

Update 106 contains (LOCAL) policies that require board action before we can incorporate Update 106 into your district's Policy On Line manual.

Please notify Loretta Jeschke of your policy adoption by **faxing this form to 512-467-3618**, by **e-mailing your notification to pol-support@tasb.org**, or by **completing the form electronically through Policy On Line Administrator Tools (<https://www.tasb.org/apps/PolicyAdmin>)** using your myTASB login and clicking the "Notify TASB of Policy Adoption" link.

181906 West Orange-Cove CISD

Your Name: _____

Your E-mail: _____

We will send a confirmation e-mail when your update is placed online.

Update 106 Adoption Date: _____

Status (please check one):

- Adopted as presented by TASB—place online immediately
- Adopted with further changes, described below*

* If you have changes to the listed policies that you have not already sent to your policy consultant, please attach the policies to this form or e-mail them to your consultant to ensure they are processed as a Local District Update. Your policy consultant, Elvia Garcia Donaldson, may contact you about these policies, if necessary.

If you have any questions, please contact Loretta Jeschke by phone at 800-580-7529.

Update 106

Policy On Line® Adoption Notification Form

TASB Policy Service

Fax: 512-467-3618



Localized Policy Manual

Update 106

Please remember: Log in to **my.tasb.org** and open *Policy Service Resource Library: Local Manual Updates* to download a PDF of this update packet, annotated copies of the (LOCAL) policies, editable (LOCAL) text, and more.

West Orange-Cove CISD

Update 106 is a special update in response to the commissioner of education rules adopted as authorized by Education Code 29.022, which requires installation and operation of video and audio equipment in certain special education classrooms or other special education settings on request of a parent, staff member, or trustee.

Please bear in mind that (LEGAL) policies reflect the ever-changing legal context for governance and management of the district. They should NOT be adopted but, rather, should inform local decision making. The (LOCAL) policy recommendations in this update will need close attention by both the administration and the board to ensure that they reflect the practices of the district and the intentions of the board. Board action is needed to adopt, revise, or repeal (LOCAL) policy.

In addition to the updated policies, your Localized Update 106 packet contains:

- **INSTRUCTIONS** . . . providing specific directions on how this update, if accepted as prepared, should be incorporated into your Localized Policy Manual.
- **EXPLANATORY NOTES** . . . summarizing changes to EHBAF(LEGAL) and (LOCAL).

Vantage Points—A Board Member’s Guide to Update 106 offers a highly summarized overview of the update and is intended to provide local officials a first glance at the scope of the update—as a prelude to studying the detailed Explanatory Notes and policy text within the packet. **Please distribute copies of *Vantage Points* to your board members** at the earliest possible opportunity, preferably with their review copies of this update.

Update 106 policies are so identified in the lower left-hand corner of each policy page. If you have any questions concerning this update, please call your policy consultant, Elvia Garcia Donaldson, at 800-580-7529 or 512-467-0222.

Regarding board action on Update 106 . . .

- Board action on Localized Update 106 must occur within a properly posted, open meeting of the board and may be addressed on the agenda posting as “Policy Update 106, affecting policy EHBAF(LOCAL): SPECIAL EDUCATION—VIDEO/AUDIO MONITORING.” Policy On Line districts have access to a list of the (LOCAL) policies included in the update through the Local Manual Updates application in myTASB. BoardBook compilers should use “Policy Update 106, affecting (LOCAL) policies” as the agenda item and, as agenda subitems, EHBAF(LOCAL): SPECIAL EDUCATION – VIDEO/AUDIO MONITORING.
- A suggested motion for board action on Localized Update 106 is as follows:
“I move that the board add EHBAF(LOCAL) as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 106 [with the following changes:]”
- The board’s action on Localized Update 106 must be reflected in board minutes. The Instruction Sheet—annotated to reflect any changes made by the board—and the Explanatory Notes for the update should be filed with the minutes where they make up the authoritative record of your board’s actions. Include a copy of the new **(LOCAL)** policy.
- In constructing the separate historical record of the manual, the emphasis is on tracking the history of individual policies. For guidance on maintaining this record, please refer to the *Administrator’s Guide to Policy Management* (<https://www.tasb.org/Services/Policy-Service/myTASB/Guidance-for-Policy-Administrators.aspx>) and tutorial videos on handling an update (<https://www.tasb.org/Services/Policy-Service/myTASB/Tutorials.aspx>), available in the myTASB Policy Service Resource Library.

Regarding manual maintenance and administrative regulations . . .

- **Notify your policy consultant of any changes made by the board so that Policy Service records—forming the basis for subsequent updating recommendations—exactly mirror your manual.**
- The update should be incorporated into each of the district’s Localized Policy Manuals as soon as practicable. You will need to notify us of the board’s action on Update 106 so that your district’s Localized Policy Manual as it appears on TASB’s web server can be updated. Policy On Line staff may be reached by phone (800-580-7529 or 512-467-0222), by fax (512-467-3618, using the Update 106 Adoption Notification Form enclosed), by e-mail (pol-support@tasb.org), or through the Policy On Line Administrator Tools (<https://www.tasb.org/apps/PolicyAdmin>).
- Administrative procedures and documents—including formal (REGULATIONS), handbooks, and guides—that may be affected by Update 106 policy changes should be inspected and revised by the district as needed.

PLEASE NOTE: This information is provided for educational purposes only to facilitate a general understanding of the law or other regulatory matter. This information is neither an exhaustive treatment on the subject nor is this intended to substitute for the advice of an attorney or other professional adviser. Consult with your attorney or professional adviser to apply these principles to specific fact situations.

Instruction Sheet
TASB Localized Policy Manual Update 106

District West Orange-Cove CISD

Code	Action To Be Taken	Note
EHBAF (LEGAL)	Replace policy	Revised policy
EHBAF (LOCAL)	ADD policy	See explanatory note

Explanatory Notes

TASB Localized Policy Manual Update 106

District: West Orange-Cove CISD
EHBAF (LEGAL) SPECIAL EDUCATION
VIDEO/AUDIO MONITORING

This legally referenced policy addressing video and audio monitoring of certain special education classrooms or other special education settings has been revised to incorporate newly adopted commissioner of education rules, effective August 15, 2016.

In addition to a local policy requirement [see the note for EHBAF(LOCAL), below], the newly adopted subchapter of the Texas Administrative Code provides the following clarifications:

- Defines parent, staff member, and trustee, as these individuals are authorized by Education Code 29.022 to request the installation and operation of video and audio equipment in these settings;
- Identifies the self-contained classrooms and other special education settings subject to video surveillance by referencing instructional arrangements/settings defined in TEA's *Student Attendance Accounting Handbook*;
- Prohibits a district from using federal or state special education funds to implement Education Code 29.022;
- Requires the equipment, once installed, to be operational during the regular school year and extended school year services;
- Defines the term "incident," for purposes of filing a complaint with the district and requesting access to view certain video recordings; and
- For allegations of noncompliance with Education Code 29.022 or the commissioner rules, requires the use of the district's local grievance procedures or dispute resolution channels other than the federal procedures for resolving special education disputes.

EHBAF (LOCAL) SPECIAL EDUCATION
VIDEO/AUDIO MONITORING

As described above at EHBAF(LEGAL), new commissioner rules effective August 15, 2016, provide guidance on implementation of Education Code 29.022, which addresses video surveillance of certain special education settings. The rules require each school board to adopt written policies that include 13 items, as addressed in this recommended policy.

Many of the required policy statements are restatements of the statutory requirements. The following list highlights where the policy makes additional clarification of legal provisions or addresses choices available to the district.

- The rules require the policy to include the procedures for requesting video surveillance and for responding to a request. As a result, the recommended text requires a parent, trustee, or staff member to submit requests to the campus principal using a form provided by the district. After a request has been made and before installation of the cameras, the principal must provide a response to the requestor within ten business days and provide advance written notice to campus staff and to parents of students in the classroom or setting about the surveillance. Further details can be included in administrative regulations.
- The rules require operation of the cameras at all times during the instructional day when students are in the classroom or setting. The local policy text defines "instructional day" to be the portion of the school day during which instruction is taking place in the classroom or setting.

Explanatory Notes

TASB Localized Policy Manual Update 106

- A district may choose whether to post notice of surveillance at the entrance of any classroom or setting in which cameras are placed. As a best practice recommendation, the local policy text includes a requirement to post such notice.
- The policy clarifies that contractors or district personnel do not violate confidentiality restrictions by incidentally viewing a recording when carrying out job duties related to installation, operation, or maintenance of video equipment, or retention of video recordings. In addition, because the rules require the board to designate the human resource staff members who may view a recording in response to a complaint or an investigation of an incident, the recommended policy text designates these individuals as the superintendent, a principal, assistant principal or other campus administrator, and any supervisory positions in the human resource offices.
- The rules require the policy to include the procedures for reporting alleged incidents and filing complaints. The recommended text requires a person alleging that an incident occurred to complete a form provided by the district within 48 hours, if possible. Authorized district staff shall promptly view the recording and notify the person within ten business days whether the alleged incident was on the surveillance footage. Complaints are handled under the district's existing grievance policies.

Please contact the district's policy consultant if any adjustments need to be made to the enclosed local policy, including the time to respond to a request or incident report.

Please note: In late August, Policy Service will publish additional sample forms in Update 52 to the *Regulations Resource Manual*, available in the myTASB Policy Service Resource Library, to help district administrators implement this law. Until then, superintendents and policy contacts can access the forms through the Video Cameras in Special Education Classrooms [Policy Alert](#), also on myTASB.

SPECIAL EDUCATION
VIDEO/AUDIO MONITORING

EHBAF
(LEGAL)

PARENTAL CONSENT NOT REQUIRED	An employee of a school district is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used for a purpose related to the promotion of student safety under Education Code 29.022. <i>Education Code 26.009(b)</i>
VIDEO SURVEILLANCE UPON REQUEST TO PROMOTE STUDENT SAFETY	<p>In order to promote student safety on request by a parent, trustee, or staff member, a school district shall provide video equipment to each campus in the district in which a student who receives special education services in a self-contained classroom or other special education setting is enrolled.</p> <p>Each campus that receives video equipment shall place, operate, and maintain one or more video cameras in self-contained classrooms or other special education settings in accordance with Education Code 29.022 and 19 Administrative Code 103.1301.</p> <p>The requirements of Education Code 29.022 and 19 Administrative Code 103.1301 apply to video surveillance during the regular school year and during extended school year services.</p>
DEFINITIONS "PARENT"	"Parent" means a person described in Education Code 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 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.
"STAFF MEMBER"	"Staff member" means a teacher, related service provider, paraprofessional, or educational aide assigned to work in the self-contained classroom or other special education setting. "Staff member" also includes the principal or an assistant principal of the campus at which the self-contained classroom or other special education setting is located.
"TRUSTEE"	"Trustee" means a member of a school district's board of trustees.
"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 in which a majority of the students in regular attendance are provided special education and related services and have one of the following in-

structional arrangements/settings described in TEA's *Student Attendance Accounting Handbook (SAAH)*:

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.

“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 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 TEA's *SAAH*:

1. Residential care and treatment facility—separate campus; or
2. Off home campus—separate campus.

“VIDEO CAMERA”

“Video camera” means a video surveillance camera with audio recording capabilities.

“VIDEO
EQUIPMENT”

“Video equipment” means one or more video cameras and any technology and equipment needed to place, operate, and maintain video cameras as required by Education Code 29.022 and 19 Administrative Code 103.1301. “Video equipment” also means any technology and equipment needed to store and access video recordings as required by Education Code 29.022 and 19 Administrative Code 103.1301.

“INCIDENT”

“Incident” means an event or circumstance that:

1. Involves alleged “abuse” or “neglect,” as those terms are described in Family Code 261.001, of a student by an employee of the school district or alleged “physical abuse” or “sexual abuse,” as those terms are described in Family Code 261.410, of a student by another student; and
2. Allegedly occurred in a self-contained classroom or other special education setting in which video surveillance under

SPECIAL EDUCATION
VIDEO/AUDIO MONITORING

EHBAF
(LEGAL)

Education Code 29.022 and 19 Administrative Code 103.1301 is conducted.

- EXCLUSIONS** A district is not required to provide video equipment to a campus of another district or charter school or to a nonpublic school. The Texas School for the Deaf, the Texas School for the Blind and Visually Impaired, the Texas Juvenile Justice Department, and any other state agency that provides special education and related services to students are not subject to the requirements in Education Code 29.022 and 19 Administrative Code 103.1301.
- WRITTEN NOTICE** Before placing a video camera in a classroom or setting, the campus shall provide written notice of the placement to all campus staff and to the parents of a student receiving special education services in the classroom or setting.
- DISPUTE RESOLUTION** 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 a school district has failed to comply with Education Code 29.022 or 19 Administrative Code 103.1301. Complaints alleging violations of the law or rules must be addressed through the district's local grievance procedures or other dispute resolution channels.
- LOCAL POLICY** Each district board of trustees must adopt written policies relating to video surveillance under Education Code 29.022 and 19 Administrative Code 103.1301. At a minimum, the policies must include:
1. A statement that video surveillance is for the purpose of promoting student safety in certain self-contained classrooms and other special education settings;
 2. The procedures for requesting video surveillance and the procedures for responding to a request for video surveillance;
 3. The procedures for providing advance written notice to the campus staff and the parents of the students assigned to a self-contained classroom or other special education setting that video and audio surveillance will be conducted in the classroom or setting;
 4. A requirement that video cameras be operated at all times during the instructional day when students are in the self-contained classroom or other special education setting;
 5. A statement regarding the personnel who will have access to video equipment or video recordings for purposes of operating and maintaining the equipment or recordings;

6. A requirement that a campus 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 Education Code 29.022(a);
7. A requirement that video cameras placed in a self-contained classroom or other special education setting 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;
8. A statement that video recordings must be retained for at least six months after the date the video was recorded;
9. A statement that the regular or continual monitoring of video is prohibited and that video recordings must not be used for teacher evaluation or monitoring or for any purpose other than the promotion of student safety;
10. At the district's discretion, a requirement that campuses post a notice at the entrance of any self-contained classroom or other special education setting in which video cameras are placed stating that video and audio surveillance are conducted in the classroom or setting;
11. The procedures for reporting a complaint alleging that an incident occurred in a self-contained classroom or other special education setting in which video surveillance under Education Code 29.022 and 19 Administrative Code 103.1301 is conducted;
12. The local grievance procedures for filing a complaint alleging violations of Education Code 29.022 or 19 Administrative Code 103.1301; and
13. A statement that video recordings made under Education Code 29.022 and 19 Administrative Code 103.1301 are confidential and a description of the limited circumstances under which the recordings may be viewed.

GIFTS, GRANTS,
AND DONATIONS

A school district may solicit and accept gifts, grants, and donations from any person to implement the requirements in Education Code 29.022 and 19 Administrative Code 103.1301. A district is not permitted to use Individuals with Disabilities Education Act, Part B, funds or state special education funds to implement these requirements.

SPECIAL EDUCATION
VIDEO/AUDIO MONITORING

EHBAF
(LEGAL)

NO WAIVER OF
IMMUNITY

The requirements described by this policy do not:

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

CONFIDENTIALITY

A video recording made under Education Code 29.022 and 19 Administrative Code 103.1301 is confidential and may only be viewed by the following individuals, to the extent not limited by the Family Educational Rights and Privacy Act (FERPA) or other law.

LIMITED
RELEASE

A school district shall release a recording for viewing by:

1. A staff member or other school district employee or a parent of a student involved in an incident that is documented by a video recording for which a complaint has been reported to the district, on request of the staff member, employee, or parent, respectively;
2. Appropriate Department of Family and Protective Services (DFPS) personnel as part of an investigation of alleged or suspected abuse or neglect of a child under Family Code 261.406;
3. A peace officer, a school nurse, a district administrator trained in de-escalation and restraint techniques as provided by commissioner of education rule, or a human resources staff member designated by the board in response to a complaint or an investigation of an incident; or
4. Appropriate TEA or State Board for Educator Certification personnel or agents as part of an investigation.

DUTY TO
REPORT

If a person described by item 3 or 4 above views a video recording and has cause to believe that the recording documents possible abuse or neglect of a child under Family Code, Chapter 261, the person must submit a report to DFPS or other authority in accordance with FFG.

USE IN
DISCIPLINARY
ACTIONS
AGAINST
DISTRICT
PERSONNEL

If any person described by item 2, 3, or 4 above views a video recording and believes that it documents a possible violation of district or campus policy, the person may allow access to the recording to appropriate legal and human resources personnel of the district to the extent not limited by FERPA or other law. A recording believed to document a possible violation of district or campus policy may be used in a disciplinary action against district personnel and shall be released in a legal proceeding at the request of a parent of the student involved in the incident documented by the re-

ording. A recording believed to document a possible violation of district or campus policy must be released for viewing by the district employee who is the subject of the disciplinary action at the request of the employee.

FERPA

State law does not limit the access of a student's parent to an educational record of the student under FERPA or other law. To the extent any provisions in Education Code 29.022 and 19 Administrative Code 103.1301 conflict with FERPA or other federal law, federal law prevails.

Education Code 29.022; 19 TAC 103.1301

Note: Unless otherwise noted, the terms “video recording,” “video surveillance,” and “video monitoring” shall also include any associated audio recordings.

REQUESTS AND
NOTICE

The District shall comply with requests for video and audio monitoring of certain self-contained special education classrooms and settings as required by law to promote student safety in those settings. Regular or continual monitoring of video recordings shall be prohibited. Video recordings shall not be used for teacher evaluation or monitoring or for any purpose other than the promotion of student safety.

A parent, Trustee, or staff member making a request for video surveillance under this policy shall submit the request to the campus principal on a form provided by the District, and the principal shall provide a response to the requestor within ten District business days. The principal shall provide advance written notice to staff on the campus and to parents of the students assigned to the classroom or setting that video and audio surveillance will be conducted in the classroom or setting. The Superintendent shall develop administrative regulations as necessary to implement these request, response, and notice provisions.

INSTALLATION AND
OPERATION

When the District has installed video cameras in a classroom or other setting as required by law, the District shall operate the cameras during the instructional day at all times when students are in the classroom or other setting. For purposes of this policy, the instructional day shall be defined as the portion of a school day during which instruction is taking place in the classroom or other setting.

A campus shall continue to operate and maintain any video cameras placed in the classroom or other setting for as long as the classroom or other setting continues to satisfy the requirements in Education Code 29.022(a).

Video cameras must be capable of recording video and audio of all areas of the classroom or setting, except that no video surveillance shall 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.

The District shall post notice at the entrance to a classroom or other setting in which video cameras are placed stating that video and audio surveillance is conducted in that classroom or setting.

RETENTION OF
RECORDINGS

Video recordings shall be retained for at least six months after the date of the recording but may be retained for a longer period in accordance with the District's records management program or as required by law. [See CPC]

CONFIDENTIALITY OF
RECORDINGS

Video recordings made in accordance with this policy shall be confidential and shall only be accessed or viewed by the individuals and in the limited circumstances permitted by law. Contractors and District personnel with job duties related to the installation, operation, or maintenance of video equipment, or the retention of video recordings, who incidentally view recordings when performing regular job duties such as ensuring the proper functioning of the equipment or pulling specific footage shall not be considered in violation of the confidentiality provisions.

The following individuals shall have authority to view video recordings to the extent permitted by the Family Educational Rights and Privacy Act (FERPA):

1. A District employee or a parent of a student who is involved in an incident documented by a recording for which a complaint has been reported to the District;
2. Appropriate Department of Family and Protective Services (DFPS) personnel as part of an investigation of alleged abuse or neglect of a child;
3. A peace officer, school nurse, District administrator trained in de-escalation and restraint techniques, or human resource staff member in response to a complaint or an investigation of an incident; and
4. Appropriate TEA or State Board for Educator Certification personnel or their agents as part of an investigation.

For purposes of this policy, the term "human resource staff member" shall include the Superintendent, a principal, an assistant principal or other campus administrator, and any supervisory position within the District's human resources office. If an individual listed in items 2 through 4 above believes that a recording shows a violation of District policy or campus procedures, the individual may allow access to the recording by appropriate legal and human resources personnel designated by the District for the purpose of determining whether a policy or procedure has been violated.

Any person who suspects that child abuse or neglect has occurred shall report this suspicion as required by law and District policy. [See FFG]

SPECIAL EDUCATION
VIDEO/AUDIO MONITORING

EHBAF
(LOCAL)

REPORTING AN
INCIDENT

A person alleging that an incident, as defined by law, has occurred in a classroom or other setting in which video surveillance is conducted shall file a report on the form provided by the District with the principal as soon as possible after the person suspects the alleged incident. If possible, an incident report form shall be filed within 48 hours of the facts giving rise to the allegation. The principal shall promptly view, or direct an authorized individual to view, the video surveillance footage to identify the relevant portion of the recording. No later than ten District business days after the report is filed, the principal or designee shall respond by notifying the person whether the alleged incident was recorded in the District's video surveillance footage and shall initiate other steps as required by law, District policy, or local procedures.

COMPLAINTS

Complaints related to video and audio recordings under this policy shall be filed in accordance with DGBA, FNG, or GF, as applicable.

