

Explanatory Notes

TASB Localized Policy Manual Update 106

District: Harts Bluff ISD
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.

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- 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.