

International Leadership of Texas

Video Surveillance of Certain Special Education Settings

Policy and Procedures

General Information:

Starting with the 2016-2017 school year, in accordance with Texas Education Code (TEC) §29.022, a parent, trustee, or staff member may request video recording with audio capability to be installed in a self-contained special education classroom or other special education setting in which a student who receives special education services in a self-contained classroom or other special education setting is enrolled. The surveillance must cover all areas of the classroom or other special education setting, except that the inside of a bathroom or any area in the classroom or setting in which a student's clothes are changed will not be visually recorded, but will be subject to audio recording. The purpose of the video and audio recording is to promote the safety of students receiving special education services. The recordings may not be monitored for any reason beyond routine maintenance to check for proper functionality provided by the designated law enforcement unit. The video and audio surveillance cannot and will not be monitored for any other purposes.

1. Who can request Video Surveillance of Certain Special Education Settings?

TEC §29.022(a) allows for a parent, trustee, or staff member to request video and audio surveillance equipment to be installed. The commissioner of education has provided the following definitions in 19TAC§103.1301(b):

1.1 Parent: means a person described in TEC §26.002, whose child receives special education and related services for at least 50 percent of the instructional day in the self-contained classroom or other special education setting. Parent also means a student who receives special education and related services for at least 50 percent of the instructional day in the self-contained classroom or other special education setting and who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Texas Family Code, Chapter 31, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order (19TAC§103.1301(b)(1)).

1.2 Staff Member: means an employee of the International Leadership of Texas. A staff member does not include independent contractors.

1.3 Trustee: means a member of a school district's board of trustees or a member of an open-enrollment charter school's governing body (19TAC§103.1301(b)(3)). Trustee must be a member of the governing body of International Leadership of Texas.

2. What are the applicable classrooms and settings?

2.1 Self-Contained Classroom

Self-contained classroom means a classroom on a regular school campus (i.e., a campus that serves students in general education and students in special education) of a school district or an

open-enrollment charter school in which a majority of the students in regular attendance are provided special education and related services and have one of the following instructional arrangements/settings described in the student attendance accounting handbook adopted under 19TAC§129.1025 (relating to Adoption by Reference: Student Attendance Accounting Handbook):

- (A) self-contained (mild/moderate/severe) regular campus;
 - (B) full-time early childhood (preschool program for children with disabilities) special education setting;
 - (C) residential care and treatment facility--self-contained (mild/moderate/severe) regular campus;
 - (D) residential care and treatment facility--full-time early childhood special education setting;
 - (E) off home campus--self-contained (mild/moderate/severe) regular campus; or
 - (F) off home campus--full-time early childhood special education setting.
- 19TAC§103.1301(b)(5)

2.2 Other Special Education Setting

Other special education setting means a classroom on a separate campus (i.e., a campus that serves only students who receive special education and related services) of a school district or open-enrollment charter school in which a majority of the students in regular attendance are provided special education and related services and have one of the following instructional arrangements/settings described in the student attendance accounting handbook adopted under 19TAC§129.1025:

- (A) residential care and treatment facility--separate campus; or
 - (B) off home campus--separate campus.
- 19TAC§103.1301(b)(6)

3. Definitions:

3.1 Video Camera:

means a video surveillance camera with audio recording capabilities.

3.2 Video Equipment:

means one or more video cameras and any technology and equipment needed to place, operate, and maintain video cameras as required by TEC, §29.022, and this section. Video equipment also means any technology and equipment needed to store and access video recordings as required by TEC§29.022

3.3 Incident:

means an event or circumstance that:

(A) involves alleged "abuse" or "neglect," as those terms are described in Texas Family Code, §261.001, of a student by an employee of the school district or charter school or alleged "physical abuse" or "sexual abuse," as those terms are described in Texas Family Code, §261.410, of a student by another student; and

(B) allegedly occurred in a self-contained classroom or other special education setting in which video surveillance under TEC§29.022, and this section is conducted.

3.4 School Year

means the time frame starting with the first regular school day and ending with the last regular school day of the academic year, and during any period of extended school year services.

4. Requesting Surveillance:

4.1 Who may Request:

A Parent, Staff Member, or Trustee as defined in Section 1.

4.2 Procedure to Request Video Surveillance:

A written request must be submitted using Form 1, Request for Video Surveillance, by hand or mail to the Director of Special Education.

4.3 District Procedures Upon Receipt of Request:

1. Provide requestor Form 2, Receipt of Video Surveillance Request, within 5 school days of receiving Form 1, Request for Video Surveillance.
2. Request will be reviewed for eligibility and written notice of determination of the validity of the request will be provided to requestor using Form 3, Response to Request for Video Surveillance, within 15 school days from the date the original request was received.
3. For valid requests, installation of video surveillance will occur within 90 school days from the date the original request was received.
4. Prior to installation of the surveillance equipment, written notice, using Form 4, Notice of Surveillance Installation, will be sent to the parents of the affected students and campus staff members. This notice will be sent at least 10 school days prior to the activation of video and audio surveillance.
5. Prior to the activation of video and audio surveillance notice of premises subject to audiovisual surveillance will be posted as signage on all entrances into the room under surveillance stating that the classroom or setting is at all times subject to audiovisual surveillance.

5. Operation Guidelines

5.1 Equipment

Video cameras placed in a self-contained classroom or other special education setting shall be capable of recording video and audio of all areas of the classroom or setting, except that no video surveillance may be conducted of the inside of a bathroom or other area used for toileting or diapering a student or removing or changing a student's clothes.

5.2 Operational Time

Video cameras must be operated at all times during the instructional day when students are in the self-contained classroom or other special education setting.

5.2.1

Video recordings shall be retained for at least six months after the date the video was recorded.

5.2.2

ILTexas will continue to operate and maintain any video camera placed in a self-contained classroom or other special education setting for as long as the classroom or setting continues to satisfy the requirements in TEC§29.022(a).

5.3 Law Enforcement Unit (“LEU”) Designated

ILTexas hereby designates a Law Enforcement Unit having the purpose of making, storing, archiving and producing responsive to valid request all audio and video surveillance recordings made pursuant to this Policy. ILTexas hereby designates the Senior Executive to the Superintendent as the position or individual carrying out the responsibilities of the Law Enforcement Unit. ILTexas authorizes this position or individual to cause the installation and operation of audiovisual surveillance equipment in the classroom or setting, to collect, archive and destroy in accordance with applicable law all recordings thereby made, to produce same responsive solely to valid request or other valid legal demand, to delegate duties to other personnel as needed to accomplish tasks and responsibilities of the Law Enforcement Unit, and to procure resources from other departments to support the operations of the Law Enforcement Unit, pursuant to this Policy. A delegation by the Law Enforcement Unit pursuant to this paragraph shall not have the purpose, nor be deemed to have the effect, of placing the creation, maintenance, storage, control, or purpose of a surveillance recording or other record outside the Law Enforcement Unit. The designation of the Law Enforcement Unit shall not be deemed to create a law enforcement position. The designation of a person or office as the Law Enforcement Unit does not confer status as a peace officer or commissioned law enforcement officer.

5.4 Maintenance of Records

All audio and video surveillance recordings made in the classroom or setting shall be maintained, stored, and controlled by the designated Law Enforcement Unit. No other

department or individual shall have access to the recordings. The recordings are Law Enforcement Unit records and are not education records. A request to view surveillance records shall not be honored except after it has been presented to the designated Law Enforcement Unit. All audio and video surveillance recordings are created by the Law Enforcement Unit, are created for a law enforcement purpose, and are maintained by the Law Enforcement Unit. In reviewing a request for a recording, the designated Law Enforcement Unit shall determine whether a valid incident has occurred.

A valid incident is an event or circumstance that:

(A) involves alleged "abuse" or "neglect," as those terms are described in Texas Family Code, §261.001, of a student by an employee of the school district or charter school or alleged "physical abuse" or "sexual abuse," as those terms are described in Texas Family Code, §261.410, of a student by another student; and

(B) allegedly occurred in a self-contained classroom or other special education setting in which video surveillance under TEC§29.022 is conducted.

5.5 Monitoring

Regular or continual monitoring of video is prohibited and video recordings must not be used for teacher evaluation or monitoring or for any purpose other than the promotion of student safety.

6. Access

6.1 Confidentiality

A video recording made under TEC§29.022, is confidential and shall be released to:

- (1) a staff member or other school district or charter school employee or a parent of a student involved in an incident described in section 3.3 of this document that is documented by a video recording for which a complaint has been reported to the charter school;
- (2) appropriate Texas Department of Family and Protective Services personnel as part of an investigation under Texas Family Code §261.406;
- (3) a peace officer, school nurse, administrator trained in de-escalation and restraint techniques as provided by commissioner rule, or a human resources staff member designated by the open-enrollment charter school's governing body in response to a complaint or an investigation of an incident;
- (4) appropriate Texas Education Agency or State Board for Educator Certification personnel or agents as part of an investigation.

This section does not limit the application of the Family Educational Rights and Privacy Act of 1974 (FERPA) or other law:

6.2 Reporting an Incident for Review

1. Form 6, Request for Review of Recorded Incident, must be submitted to the designated Law Enforcement Unit in the manner indicated on the form.
2. The Law Enforcement Unit shall review the request and determine if an incident has occurred.
3. If and only if –
an incident is determined to have occurred, and the Law Enforcement Unit who views a video recording has cause to believe that the recording documents possible abuse or neglect of a child under Texas Family Code, Chapter 261, the Law Enforcement Unit must submit a report to the Texas Department of Family and Protective Services or other authority in accordance with the local policy adopted under §61.1051 of this title (relating to Reporting Child Abuse and Neglect) and Texas Family Code, Chapter 261;

Or

If the Law Enforcement Unit believes that it documents a possible violation of school district, open-enrollment charter school, or campus policy, the Law Enforcement Unit may allow access to the recording to appropriate legal and human resources personnel of the charter school to the extent not limited by FERPA or other law. A recording believed to document a possible violation of open-enrollment charter school, or campus policy may be used in a disciplinary action against charter school personnel and must be released in a legal proceeding at the request of a parent of the student involved in the incident documented by the recording. A recording believed to document a possible violation of open-enrollment charter school, or campus policy must be released for viewing by the district or charter school employee who is the subject of the disciplinary action at the request of the employee.

7. Complaint Procedure

Filing a Complaint Alleging Violations of TEC§29.022

A person who made a request pursuant to this Policy and wishes to complain that ILTexas is in violation of TEC§29.022 or 19TAC§103.1301 must follow ILTexas grievance procedures or other dispute resolution channels as described in board policy.