset of the COVID-19 pandemic, the acquisition and use of student surveillance technologies has grown exponentially.

WHEREAS, the *[Name of Legislative Body]* finds that, in response to numerous high profile school shootings and other risks to students' health and well-being, parents, teachers, and administrators have prioritized efforts to improve student safety.

WHEREAS, the *[Name of Legislative Body]* finds that a growing number of well-financed companies are using massive promotional budgets to capitalize on these parents', teachers', and administrators' fears to promote the purchase of their student surveillance products.

WHEREAS, the *[Name of Legislative Body]* finds that these companies regularly make claims that their products deter violence and promote student safety without providing any reliable, independent, transparent data or studies that verify the accuracy of their claims.

WHEREAS, the *[Name of Legislative Body]* finds that the acquisition, use, and maintenance of student surveillance technologies and the data therefrom has significant opportunity costs: namely, it diverts financial and organizational resources away from other student safety interventions whose efficacy is better established.

WHEREAS, the *[Name of Legislative Body]* finds that all school community members – including parents, legal guardians, students, faculty, staff, and administrators – should have an opportunity to learn about student surveillance products, examine their efficacy or lack thereof, and consider the unintended, adverse consequences and opportunity costs of their use before limited school funds are expended to acquire and operate them.

WHEREAS, the *[Name of Legislative Body]* finds that some of the unintended adverse consequences of the use of student surveillance technologies include negatively impacting students' civil rights and liberties, privacy, academic freedom, and even safety, such technologies should not be used in the absence of clear evidence that their claimed benefits are real and that they substantially outweigh the harms such technologies can cause.

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WHEREAS, the *[Name of Legislative Body]* finds that a uniform standard of evidence-based analysis should be established to help school districts and school community members arrive at well-informed opinions about whether a student surveillance technology should be acquired and used.

THEREFORE BE IT RESOLVED, that the *[Name of Legislative Body]* adopts the following:

SECTION 1. Definitions.

(A) "Surveillance Technology" shall mean any digital device, system, hardware, or software that is capable of analyzing, capturing, collecting, intercepting, monitoring, processing, or recording audio, visual, digital, location, thermal, biometric, behavioral, or similar information or communications specifically associated with, or capable of being associated with, any specific individual or group.

- (1) "Surveillance technology" shall not include any digital device, system, hardware, or software that only collects data that is directly related to the teaching and/or academic testing of students.
- (a) For purpose of this subsection, a digital device, system, hardware, or software does not "only collect data that is directly related to the teaching and/or academic testing of students" if:
- (i) Uses biometrics to identify or track a student;
 - (ii) Monitors a student's movements, such as eye movements or keystroke tracking;
 - (iii) Captures or monitors a student's location or surroundings;
 - (iv) Captures words or terms entered by a student into an internet search engine;
 - (v) Identifies websites visited by a student; or
 - (vi) Intercepts or monitors any student communication that is not directed towards the student's school or an employee thereof, unless required by law.
- (vii) The above examples are an illustrative, non-exclusive list.

(B) "Surveillance Data" shall mean any electronic data that is analyzed, captured, collected, intercepted, processed, recorded, retained, or shared by surveillance technology.

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SECTION 2. Standards

(A) Consistent with the "School Safety Evidence-based Practices" standard contained in the federal Bipartisan Safer Communities Act, Public Law 117-189 (June 28, 2022), Subtitle C, Sec. 2220D(b)(2)(B), no school or school district shall be permitted to acquire, borrow, install, or use a surveillance technology or surveillance data unless the technology "has been shown to have a significant effect on improving the health, safety, and welfare of persons in school settings."

- (1) Consistent with the federal Bipartisan Safer Communities Act, Sec. 2220D(b)(2)(B)(4), proof of such efficacy must be established through independent, peer reviewed, published, "relevant research that is evidence-based, as defined in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), supporting the evidence-based practice or recommendation."
- (B) In determining if the acquisition and use of a school surveillance technology is in the best interest of a school's students and other relevant community members, a school or school district should investigate and consider any unintended harms or other consequences that might accompany the use of such a technology, as well as the opportunity costs of electing to acquire and use such a technology.

SECTION 3. School Community Member Engagement

- (A) Prior to acquiring, borrowing, installing, or utilizing a student surveillance technology or surveillance data, or renewing a contract for the same whose prior approval did not comply with the provisions of this Act, the school or school district shall present its rationale for wanting to acquire, borrow, install, or utilize a student surveillance technology or surveillance data, and the evidence-based research establishing it meets the efficacy standards set forth in Section 2, along with any available evidence-based research to the contrary of which the school or school district is aware, to the school's or school district's community of parents, legal guardians, students, faculty, staff, administrators, and other relevant community members.
- (B) The presentation of the information required in Section 3(A) of this Act shall be provided:
- (1) At least 14 days in advance of a well-noticed public hearing in which all school community members are given a reasonable opportunity to ask questions and present their views, both orally and in writing, before the school or school district officials who are authorized to make the final determination regarding the acquisition, borrowing, installation, or use of the student surveillance technology or surveillance data under consideration; and

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- (2) At least 28 days before any vote or other final determination is made by the school or school district with respect to the acquisition, borrowing, installation, or use of the student surveillance technology or surveillance data under consideration.

SECTION 4. Applicability

This law shall apply to all public schools in the State of (STATE NAME) as well as any other schools that receive funding from the State of (STATE NAME).

SECTION 5. Enforcement

Any violation of this Act constitutes an injury and any person may institute proceedings for injunctive relief, declaratory relief, or a writ of mandate in any court of competent jurisdiction to enforce this Act.

SECTION 6. Severability

The provisions in this Act are severable. If any part or provision of this Act, or the application of this Act to any person or circumstance, is held invalid, the remainder of this Act, including the application of such part or provisions to other persons or circumstances, shall not be affected by such holding and shall continue to have force and effect.

SECTION 7. Effective Date

This Act shall take effect immediately upon adoption.

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Conclusion

School Surveillance Technologies
Do Not Keep Students Safe

They Significantly Harm Students
and Make Them Less Safe

Contact Information

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www.aclu.org/digital-dystopia