

VIDEO SURVEILLANCE PROCEDURES AND FORMS – SEGUIN ISD

Section 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 of Trustees**” means a majority of the Seguin ISD’s Board of Trustees.

“**School business day**” means a day that campus or school district administrative offices are open.

“**Time-Out**” has the meaning assigned by Section 37.0021.

“**Self-contained classroom**” means a classroom on a regular Seguin ISD school 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”):

- (A) self-contained (mild/moderate/severe) regular campus;
- (B) full-time early childhood (preschool program for children with disabilities) special education setting;
- (C) residential care and treatment facility--self-contained (mild/moderate/severe) regular campus;
- (D) residential care and treatment facility--full-time early childhood special education setting;
- (E) off home campus--self-contained (mild/moderate/severe) regular campus; or
- (F) off home campus--full-time early childhood special education setting.

“**Other special education setting**” means a classroom on a separate Seguin ISD 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:

- (A) residential care and treatment facility--separate campus; or
- (B) off home campus--separate campus.

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“**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 an employee of Seguin ISD 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.

Section 2: Promotion of Student Safety

Seguin ISD will, upon receipt of a written request authorized by this policy, provide equipment, including a video camera, to the school or schools in the district 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.

Seguin ISD 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.

Section 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 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. The Board of Trustees 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. 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. 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.

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

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that receives equipment as a result of the request by the Board of Trustees, 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.

Seguin ISD shall designate an administrator (the “administrator”) at the primary administrative office of the district with responsibility for coordinating the provision of equipment to schools and campuses in compliance with this section.

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 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.
- (2) A principal must submit a request by the principal to the administrator;
- (3) The Board of Trustees must submit a request to the administrator and the administrator must provide a copy of the request to the principal or the principal’s designee of the school or campus addressed in the request.

Seguin ISD 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.

Section 4: Advance Written Notice to Campus Staff and Parents

Before Seguin ISD activates a video camera in a classroom or other special education setting, Seguin ISD 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 attached to this party, and shall be distributed to all parties prior to the start of recording.

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At Seguin ISD’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.

Section 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.

Section 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 time-out. 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.

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.

Section 7: Retention of Recordings

Seguin ISD shall retain video recordings from a video camera placed under this policy for at least three months after the date the video was recorded.

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If a person eligible to receive a copy of the video pursuant to a request under this policy, the school district 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, the district 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.

Section 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.

Seguin ISD will release a recording for viewing by:

- (1) a Seguin ISD employee who is involved in an alleged incident that is documented by the recording and has been reported to the Seguin ISD or school, 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 the Seguin ISD or school, 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;
- (4) a peace officer, a school nurse, a district or school administrator trained in de-escalation and restraint techniques as provided by commissioner rule, or a human resources staff member designated by the Board of Trustees in response to a report of an alleged incident or an investigation of Seguin ISD personnel or a report of alleged abuse committed by a student; or
- (5) appropriate agency 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 Section 261.406, Family Code.

If any person described by subsections (3), (4), or (5) above who views the recording believes that the recording documents a possible violation of district or school policy, the person may allow access to the recording to appropriate legal and human resources personnel. A recording

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believed to document a possible violation of district or school policy relating to the neglect or abuse of a student may be used as part of a disciplinary actions against district or school personnel and shall be released at the request of the student’s parent in a legal proceeding.

If Seguin ISD determines that the recording is an “education record,” Seguin ISD 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: the superintendent, the assistant superintendent of administrative services, the director of special education, the assistant superintendent of technology, the network administrator and network assistant.

Section 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 Seguin ISD and/or to request to view a recording allowed by Section 8(1) above, a written “Incident Report Form,” attached to this policy, 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.

Section 10: Grievance Procedures

The special education dispute resolution procedures in 34 Code of Federal Regulations, §§300.151-300.153 and 300.504-300.515, do not apply to complaints alleging that Seguin ISD has failed to comply with TEC §29.022. Complaints alleging violations of Seguin ISD’s video surveillance obligations for special education settings under TEC §29.022 must be addressed through Seguin ISD’s student and parent complaint and grievance process, as adopted by the Board of Trustees. Complaints related to video and audio recordings under this policy shall be filed in accordance with board policy DGBA, FNG, or GF, as applicable, and may be appealed under Texas Education Code § 7.057, as applicable.

Seguin ISD, a parent, staff member, or an administrator may request an expedited review by the Texas Education Agency (“TEA”) of the district’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 Seguin ISD, 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 the district is likely to prevail on the issue under a full review by the TEA. If the TEA determines the Seguin ISD is not likely to prevail, the Seguin ISD must fully comply with the policy notwithstanding an appeal of the TEA’s decision. The TEA shall notify the requestor and the Seguin ISD, if Seguin ISD is not the requestor, of the TEA’s determination.

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Section 11: Funding

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

Section 12: No Waiver of Immunity

The requirements described by this policy do not:

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

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Seguin ISD

Request for the Installation of Video and Audio Recording Equipment

A parent, Trustee, or staff member, as defined by law and/or Seguin ISD policy, 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 Superintendent or designee. For more information, please see the Board Policy on Video Surveillance of Certain Special Education Settings. Board Policy EHBAF (LEGAL)(LOCAL)

1. Requestor's information:

Name (*print*): _____

Phone number: _____

Email address: _____

I am a (*check one*): _____ Parent _____ Trustee _____ Staff member

If a parent/guardian, child's name: _____

2. 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 Seguin ISD to conduct video and audio monitoring upon request.

Signature: _____ Date: _____

For Office Use Only

Received by: _____ Date: _____

Forwarded to Director of Special Education by: _____ Date: _____

Received in Special Education Dept. by _____ Date: _____

Request Validation by: _____ Date: _____

Request meets qualifications for audio and video recording ___ Yes ___ No

Parent contact by: _____ Date: _____

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Seguin ISD

Notice of Installation of Video and Audio Recording Equipment

Note: Before Seguin ISD installs video and audio recording equipment in a self-contained classroom or other special education setting as permitted under Education Code §29.022, Seguin ISD is required to provide written notice to all staff assigned to the applicable campus and to the parents of the students receiving special education services in the classroom or setting. For more information, please see the Board Policy on Video Surveillance of Certain Special Education Settings. . Board Policy EHBAF (LEGAL)(LOCAL)

Date

Campus Name _____

As required by law, this letter serves as notice that the campus has received a request to install and operate video and audio recording equipment in the following locations:

The sole purpose of video and audio monitoring is to promote the safety of students receiving special education services, and the recordings may not be used for any other purpose. Regular or continual monitoring of these recordings is prohibited.

Seguin ISD will maintain the footage from these recordings for at least six months, as required by law.

Please contact the Director of Special Education with any questions.

Name
Title
Phone Number

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Seguin ISD

Incident Report Form

To be completed by a parent or guardian, on behalf of a parent or guardian, or by an employee who notifies Seguin ISD 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 form, appropriate Seguin ISD personnel will begin viewing the footage recorded on the date(s) described below to determine any incident(s) as described below were recorded. If the recording documents an incident as defined by law, Seguin ISD will release, on 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, Seguin ISD may also be required by law to release the recording for viewing to individuals described in Board Policy on Video Surveillance of Certain Special Education Settings, including appropriate personnel or agents of the Department of Family and Protective Services and/or the State Board for Educator Certification. Board Policy EHBAF (LEGAL)(LOCAL)

Requester 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 witness(es): _____

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

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I am requesting to view the applicable recording: _____ Yes _____ No

I hereby certify that the information I have provided is true, correct, and complete to the best of my knowledge and belief. I further acknowledge and agree that I am aware of my legal obligation to report suspected abuse or neglect to the appropriate authorities, as described in Subchapter B, Chapter 261 of the Texas Family Code.

Signature: _____ Date: _____

Printed Name: _____

Return to your campus or the Special Education Department, 1221 E. Kingsbury.

For Office Use Only

Received by: _____ Date: _____

Forwarded to Director of Special Education by: _____ Date: _____

Received in Special Education by _____ Date: _____

Incident _____ confirmed _____ not confirmed

By: _____ Date: _____

Attorney Notified by: _____ Date: _____

Date of video viewing appoint with Requester _____

Requester notified by _____ Date _____