

Title: **ELECTRONIC MONITORING**

Adopted: October 2022

Reviewed:

Revised: October 2023

Authority: Ontario Employment Standards Act

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**POLICY**

It is the policy of the KidsAbility School Authority that information regarding the electronic monitoring of activities currently in place at KidsAbility and information about the type of data collected and how it is used and secured, shall be communicated to the staff in accordance with the Ontario Employment Standards Act.

**BACKGROUND**

1. In April 2022, the Ontario government passed legislation as part of the Employment Standards Act which requires any employer of more than 25 employees to have a written policy on the electronic monitoring of employees.
2. The legislation identifies certain requirements that the policy must include.
3. The KidsAbility School Authority is committed to transparency with regard to electronic monitoring. “Electronic monitoring” refers to employee monitoring that is done electronically.
4. This policy applies to all employees, as defined by the Ontario *Employment Standards Act, 2000* (“ESA”). For clarity, “employee” under this policy means only those employees of KidsAbility which are considered employees under the ESA.
5. This policy applies to everyone who works at or on behalf of the KidsAbility School Authority, including staff, management, secondees, volunteers, students, contractors and others who carry out activities within the organization. This policy also applies to employees when they are working remotely.
6. The ESA’s rules about the employer’s written policy on electronic monitoring do not affect or limit the KidsAbility School Authority’s ability to use information obtained through the electronic monitoring of its employees in any way it sees fit.
7. This policy applies equally if the employee works from home, at the employer’s workplace, or under a hybrid “workplace/home” model.
8. Approved purposes exclusively include those listed below to reduce risk, deter activity, or investigate incidents:
* Safety of students, employees, and the public;
* Security of KidsAbility School Authority property;
* Protection, integrity, and privacy of personal information;
* Responsible stewardship of Authority resources, business continuity, and to protect Authority legal rights or fulfill Authority legal obligations.

**DEFINITION**

1. **Electronic surveillance** refers to the use of computers and other technological devices to monitor, record, and track employee activities. The range of electronic surveillance techniques varies but may include computer and telephone logging or GPS tracking.

**PROCEDURES**

1. The following table outlines the electronic monitoring technologies may be utilized by the KidsAbility:

|  |  |  |  |
| --- | --- | --- | --- |
| **Tool** | **Circumstances** | **How** | **Purpose** |
| Email tracking | Continuous | Office 365 data backup system continuously keeps copies of all email in the event IT department is asked to recover any email | Network security |
| Electronic key fob system | Each scan  | An electronic sensor creates a record each time an authorized user scans their key fob and enters the employer’s premises | Facility security |
| Endpoint threat detection and response | Continuous | “ETDR” monitors the use of workstations (programs run, files read and written, etc.) and compares it against a baseline to detect abnormalities and potential unauthorized use. | Network security |
| Video surveillance (facility) | Continuous | Cameras record video footage and/or photo snapshots of specific areas around the perimeter of the KidsAbility facility.  | Facility security |
| Video surveillance (investigation) | With reasonable grounds to suspect unlawful activity or breach of contract | Private investigators may be retained to document employee activity outside of work using video camera technology | To detect unlawful activity or activity in breach of employment contract |
| Firewalls/VPN/Web Gateways  | Continuous | Network security programs and tools to monitor the use and access of KidsAbility’s systems and networks | Network security |

1. Not all technology solutions with the capacity to electronically monitor employees are actively used on a routine basis.
2. The KidsAbility School Authority will routinely audit access to electronic client records (EDR) as required by PHIPA. Data within the EDR is used to provide performance metrics as required by funders and for quality improvement of service delivery.
3. Nothing in this policy affects or limits KidsAbility’s ability to use information obtained through electronic monitoring.
4. KidsAbility shall provide a copy of this Policy to each employee of KidsAbility, and any new employee hired prior to the Policy’s implementation, within 30 calendar days of implementation.
5. KidsAbility will provide the policy to employees as:

 - an attachment to an email or,

 - as a link to the document online

1. This policy may be amended from time to time in KidsAbility’s sole discretion. In the event that KidsAbility amends this policy, it will provide an amended copy of the Policy to employees within 30 days of the changes being made.
2. KidsAbility retains the right to engage in different or additional electronic monitoring in the future in accordance with its needs.
3. The KidsAbility School Authority does not actively monitor employees using electronic means for the purpose of employee performance management as a normal course of business. However, KidsAbility mayuse electronic monitoring tools for the purposes of monitoring, evaluating or investigating employee performance, behaviour or conduct, including whether to issue an employee discipline, up to and including termination of employment. KidsAbility’s use of any electronic monitoring tools for employment-related purposes is further subject to any rights an employee may otherwise have per their employment contract, collective agreement or otherwise at law.
4. Enforcement of KidsAbility School Authority policies or applicable laws may trigger an investigation. This will only be initiated if approved by the Principal. Examples could include (but not limited to) suspicion of contravention of Privacy legislation, the Employment Standards Act, or enforcement of the Computer Use Policy (e.g., unauthorized or inappropriate computer use).
5. The KidsAbility School Authority will not routinely monitor the GPS position of any KidsAbility phone. The KidsAbility School Authority may initiate a search of equipment if there is a reasonable concern for the employee’s safety (for example, if an employee does not return after leaving the school for an appointment), to complete a formal employee investigation (resulting from an incident or complaint) or to locate lost or stolen equipment

**NOTES**

1. Generally, only those accountable and responsible for the specified objective and the technology solution will have access to the collected data. Routine or ad hoc use of employee monitoring data is permitted where reasonable in the circumstances and aligned with the specified objective.
2. The KidsAbility Centre has video cameras recording the exterior of sites for the security of the buildings and equipment located on site. Recorded images, however, will not monitor the inside of areas where the public and employees have a higher expectation of privacy (e.g., clinic rooms, meeting rooms, staff kitchen/eating areas). Recorded images will only be used for health and safety, security or law enforcement purposes.
3. To provide employees with a reasonable degree of privacy, the following forms of electronic monitoring are strictly prohibited:

 - Video surveillance in private spaces such as washrooms or change rooms

 - Covert recording or streaming of webcam feeds

1. A complaint can only be made to the ministry, or be investigated by an employment standards officer, where there is an alleged contravention of the employer’s obligation to provide a copy of the written policy within the required timeframe to its employees. A complaint alleging any other contravention of the policy on electronic monitoring of employee provisions cannot be made, or be investigated by, an employment standards officer.
2. KidsAbility shall retain a copy of this policy for three (3) years after the policy ceases to be in effect.

**RESOURCES**

[Ontario Employment Standards Act](https://www.ontario.ca/laws/statute/00e41)