QUEENSLAND INDEPENDENT EDUCATION UNION

INDEPENDENT EDUCATION UNION OF AUSTRALIA – QUEENSLAND AND NORTHERN TERRITORY BRANCH

Policy – Workplace Surveillance

Policy Name:	Workplace Surveillance	**Status:**	Endorsed
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Effective Date:	26 October 2012	**Approval Authority:**	QIEU Council and IEUA-QNT Branch Executive

1. RATIONALE

Members have reported some concerns regarding employers attempting to introduce Workplace Surveillance.

2. PURPOSE

The purpose of this policy is to provide members with a resource, and a response which can be provided to an employer.

3. POLICY STATEMENT

3.1 Introduction

Workplace surveillance of employees is a serious issue. In some Australian jurisdictions such activities are regulated by specific legislation which requires stringent approvals prior to their use.

There are laws applicable in Queensland which impact on workplace surveillance.

The relationship between employees and the employer is fundamental to the efficient operations of any school or college. Employees would rightly be concerned by an attempt to implement surveillance, particularly were that to occur without appropriate consultation.

3.2 Operative Provisions

Before an employer considers introduction of surveillance, that employer must discuss the issue with employees and their Union.

Any discussion must provide the following information:

(a) Is the camera surveillance being recorded? If so, how?

(b) Does this camera surveillance recording include audio?

(c) How long are these recordings kept or stored – and where?

(d) Is the storage of these recordings secure? How is it secured?

(e) Who has access to these recordings?

(f) How many camera surveillance units are installed, where are they located and when will they be operational?

(g) What is the primary purpose for recording this workplace surveillance footage?

(h) Does the employer (school or CEO) have a Privacy Policy? If so, are employees aware of and been given a copy of this policy?

The employer must ensure that prominent notices advise employees that surveillance is in operation.

Surveillance must not occur in locations or in a manner which will intrude on the legitimate privacy of an employee.

Where an employer does not meet the requirements of this policy employees should determine a collective response in consultation with their Union.

4. APPLICABILITY

This policy applies to all employers and employees in non-governmental educational establishments.

5. DEFINITIONS

Policy – refers to the 'rules' governing the operation of the union organisation.

Procedure – refers to the implementation of policy.
It is recognised that the procedures evolve over time, as new technologies emerge, as new processes are designed, risks identified and responded to.

6. PERSONS RESPONSIBLE

The Branch Secretary, Independent Education Union of Australia – Queensland and Northern Territory Branch.

7. POLICY AUTHORITY

This policy is authorised by the QIEU Council and IEUA-QNT Branch Executive.

The policy will be reviewed every two years.

This policy applies to all operations of QIEU and IEUA-QNT.

8. RELATED DOCUMENTS AND LINKS

8.1 Privacy Act 1988 (Cth)

8.1.1 There is no specific legislation governing the use of video surveillance of employees, but the federal Privacy Act does regulate the collection, storage, access to, correction, use and disclosure of personal information by the private sector.

8.1.2 The Act defines "personal information" as "information or an opinion (including information or an opinion forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion." Therefore, we believe that video footage of a person would constitute personal information and as such the Act would apply.

8.1.3 The Act does contain an 'exemption' to these privacy laws for "employee records", which exempts compliance under the following conditions:

(i) The employer organisation is acting in its capacity as the employer of the individual; and
(ii) The act or practice of the employer relates directly to that employment relationship with the individual; and
(iii) The act or practice must relate directly to an employee record, as defined by the Act.

8.1.4 The Act defines an "employee record" as "a record of personal information relating to the employment of the employee".

8.1.5 We do not believe that a video surveillance tape would constitute an employee record that would be 'exempted', therefore we believe that the Act would apply.

8.1.6 The Act requires that, in relation to the collection of 'personal information':

"An organisation must collect personal information only by lawful and fair means and not in an unreasonably intrusive way"

8.1.7 The Act also requires that 'personal information'

"must not be used or disclosed for a purpose other than the primary purpose of collection, unless the person has consented to that use or disclosure, or the secondary purpose is related to the primary purpose and the person would reasonably expect the information to be used or disclosed for the secondary purpose."

8.1.8 An organisation must also

"take reasonable steps to protect the personal information it holds from misuse and loss and from unauthorised access, modification or disclosure."

8.1.9 Finally, the Act also requires that

"personal information must be destroyed once it is no longer needed."

8.1.10 Consequently, there may be a remedy available under the federal Privacy Act 1988, but only if a record, in the sense of a 'video' recording, is made as a result of the camera surveillance. Such a 'record' would fall within the terms of the Act and, in our view, would NOT be exempted as an 'employee record'.

8.2 Invasion of Privacy Act 1971 (Qld)

8.2.1 This Act regulates privacy in regards to credit reporting agents, the use of "listening devices" to record private conversations, and the unlawful entry of private dwellings. Therefore, this Act may have application if the video cameras have an audio capacity.

8.2.2 If sound is recorded, then there might well be breaches of this Act.

8.3 This Policy does not refer to any other Policy.

9. IMPLEMENTATION PROCEDURES

This policy was developed by the Industrial Committee for the assistance of the QIEU and IEUA-QNT, and members.

10. REVISION HISTORY

Revision	Date	Made By	Approved By	Reason
1	26 October 2012	Industrial Committee	QIEU Council; IEUA-QNT Branch Executive	New Policy