

## HARRIS COUNTY DEPARTMENT OF EDUCATION INCIDENT REPORT AND REQUEST TO VIEW VIDEO RECORDING

Pursuant to Section 29.022 of the Texas Education Code (“TEC”), in addition to certain eligible parents and employees described in the TEC, the following individuals may request to view a video recording of a self-contained classroom or other special education setting:

1. appropriate **Texas Department of Family and Protective Services (“TDFPS”) personnel** as part of an investigation under TFC § 261.406;
2. the following individuals, in response to a report of an alleged Incident OR an investigation of district or school personnel OR a report of alleged abuse committed by a student:
  - a. **a peace officer;**
  - b. **a school nurse;**
  - c. **a district or school administrator** trained in de-escalation and restraint techniques;
  - d. **a Human Resources Staff Member** designated by the Board; and
3. appropriate **TEA or State Board for Educator Certification personnel or agents** as part of an investigation.

**Human Resources Staff Member**, pursuant to Board Policy EHBAF (Local), includes the Superintendent, a principal, an assistant principal or other campus administrator, and any supervisory position within the Department’s human resources office.

**Incident**, as defined in Texas Administrative Code § 103.1301(b)(9), means an event or circumstance that:

- involves alleged:
  - abuse of a student by a district employee;
  - neglect of a student by a district employee;
  - physical abuse of a student by another student; or
  - sexual abuse 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.

**Abuse**, as defined in Texas Family Code § 261.001(1), means the following acts or 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;
- causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child’s growth, development, or psychological functioning;
- physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent, guardian, or managing or possessory conservator that does not expose the child to a substantial risk of harm;
- failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
- sexual conduct harmful to a child’s mental, emotional, or physical welfare, including conduct that constitutes the offense of continuous sexual abuse of young child or children under Section 21.02, Penal Code, indecency with a child under Section 21.11, Penal Code, sexual assault under Section 22.011, Penal Code, or aggravated sexual assault under Section 22.021, Penal Code;
- failure to make a reasonable effort to prevent sexual conduct harmful to a child;
- compelling or encouraging the child to engage in sexual conduct as defined by Section 43.01, Penal Code, including compelling or encouraging the child in a manner that constitutes an offense of trafficking of persons under Section 20A.02(a)(7) or (8), Penal Code, prostitution under Section 43.02(b), Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code;

- causing, permitting, encouraging, engaging in, or allowing the photographing, filming, or depicting of the child if the person knew or should have known that the resulting photograph, film, or depiction of the child is obscene as defined by Section 43.21, Penal Code, or pornographic;
- the current use by a person of a controlled substance as defined by Chapter 481, Health and Safety Code, in a manner or to the extent that the use results in physical, mental, or emotional injury to a child;
- causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code;
- causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code; or
- knowingly causing, permitting, encouraging, engaging in, or allowing a child to be trafficked in a manner punishable as an offense under Section 20A.02(a)(5), (6), (7), or (8), Penal Code, or the failure to make a reasonable effort to prevent a child from being trafficked in a manner punishable as an offense under any of those sections.

**Neglect**, as defined in Texas Family Code § 261.001(4), means the following acts or omissions:

- placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child;
- failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child;
- the failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused;
- placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child; or
- placing a child in or failing to remove the child from a situation in which the child would be exposed to acts or omissions that constitute abuse under Subdivision (1)(E), (F), (G), (H), or (K) committed against another child; or
- the failure by the person responsible for a child's care, custody, or welfare to permit the child to return to the child's home without arranging for the necessary care for the child after the child has been absent from the home for any reason, including having been in residential placement or having run away.

Neglect does not include the refusal by a person responsible for a child's care, custody, or welfare to permit the child to remain in or return to the child's home resulting in the placement of the child in the conservatorship of the Department of Family and Protective Services if:

- the child has a severe emotional disturbance;
- the person's refusal is based solely on the person's inability to obtain mental health services necessary to protect the safety and well-being of the child; and
- the person has exhausted all reasonable means available to the person to obtain the mental health services described above.

**Physical Abuse**, as defined in Texas Family Code § 261.410(1), means the following acts or omissions:

- Physical injury that results in substantial harm to the child requiring emergency medical treatment; or
- Failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child.

**Sexual Abuse**, as defined in TFC § 261.410(2), means the following acts or omissions:

- sexual conduct harmful to a child's mental, emotional, or physical welfare; or
- failure to make a reasonable effort to prevent sexual conduct harmful to a child.

### **Requesting Video Surveillance**

A parent, assistant principal, or staff member may request video surveillance by submitting Form A1 to the campus principal of the campus addressed in the request.

A Board trustee or Principal may request video surveillance by submitting Form A1 to the Department's SB1398 Administrator, Dr. Charles Ned.

An approved request for video surveillance is only valid for the current school year. The school will notify the parents of each student in the classroom or setting under video surveillance, no later than the 10th day before the end of the school year, that the operation of the requested video camera(s) will not continue during the following school year unless the person eligible to make a request for the next school year submits a new request.

### **Access to Video Recordings**

Video recordings are confidential and may only be viewed by certain individuals to the extent not limited by FERPA. An individual may not view the recordings if prohibited to do so by FERPA, even if that individual is eligible to view the recording pursuant to TEC § 29.022. For example, a principal may only request to view video surveillance for his or her campus; a parent may only view recordings directly related to their child.

### **Video Retention Period**

HCDE shall retain video recordings for at least three months after the date the video was recorded.

If a person requests to view a video recording from a video camera, HCDE 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 or campus shall retain the recording until the alleged incident has been resolved, including the exhaustion of all appeals.

### **Procedures for Approved Requests to Access Video Recordings**

Form E directs the requestor to contact HCDE to schedule a viewing appointment if a Request to Access Video Recordings is approved. Video recordings will be made available at a location designated by HCDE Monday through Friday between 8:00 a.m. and 4 p.m. or at another mutually agreed-upon time.

As it pertains to viewing video recordings, the following rules will apply:

- The right to access video recordings in certain circumstances does not equate to the right to receive a copy of the video recording(s). For the purposes of these procedures, "access" shall mean the right to view the video recording(s).
- An HCDE representative (principal and/or HCDE administrator) must be always present during the viewing.
- No person other than the requestor and HCDE representative may be present.
- **Recording is strictly prohibited while viewing.** The HCDE representative will monitor for unauthorized recording during the viewing.

HARRIS COUNTY DEPARTMENT OF EDUCATION  
INCIDENT REPORT AND REQUEST TO VIEW VIDEO RECORDING

Incident reports should be filed with HCDE’s SB 1398 Administrator as soon as possible. If possible, incident reports should be filed no later than 48 hours after the event or circumstance giving rise to the allegation.

Name: \_\_\_\_\_

Email address: \_\_\_\_\_

Phone number: \_\_\_\_\_

Employer/Agency: \_\_\_\_\_

I am  / am not  requesting to view a video recording in connection with my report (please check one).

I am (please check one and attach a copy of appropriate credentials/documentation of status):

Appropriate **Texas Department of Family and Protective Services (“TDFPS”) personnel** requesting as part of an investigation under TFC § 261.406; parent

One of the following individuals, requesting in response to a report of an alleged Incident OR an investigation of district or school personnel OR a report of alleged abuse committed by a student:

- a. **a peace officer;**
- b. **a school nurse;**
- c. **a district or school administrator** trained in de-escalation and restraint techniques;
- d. **a Human Resources Staff Member** designated by the Board; or

Appropriate **TEA or State Board for Educator Certification personnel or agents** requesting as part of an investigation.

**Location of the self-contained classroom or other special education setting where the alleged Incident occurred:**

\_\_\_\_\_

\_\_\_\_\_

**Date and time of the alleged Incident (please be specific and identify the date and time within a 48-hour window, if possible):**

\_\_\_\_\_

\_\_\_\_\_

**Please describe the investigation, Incident, or report giving rise to your request and the name of any staff member/employee or student that may be involved (please attach additional pages if necessary):**

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Please provide any additional information that you would like to share in connection with your report/request:

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Badge Number or other official identification number, if applicable (please attach a copy):

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I attest that I am authorized to view the requested video recording under Section 29.022, Texas Education Code, and Section 103.1301, Texas Administrative Code.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Please submit the completed Form D1 to HCDE's SB 1398 Administrator. HCDE will contact you regarding the status of your report/request.

**For HCDE Internal Use Only – To be completed by SB 1398 Administrator:**

Date completed Form D1 received by SB 1398 Administrator: \_\_\_\_\_

Copy of badge/other official identification is attached:  Yes  No: \_\_\_\_\_

This request is:  Approved  Denied

\_\_\_\_\_  
SB 1398 Administrator Signature

\_\_\_\_\_  
Date of Approval/Denial