## Sec. 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 special education classroom or other special education setting.

**"Board"** means a majority of the Texas Leadership Public Schools (TLPS) Board of Directors.

**"School business day"** means a day that campus or TLPS administrative offices are open.

**"Time-Out"** has the meaning assigned by Texas Education Code 37.0021.

**"Special education classroom or other special education setting"** means a classroom or setting primarily used for delivering special education services to students who spend on average less than 50 percent of an instructional day in a general education classroom or setting.
**"Other special education setting"** means a classroom on a separate TLPS 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 Section 261.001, of a student by a TLPS employee or alleged "physical abuse" or "sexual abuse," as those terms are described in Texas Family Code Section 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 Section 29.022.

## Sec. 2. PROMOTION OF STUDENT SAFETY

TLPS 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 special education classrooms and other special education settings provided that:

1. 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; and



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2. 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.

TLPS 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 safety of students receiving special education services in a special education classroom or other special education setting.

**Sec. 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.

**a)** ***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 special education classrooms or other special education settings.

**b)** ***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 special education classrooms or other special education settings.

**c)** ***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 special education 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.

**d)** ***Staff Member Request***

A staff member assigned to work with one or more children receiving special education services in a special education 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.

**e)** ***Additional Procedures***

TLPS shall designate an administrator (the "Administrator") at the TLPS 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:



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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.

TLPS 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 ("ARD") committee has determined that the student's placement for the following school year will be in a special education 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 ARD 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. 4. COORDINATION OF EQUIPMENT**

The administrator responsible for coordinating equipment delivery to campuses shall be <<TITLE>>.

**Sec. 5. ADVANCE WRITTEN NOTICE TO CAMPUS STAFF AND PARENTS**

Before TLPS activates a video camera in a classroom or other special education setting, TLPS 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.

At TLPS'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. 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 special education 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.



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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 special education classroom or other special education setting during the regular school year and extended school year services.

## Sec. 7. RESTRICTIONS ON VIDEO RECORDING

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

The inside of a bathroom or any area in the special education 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. 8. RETENTION OF RECORDINGS

TLPS 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 8-a (Requests to View a Video Recording) as eligible to receive a copy of a video requests to view a video recording from a video camera placed under this policy, TLPS 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, TLPS 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 37.10, Penal Code.

## Sec. 9. 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 Section 29.022; the Family Educational Rights and Privacy Act of 1974 ("FERPA"); or other applicable law.

### a) *Requests to View a Video Recording*

TLPS will release a recording for viewing by:



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1. A TLPS employee who is involved in an alleged incident that is documented by the recording and has been reported to TLPS, 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 TLPS, on request of the parent;
3. Appropriate Department of Family and Protective Services ("DFPS") personnel as part of an investigation under Section 261.406, Family Code;
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 TLPS 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 DFPS for investigation in accordance with Family Code Section 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 TLPS 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 TLPS policy relating to the neglect or abuse of a student may be used as part of a disciplinary actions against TLPS personnel and shall be released at the request of the student's parent in a legal proceeding.

If TLPS determines that the recording is an "education record," TLPS 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: list out titles/departments that may have access to video equipment.

**Sec. 10. 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 TLPS and/or to request to view a recording allowed by Section 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. 11. 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 TLPS has failed to comply with Education Code Section 29.022. Complaints alleging violations of TLPS's video surveillance obligations for special education settings



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under Education Code Section 29.022 must be addressed through TLPS's Student and Parent Grievance Process (*see* PG-3.XX), as adopted by the Board.

TLPS, a parent, staff member, or an administrator may request an expedited review by the TEA of TLPS'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 TLPS, 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 TLPS is likely to prevail on the issue under a full review by the TEA. If the TEA determines TLPS is not likely to prevail, TLPS must fully comply with the policy notwithstanding an appeal of the TEA's decision. The TEA shall notify the requestor and TLPS, if TLPS is not the requestor, of the TEA's determination.

**Sec. 12. FUNDING**

TLPS may solicit and accept gifts, grants, and donations from any person to implement the requirements in Texas Education Code Section 29.022. TLPS 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 Section 29.022.

**Sec. 13. NO WAIVER OF IMMUNITY**

The requirements described by this policy do not:

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



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