



Special Education Cameras, What You Need to Know

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Special Education Cameras in Texas

- Originally passed in the 84th legislative session (2014) via SB507.
- Always meant to have passed with “The Aversives Bill” later passed in the 86th legislative session (2019). The idea was to make what was happening to kids illegal, and the means to capture the abuse.
- Aversives made it illegal to cause physical pain, electric shock, the use of noxious, toxic or unpleasant sprays near face, the denial of adequate sleep, air, food, water, shelter, bedding, physical comfort,
- Law was changed in the 85th legislative session via SB1398, which is the version of the law we have today.
- Laws changed Section 29.022 of Texas Education Code. [TEC](#)

What is the purpose of special education cameras?

The purpose is to “promote student safety”. Cannot be used for monitoring services, or teacher performance. Specifically to capture/prevent abuse and neglect. Defined in Family Code 261.001.

Students who have diminished access to communication or who are vulnerable need protection.

Pitfalls to avoid: Cameras cannot be used for monitoring or teacher performance. Being made to feel bad for wanting a safe environment for the student.

There is no presumption of privacy in public schools. Almost all schools have cameras in common areas. Staff and students are recorded all the time.

Which settings are eligible? How do you know?

Any special education setting in which:

1. A majority of the students in regular attendance receive special education services
2. Assigned to one or more special education settings (self contained or not) for at least 50% of their day.

Pitfall to avoid: The school tells you the setting is not “self-contained” and not eligible.

It is not necessary to be self contained as long as the above parameters are in play. Please remember, general education teachers can serve IEP minutes.

Remedy: VERIFY! Obtain a Public Information Request asking the total number of students, the number receiving special ed services and the number served in more than one special ed setting. If you can, do this before you request.

Remedy: Know how to calculate service minutes in an IEP.

Who can ask? How to ask for a camera?

Parents/guardians are not the only people who can ask for cameras. Requests must be IN WRITING to the principal of the school.

“A parent, staff member, or assistant principal must submit a request to the principal or the principal’s 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...”

- A board of trustees can ask for cameras. Many board of trustees have installed cameras in all eligible settings.
- A principal or Assistant Principal can request.
- A staff member assigned to work with one or more students who receive services in eligible settings.

Pitfall to avoid: The school tells you you have to submit the request to an administrator other than the principal. It clearly says to submit to the principal.

Remedy: Give the request to the principal and any administrator simultaneously to avoid a hot potato situation.

Timing is everything

Requests must be handled:

1. A response to the request can be no later than 7th business day after receipt of the request. If not approved, information about appeals must be included with response.
2. If approved, the camera needs to be operational no later than 45th school or business day after approved.

Cameras should be in place the entire school year. The school should advise all parents/guardians a camera will be operational and when the camera operation ends.

Pitfalls to avoid: The school says it is too late in the school year. It is still 45 business days after requested, which can be the following school year if the placement has been agreed upon.

The school just says no and doesn't give any information to appeal.

Remedy: Learn the grievance process, and get the information you need via PIR requests. Don't just take their word for it. Use a calendar to track the days and reminders. Communicate in writing.

Approval or denial of cameras

- Survey I conducted showed 30/50 of the respondents actually had the camera installed after it was requested.
- 10% of requests were denied, citing the privacy of the other students.
- The main reason schools cite to deny cameras, is claiming the classroom is not eligible because it is not self contained or the student is not in the setting for 50% of their day.

Per Commissioner's rules must use the grievance process if the camera is denied. Can simultaneously ask for expedited review. Requestor needs to exhaust grievance process, then ask via TEC 7.057

Pitfalls to avoid: The law doesn't say the student needs to spend time in settings where 50% or more of the class receives services and they spend 50% or more of their day in these settings. It does not say one setting. Instructional settings have to be clear.

Remedy: Show schools the law and ask for Prior Written Notice . File a grievance.

If denied, start the grievance process. This is where any data from open records and understanding instructional settings will help.

What should cameras be able to see?

- The entire classroom.
- Any adjacent “time out” rooms.
- Must have audio and video capabilities.
- CANNOT be placed in a bathroom or changing area.

You suspect Abuse or Neglect. What next?

Abuse and Neglect defined in Subchapter E, Chapter 261 of Family Code. There are a few different actions and omissions.

“Mental or Emotional injury to a child that results in an observable and material impairment in the child’s growth, development, or psychological functioning.”

There are more details and definitions.

1. Document. Document. Document. Take pictures. Take the child to the doctor if needed.
2. Submit an Incident Report to the principal in writing. Many districts have their own form, if not, you can download one from Disability Rights Texas. [Sample Incident Report Form](#)
3. Request in writing to see the recording, at the same time you submit the incident report.
4. Request, in writing all recordings be preserved until all appeals are exhausted.

Pitfalls to avoid: The school will try to tell you to submit an open records request. Once you do, they will ask for an opinion from the Attorney General’s office to stall/withhold.. Unfortunately, there is no timeline specified to respond to requests, and it is a tactic to take a long time. Some have reported it went beyond 3 months, and the footage was erased. The law is clear the requests go to the school district.

Recording does not record an incident

The law does not clearly state the lack of an incident negates access for parents/guardians to see the footage.

It states " A video recording of a student made according to this section is confidential and may not be released or viewed except as provided by this subsection...A school district or open enrollment charter school SHALL release a recording for viewing by: A parent of a student who is involved in an ALLEGED incident that is documented by the recording and has been reported to the district or school on request of the parent."

This is why it is important to do an incident report (If you know what happened. It is hard to know.

The school can:

1. Have an authorized person view the recording and tell you it does not capture an alleged incident
2. Let you see it.

Recording does capture abuse/neglect

- Schools staff are all mandated reporters. If the person viewing the footage sees abuse/neglect, they have to report to CPS.
- The law also says, if the incident recorded violates school policy, it must be reported to legal and human resources.
- The recording must be released to the parent for legal proceedings.
- A parent can file a complaint with SBEC to the educator's certificate to avoid "passing the trash".
- The parent or self advocate can press charges.

It will not be easy to view this recording. Schools naturally want to protect themselves from liability. You will have to be tenacious and potentially obtain legal representation.

The grievance process has to be exhausted before can ask for expedited review.

Expedited Review

This is a bit of a gray area and not as easy to maneuver.

Each district should have their processes posted. Special education cameras are typically posted online under school policy EHBAF. When in doubt, you can Google district name + Policy online.

Charter schools tend to not have their policies as easily accessible.

1. Information on how a person may appeal an action by the district that the person believes to be in violation of this section or a policy adopted in accordance with this section, including the appeal and expedited review processes under 19 Administrative Code 103.1303 (Commissioner's Review of Actions Concerning Video Cameras in Special Education Settings) and the appeals process under Education Code 7.057;

After the School Board of Trustees, The Commissioner of Education is the ultimate decision maker in requests for cameras and requests to view footage. Requestors have to file a "petition to review". I have yet to see a form or online help for this. The truth is, most people give up.

A petition for review shall be filed with the commissioner within 10 calendar days of the decision of the board of trustees denying the request being first communicated to the requester or requestor counsel, whichever occurs first. The petition for review shall be made in accordance with §157.1073(c) of this title (Relating to Hearings Brought Under Texas Education Code, §7.057) and may include a request for expedited review.

Questions?

Thank you!

email :advocateflores@gmail.com

Sample forms

Exhibit A—Request for the Installation of Video and Audio Recording Equipment

A parent, Trustee, or staff member, as defined by law, may request that video and audio equipment be installed in a self-contained classroom or other special education setting that meets the requirements of state law for such video and audio monitoring. In order to make a request, complete the information below and submit this form to the campus principal. For more information, see EHBAF(LEGAL) and (LOCAL).

A request for installation and retention of video and audio recording equipment will be made on an annual basis.

Requester's information:

Name

(*print*): _____

Phone

number: _____

Email

address: _____

I am a:

- Parent
- Trustee
- Staff member

If a

parent/guardian,

child's name: _____

Campus: _____

Classroom/setting (*room number or teacher's/related service provider's name*):

To the best of my knowledge, this request meets the criteria in state law to require the District to conduct video and audio monitoring upon request.

Signature: _____

Date: _____

Sample forms

Exhibit B—Response to Request for the Installation of Video and Audio Recording Equipment

Dear _____,

In response to your request dated _____ (date) to install video and audio recording equipment in room number _____ (specify classroom or instructional setting), the District has determined the following:

The request will be granted for the current school year _____ (specify school year). The District will work as expeditiously as possible to install the equipment. However, several factors may affect timing of the installation, such as obtaining equipment that meets the legal requirements and District compliance with purchasing and contracting requirements. At this time, we anticipate the equipment becoming operational within ____ (number) weeks of the date of this letter. The school will notify you as soon as possible if unexpected delays occur.

As always, do not hesitate to contact me or other appropriate school staff if you are concerned about the safety of any child on our campus. If you suspect an incident may have occurred that violates a child's safety, please let me know right away.

The request is denied because the request does not meet the requirements of state law for video and audio monitoring of certain special education classrooms or other settings. Specifically, the following requirements have not been met:

You do not qualify as a parent, staff member, or Trustee under TEC 29.022.

The child does not receive special education and related services for at least 50 percent of the instructional day in the self-contained classroom or other special education setting.

The classroom for which the video and audio recording equipment is requested is not a self-contained classroom. [See 19 Administrative Code 103.1301]

Please contact me as soon as possible so we can work together to address any concerns you may have about student safety.

Principal's
signature: _____

Date: _____

Sample forms

Exhibit D—Incident Report Form

This form is to be completed by a parent or guardian, on behalf of a parent or guardian, or by an employee who notifies the school of an alleged incident that occurred in a self-contained classroom or other special education setting where audio and video equipment is operational.

Upon receipt of this incident report form, appropriate District staff will begin viewing the footage recorded on the date(s) described below to determine whether any incident(s) as described below were recorded. If the recording documents an incident as defined by law, the District will release, upon request, the recording for viewing by an employee or a parent or guardian of a student who is involved in the incident. Depending on the nature of the recorded incident, the District may also be required by law to release the recording for viewing to individuals described in EHBAF(LOCAL), including appropriate personnel or agents of the Department of Family and Protective Services and/or State Board for Educator Certification. For more information, see EHBAF(LEGAL) and (LOCAL).

Contact Information:

Name: _____

Home phone: _____

Mobile phone: _____

Email address: _____

Date(s) of alleged incident(s): _____

Time(s) of alleged incident(s): _____

Location(s) of alleged incident(s): _____

List any witnesses: _____

Describe the incident(s) as clearly as possible, including names of individuals involved and any District policy or law you think may have been violated. (Attach additional pages if more space is needed.)

I am requesting to view the applicable recording.

I hereby certify that the information I have provided is true, correct, and complete to the best of my knowledge and belief.

Name (print): _____

Signature: _____ Date: _____