

TEXAS LEADERSHIP CHARTER ACADEMY BOARD POLICY MANUAL
SPECIAL EDUCATION
VIDEO SURVEILLANCE OF SPECIAL EDUCATION SETTINGS

Sec. 6.26.1. DEFINITIONS

For purposes of this policy, the following terms will have the meanings set forth below:

"Parent" means a person standing in parental relation to a child, including a guardian, and whose child receives special education and related services and assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day.

"Staff member" means a teacher, related service provider, paraprofessional, counselor, or educational aide assigned to work in a self-contained classroom or other special education setting.

"Board" means a majority of the TEXAS LEADERSHIP CHARTER ACADEMY Board of Directors.

"School business day" means a day that campus or TEXAS LEADERSHIP CHARTER ACADEMY administrative offices are open.

"Time-Out" has the meaning assigned by Section 37.0021.

"Self-contained classroom" means a classroom on a regular TEXAS LEADERSHIP CHARTER ACADEMY campus (i.e., a campus that serves students in general education and students in special education) 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 by the Texas Education Agency ("TEA"):

1. self-contained (mild/moderate/severe) regular campus;
2. full-time early childhood (preschool program for children with disabilities) special education setting;
3. residential care and treatment facility—self-contained (mild/moderate/severe) regular campus;
4. residential care and treatment facility—full-time early childhood special education setting;
5. off home campus—self-contained (mild/moderate/severe) regular campus; or
6. off home campus—full-time early childhood special education setting.

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"Other special education setting" means a classroom on a separate TEXAS LEADERSHIP CHARTER ACADEMY campus (i.e., a campus that serves only students who receive special education and related services) 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 by the TEA:

1. residential care and treatment facility—separate campus; or
2. off home campus—separate campus.

"Incident" means an event or circumstance that involves alleged "abuse" or "neglect," as those terms are described in Texas Family Code §261.001, of a student by a TEXAS LEADERSHIP CHARTER ACADEMY employee 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 allegedly occurred in a self-contained classroom or other special education setting in which video surveillance is conducted under Texas Education Code §29.022.

Sec. 6.26.2. PROMOTION OF STUDENT SAFETY

TEXAS LEADERSHIP CHARTER ACADEMY will, upon receipt of a written request authorized by this policy, provide equipment, including a video camera, to the school or schools specified in the request.

A school or campus that receives equipment due to a video surveillance request shall place, operate, and maintain one or more video cameras in self-contained classrooms and other special education settings in which a majority of the students in regular attendance are provided special education and related services and are assigned to one or more self-contained classrooms or other special education settings for at least 50 percent of the instructional day.

TEXAS LEADERSHIP CHARTER ACADEMY may not:

1. allow regular or continual monitoring of video recorded under this policy; or
2. use video recorded under this policy for routine teacher evaluation or monitoring or for any purpose other than the promotion of student safety.

Sec. 6.26.3. PROCEDURES FOR REQUESTING VIDEO SURVEILLANCE

Video surveillance under this policy is for the purpose of promoting student safety in certain self-contained classrooms and other special education settings.

Sec. 6.26.3.1. Parent Request

A parent may request in writing that equipment be provided to the school or campus at which the parent's child receives special education services in one or more self-contained classrooms or other special education settings.

Sec. 6.26.3.2. Board Request

The Board may request in writing that equipment be provided to one or more specified schools or campuses at which one or more children receive special education services in self-contained classrooms or other special education settings.

Sec. 6.26.3.3. Principal or Assistant Principal Request

The Principal or Assistant Principal of a school or campus at which one or more children receive special education services in self-contained classrooms or other special education settings may request in writing that equipment be provided to the Principal's or Assistant Principal's school or campus.

Sec. 6.26.3.4. Staff Member Request

A staff member assigned to work with one or more children receiving special education services in a self-contained classroom or other special education settings may request in writing that equipment be provided to the school or campus at which the staff member works.

Sec. 6.26.3.5. Additional Procedures

A school or campus that receives equipment as a result of the request of a parent or staff member is required to place equipment only in classrooms or settings in which the parent's child is in regular attendance or to which the staff member is assigned, as applicable.

A school or campus that receives equipment as a result of the request by the Board, Principal, or Assistant Principal is required to place equipment only in classrooms or settings identified by the requestor, if the requestor limits the request to specific classrooms or settings.

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TEXAS LEADERSHIP CHARTER ACADEMY shall designate an administrator (the "Administrator") at the TEXAS LEADERSHIP CHARTER ACADEMY Central Office with responsibility for coordinating the provision of equipment to schools and campuses in compliance with this policy.

A written request must be submitted and acted on as follows:

1. A parent, staff member, or Assistant Principal must submit a request to the Principal or designee of the school or campus addressed in the request, and the Principal or designee must provide a copy of the request to the Administrator.
2. A Principal must submit a request by the Principal to the Administrator.
3. The Board must submit a request to the Administrator, and the Administrator must provide a copy of the request to the Principal or designee of the school or campus addressed in the request.

TEXAS LEADERSHIP CHARTER ACADEMY shall provide a response to a request not later than the seventh school business day after receipt of the request by the person to whom it must be submitted that either authorizes the request or states the reason for denying the request. Unless granted an extension by the TEA, the school or campus must begin operation of a video camera in compliance with this policy not later than the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the request is authorized.

A parent of a student whose admission, review, and dismissal committee has determined that the student's placement for the following school year will be in a classroom or other special education setting in which a video camera may be placed to make a request for the video camera by the later of the date on which the current school year ends, or the 10th school business day after the date of the placement determination by the admission, review, and dismissal committee. Unless the TEA grants an extension of time, the school or campus must begin operation of a video camera not later than the later of the 10th school day of the fall semester or the 45th school business day, or the first school day after the 45th school business day if that day is not a school day, after the date the request is made.

Sec. 6.26.4. ADVANCE WRITTEN NOTICE TO CAMPUS STAFF AND PARENTS

Before TEXAS LEADERSHIP CHARTER ACADEMY activates a video camera in a classroom or other special education setting, TEXAS LEADERSHIP CHARTER ACADEMY shall provide written notice of the placement to all school or campus staff and to the parents of each student attending class or engaging in school activities in the classroom or setting. This notice shall be in the form of a "Notice of Installation of Video and Audio Recording Equipment" form adopted by the Superintendent or designee, and shall be distributed to all parties prior to the start of recording.

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At TEXAS LEADERSHIP CHARTER ACADEMY's discretion, campuses may post a notice at the entrance of any self-contained classroom or other special education setting in which video camera are placed stating that video and audio surveillance are conducted in the classroom or setting.

Sec. 6.26.5. TIMES OF OPERATION

Cameras shall be operational at all times during the instructional day when students are in the self-contained classroom or other special education setting.

A school or campus that places a video camera in a classroom or other special education setting shall operate and maintain the video camera in the classroom or setting, as long as the classroom or setting continues to satisfy the requirements under this policy, for the remainder of the school year in which the school or campus received the request, unless the requestor withdraws the request in writing.

If, for any reason, a school or campus will discontinue operation of a video camera during a school year, not later than the fifth school day before the date the operation of the video camera will be discontinued, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue unless requested by a person eligible to make a request.

Not later than the 10th school day before the end of each school year, the school or campus must notify the parents of each student in regular attendance in the classroom or setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year submits a new request.

This policy applies to placement, operation, and maintenance of a video camera in a self-contained classroom or other special education setting during the regular school year and extended school year services.

Sec. 6.26.6. RESTRICTIONS ON VIDEO RECORDING

Video cameras must be capable of covering all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for timeout. Video cameras must also be capable of recording audio from all areas of the classroom or other special education setting, including a room attached to the classroom or setting used for time-out.

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The inside of a bathroom or any area in the classroom or other special education setting in which a student's clothes are changed may not be visually monitored, except for incidental coverage of a minor portion of a bathroom or changing area because of the layout of classroom or setting.

Sec. 6.26.7. RETENTION OF RECORDINGS

TEXAS LEADERSHIP CHARTER ACADEMY shall retain video recordings from a video camera placed under this policy for at least three months after the date the video was recorded.

If a person described in Section 6.26.8.1 as eligible to receive a copy of a video requests to view a video recording from a video camera placed under this policy, TEXAS LEADERSHIP CHARTER ACADEMY must retain the recording from the date of receipt of the request until the person has viewed the recording and a determination has been made as to whether the recording documents an alleged incident. If the recording documents an alleged incident, TEXAS LEADERSHIP CHARTER ACADEMY shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.

A video recording under this policy is a governmental record only for purposes of Section 37.10, Penal Code.

Sec. 6.26.8. CONFIDENTIALITY OF VIDEO RECORDINGS

A video recording of a student is confidential and may not be released or viewed except as provided by Texas Education Code §29.022, the Family Educational Rights and Privacy Act of 1974 ("FERPA"), or other applicable law.

Sec. 6.26.8.1. Requests to View a Video Recording

TEXAS LEADERSHIP CHARTER ACADEMY will release a recording for viewing by:

1. A TEXAS LEADERSHIP CHARTER ACADEMY employee who is involved in an alleged incident that is documented by the recording and has been reported to TEXAS LEADERSHIP CHARTER ACADEMY, on request of the employee;
2. A parent of a student who is involved in an alleged incident that is documented by the recording and has been reported to TEXAS LEADERSHIP CHARTER ACADEMY, on request of the parent;
3. Appropriate Department of Family and Protective Services personnel as part of an investigation under Section 261.406, Family Code;

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4. A peace officer, a school nurse, a district-level or campus-level administrator trained in de-escalation and restraint techniques as provided by commissioner rule, or a human resources staff member designated by the Board in response to a report of an alleged incident or an investigation of TEXAS LEADERSHIP CHARTER ACADEMY personnel or a report of alleged abuse committed by a student; or
5. Appropriate TEA or State Board for Educator Certification personnel or agents as part of an investigation.

A contractor or employee performing job duties relating to the installation, operation, or maintenance of video equipment or the retention of video recordings who incidentally views a video recording is not in violation of this policy.

If a person described by subsections (4) or (5) above who views the video recording believes that the recording documents a possible violation under Subchapter E, Chapter 261, Family Code, the person shall notify the Department of Family and Protective Services for investigation in accordance with Family Code § 261.406.

If any person described by subsections (3), (4), or (5) above who views the recording believes that the recording documents a possible violation of TEXAS LEADERSHIP CHARTER ACADEMY policy, the person may allow access to the recording to appropriate legal and human resources personnel. A recording believed to document a possible violation of TEXAS LEADERSHIP CHARTER ACADEMY policy relating to the neglect or abuse of a student may be used as part of a disciplinary action against TEXAS LEADERSHIP CHARTER ACADEMY personnel and shall be released at the request of the student's parent in a legal proceeding.

If TEXAS LEADERSHIP CHARTER ACADEMY determines that the recording is an "education record," TEXAS LEADERSHIP CHARTER ACADEMY shall release the recording in accordance with FERPA. State law does not limit the access of a student's parent to a record regarding the student under FERPA or other law.

In order to review recordings for potential release, and operation and maintenance of the equipment, the following individuals shall have access to the video equipment: Director of Technology, District and Campus Administrators.

Sec. 6.26.9. PROCEDURES FOR REPORTING A COMPLAINT AND/OR REQUESTING TO VIEW RECORDING

Video and audio recording equipment shall be used for safety purposes to access documented, specific incidents. To report a complaint of alleged abuse or neglect to TEXAS LEADERSHIP

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CHARTER ACADEMY and/or to request to view a recording allowed by Section 6.26.8 above, a written "Incident Report Form," as adopted by the Superintendent or designee, shall be used by the requestor. This form will be completed to the extent of known information, and returned to the Superintendent or designee for validation.

Sec. 6.26.10. GRIEVANCE PROCEDURES

The special education dispute resolution procedures in 34 C.F.R. §§ 300.151-300.153 and 300.504-300.515, do not apply to complaints alleging that TEXAS LEADERSHIP CHARTER ACADEMY has failed to comply with Education Code § 29.022. Complaints alleging violations of TEXAS LEADERSHIP CHARTER ACADEMY's video surveillance obligations for special education settings under Education Code § 29.022 must be addressed through TEXAS LEADERSHIP CHARTER ACADEMY's Student and Parent Grievance Process as adopted by the Board.

TEXAS LEADERSHIP CHARTER ACADEMY, a parent, staff member, or an administrator may request an expedited review by the TEA of TEXAS LEADERSHIP CHARTER ACADEMY's (1) denial of a request, (2) request for an extension of time to begin operation of a video camera, or (3) determination to not release a video recording to an individual. If TEXAS LEADERSHIP CHARTER ACADEMY, a parent, staff member or administrator requests an expedited review, the TEA shall notify all other interested parties of the request.

If an expedited review has been requested, the TEA shall issue a preliminary judgment as to whether TEXAS LEADERSHIP CHARTER ACADEMY is likely to prevail on the issue under a full review by the TEA. If the TEA determines TEXAS LEADERSHIP CHARTER ACADEMY is not likely to prevail, TEXAS LEADERSHIP CHARTER ACADEMY must fully comply with the policy notwithstanding an appeal of the TEA's decision. The TEA shall notify the requestor and TEXAS LEADERSHIP CHARTER ACADEMY, if TEXAS LEADERSHIP CHARTER ACADEMY is not the requestor, of the TEA's determination.

Sec. 6.26.11. FUNDING

TEXAS LEADERSHIP CHARTER ACADEMY may solicit and accept gifts, grants, and donations from any person to implement the requirements in Education Code § 29.022. TEXAS LEADERSHIP CHARTER ACADEMY is not permitted to use Individuals with Disabilities Education Act, Part B, funds or state special education funds to implement the requirements of Education Code requirements of Education Code § 29.022.

Sec. 6.26.12. NO WAIVER OF IMMUNITY

The requirements described by this policy do not:

1. Waive any immunity from liability of TEXAS LEADERSHIP CHARTER ACADEMY, or of TEXAS LEADERSHIP CHARTER ACADEMY officers or employees; or
2. Create any liability for a cause of action against TEXAS LEADERSHIP CHARTER ACADEMY or against TEXAS LEADERSHIP CHARTER ACADEMY officers or employees.

Sec. 6.27.1. COMPLIANCE WITH GENERAL AND FISCAL GUIDELINES

TEXAS LEADERSHIP CHARTER ACADEMY must comply with the Texas Education Agency General and Fiscal Guidelines.

Sec. 6.27.2. CHARGING COSTS TO SPECIAL EDUCATION GRANT

TEXAS LEADERSHIP CHARTER ACADEMY may charge costs to a special education grant when those costs follow TEXAS LEADERSHIP CHARTER ACADEMY's local written procedures for allowability of costs and meet the following criteria:

1. Are reasonable for the performance of the special education grant and are allocable under the applicable cost principles;
2. Conform to limitations or exclusions set forth in applicable cost principles or the special education grant agreement as to types or amount of costs;
3. Are consistent with policies and procedures that apply uniformly to federally or state-funded activities funded from other sources;
4. Are accorded consistent treatment among all grant programs, regardless of funding source;
5. Are not included as a cost or used to meet cost-sharing or matching requirements of any other federally or state-funded program in the current or a prior period; and
6. Are adequately documented.

Sec. 6.27.3. REASONABLE COST

A cost can be considered reasonable if it meets the following standards:

1. The cost is of a type generally recognized as ordinary and necessary for the operation of TEXAS LEADERSHIP CHARTER ACADEMY or grant performance;
2. Restrictions or requirements are imposed for generally accepted sound business practices, arms-length bargaining, federal or state laws and regulations, and grant award terms and conditions;

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3. Consideration is given to market prices for comparable goods or services for the geographical area;
4. Individuals are acting with prudence in the circumstances of responsibility to TEXAS LEADERSHIP CHARTER ACADEMY and federal and state government; and
5. There are no significant deviations from established practices of TEXAS LEADERSHIP CHARTER ACADEMY that may unjustifiably increase grant costs.

Sec. 6.27.4. ALLOCATING COSTS

A cost is allocable to the special education grant in accordance with relative benefits received if it is treated consistently with other costs incurred for the same purposes in like circumstance and if it meets the following:

1. Is incurred specifically for the grant;
2. Benefits both the grant and the other work and can be distributed in reasonable proportion to the benefits received; and
3. Is necessary to the overall operation of TEXAS LEADERSHIP CHARTER ACADEMY and is assignable in part to the special education grant award in accordance with the principles of this framework.

Sec. 6.27.5 COORDINATION OF FUNDS TO PURCHASE INSTRUCTIONAL MATERIALS

Instructional materials adopted by TEXAS LEADERSHIP CHARTER ACADEMY must be provided to students at no cost.

If TEXAS LEADERSHIP CHARTER ACADEMY chooses to coordinate with the National Instructional Materials Access Center (NIMAC) when purchasing print instructional materials, it must acquire the print instructional materials in the same manner and subject to the same conditions as the Texas Education Agency acquires print instructional materials.

If TEXAS LEADERSHIP CHARTER ACADEMY chooses not to coordinate with the NIMAC when purchasing print instructional materials, it will provide instructional materials to blind persons or other persons with print disabilities in a timely manner and shall provide assurance of compliance with this policy to the Texas Education Agency.