

September 28, 2016

**TO THE ADMINISTRATOR ADDRESSED:**

**SUBJECT: Guidance from Texas Attorney General Regarding Senate Bill 507, 84th Texas Legislature**

In March 2016, the Texas Education Agency (TEA) sought guidance from the Texas Attorney General regarding the proper construction of Texas Education Code, §29.022, as enacted by Senate Bill 507, 84<sup>th</sup> Texas Legislature. Specifically, TEA asked the following questions.

1. Can section 29.022(a) reasonably be construed to mean that a request for video surveillance only requires that video surveillance be conducted in one self-contained instructional setting?
2. If your response to question 1 is “no,” can the statute reasonably be construed to allow a requestor to limit his or her request for video surveillance to one or more specific instructional settings? For example, if a parent’s request reflects that the parent only wants video surveillance in his or her child’s classroom, would it be permissible for the school district or charter school to only place and operate video cameras in that specific classroom?
3. Can the term “staff member” in section 29.022 reasonably be construed to mean only a campus employee who is assigned to a self-contained instructional setting described in the statute and certain campus employees with supervisory authority, such as a principal and assistant principal?
4. Can section 29.022(b) reasonably be construed to allow a school district or charter school to discontinue video surveillance in a self-contained instructional setting if the circumstances surrounding the request have changed substantially (e.g., the student whose parent requested video surveillance is no longer assigned to the classroom or has left the campus or district, the teacher who requested video surveillance is no longer assigned to the classroom, the term of office of the trustee who requested video surveillance has ended, etc.)?

While the opinion request was pending, TEA adopted rules relating to section 29.022 and advised the public that it would modify the rules, as necessary, upon receipt of the Texas Attorney General's opinion. On September 13, 2016, the Texas Attorney General issued his opinion, which is available at <https://texasattorneygeneral.gov/opinions/opinions/51paxton/op/2016/kp0113.pdf>.

The Texas Attorney General answered each of TEA’s questions in the negative. Based on the Texas Attorney General’s opinion that the definition of “staff member” in TEA’s rules is more restrictive than the plain language in the statute, TEA will propose revisions to the definition as well as propose several minor edits for purposes of clarity. TEA’s rules did not address the number of instructional settings affected by a single request for video surveillance (Questions 1 and 2) or state that video surveillance could be discontinued if the circumstances surrounding the request change (Question 4). Therefore, there is no need to modify the rules with regard to these issues.

To the extent that a school district or open-enrollment charter school has adopted policies that are inconsistent with the Texas Attorney General's opinion, it would be well advised to revise the policies consistent with the opinion.

Sincerely,

Monica Martinez  
Associate Commissioner  
Standards and Support Services