

The Texas Education Agency (TEA) adopts an amendment to §103.1301, concerning video surveillance of certain special education settings. The amendment is adopted without changes to the proposed text as published in the October 31, 2025 issue of the *Texas Register* (50 TexReg 7093) and will not be republished. The adopted amendment replaces the term "self-contained classroom" with "special education classroom" and clarifies the definitions for classroom settings in accordance with House Bill (HB) 2 and Senate Bill (SB) 568, 89th Texas Legislature, Regular Session, 2025.

**REASONED JUSTIFICATION:** Section 103.1301 establishes criteria for video surveillance of special education settings.

HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, updated Texas Education Code (TEC), §29.022, to replace the term "self-contained classroom" with "special education classroom" and add a definition for "special education classroom or other special education setting."

The adopted amendment implements HB 2 and SB 568 by aligning terminology and clarifying in subsection (b)(4) the definition of a special education classroom or other special education setting.

In addition, a cross reference to 19 TAC §89.1053, Procedures for Use of Restraint and Time-Out, is added, and the reference to another administrative rule has been updated.

**SUMMARY OF COMMENTS AND AGENCY RESPONSES:** The public comment period on the proposal began October 31, 2025, and ended December 1, 2025. Following is a summary of public comments received and agency responses.

**Comment:** An administrator commented in support of the proposed amendment to change terminology from "self-contained classroom" to "special education classroom" but expressed concern that the amendment would increase the number of classrooms subject to the requirements. The commenter stated that the additional cameras would not be funded by the state and would be costly for school districts. The commenter disagreed that the Texas School for the Deaf, the Texas School for the Blind and Visually Impaired, the Texas Juvenile Justice Department, and any other state agency that provides special education and related services to students are not subject to the requirements in TEC, §29.022. Finally, the commenter noted that the retention period in §103.1301(g)(13) should be increased from 3 months to 12 months.

**Response:** The agency disagrees that the transition from the term "self-contained classroom" to "special education classroom" alters or increases the types of classrooms required to have cameras. Under TEC, §29.022, a special education classroom is defined as a classroom or setting primarily used for delivering special education services to students who spend on average less than fifty percent of an instructional day in a general education classroom or setting. The agency also disagrees that the rule should apply to the Texas School for the Deaf, the Texas School for the Blind and Visually Impaired, the Texas Juvenile Justice Department, and any other state agency that provides special education and related services to students. There is no language in TEC, §29.022, reflecting that it applies to the state agencies that operate educational programs. The commenter's concerns related to the retention period for recordings are outside of the scope of the proposed rulemaking.

**STATUTORY AUTHORITY.** The amendment is adopted under TEC §29.022, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025, which establishes criteria for video surveillance of special education settings. TEC, §29.022(k), allows the commissioner of education to adopt rules to implement and administer the section, including rules regarding the special education classrooms and other special education settings to which the section applies.

**CROSS REFERENCE TO STATUTE.** The amendment implements TEC, §29.022, as amended by HB 2 and SB 568, 89th Texas Legislature, Regular Session, 2025.

<rule>

### **§103.1301. Video Surveillance of Special Education Settings.**

- (a) Requirement to implement. In order to promote student safety, on written request by a parent, school district board of trustees, governing body of an open-enrollment charter school, principal, assistant principal, or staff member, as authorized by Texas Education Code (TEC) §29.022(a-1), a school district or an open-enrollment charter school must provide video equipment to campuses in accordance with TEC, §29.022, and this section. Campuses that receive video equipment must place, operate, and maintain video cameras in special education classrooms or other special education settings in accordance with TEC, §29.022, and this section.
- (b) Definitions. For purposes of TEC, §29.022, and this subchapter, the following terms have the following meanings.
  - (1) "Parent" means a person described in TEC, §26.002, whose child receives special education and related services in one or more special education classrooms or other special education settings. Parent also means a student who receives special education and related services in one or more special education classrooms or other special education settings and who is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Texas Family Code, Chapter 31, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order.
  - (2) "Staff member" means a teacher, a related service provider, a paraprofessional, a counselor, or an educational aide assigned to work in a special education classroom or other special education setting.
  - (3) "Open-enrollment charter school" means a charter granted to a charter holder under TEC, §12.101 or §12.152, identified with its own county district number.
  - (4) "Special education classroom" or "other special education setting" means a classroom or other setting on a regular school campus (i.e., a campus that serves students in general education and students receiving special education services) or on a separate campus (i.e., a campus that serves only students receiving special education services) of a school district or an open-enrollment charter school in which a majority of the students in regular attendance spend on average less than 50% of their instructional day in a general education classroom or setting.
  - (5) "Video camera" means a video surveillance camera with audio recording capabilities.
  - (6) "Video equipment" means one or more video cameras and any technology and equipment needed to place, operate, and maintain video cameras as required by TEC, §29.022, and this section. Video equipment also means any technology and equipment needed to store and access video recordings as required by TEC, §29.022, and this section.
  - (7) "Incident" means an event or circumstance that:
    - (A) involves alleged "abuse" or "neglect," as those terms are described in Texas Family Code, §261.001, of a student by a staff member of the school district or charter school 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
    - (B) allegedly occurred in a special education classroom or other special education setting in which video surveillance under TEC, §29.022, and this section is conducted.
  - (8) "School business day" means a day that campus, school district, or open-enrollment charter school administrative offices are open.
  - (9) "Time-out" has the meaning assigned by TEC, §37.0021.
- (c) Exclusions. A school district or an open-enrollment charter school is not required to provide video equipment to a campus of another district or charter school or to a nonpublic school. In addition, the Texas School for the Deaf, the Texas School for the Blind and Visually Impaired, the Texas Juvenile Justice

Department, and any other state agency that provides special education and related services to students are not subject to the requirements in TEC, §29.022, and this section.

- (d) Use of funds. A school district or an open-enrollment charter school may solicit and accept gifts, grants, and donations from any person to implement the requirements in TEC, §29.022, and this section. A district or charter school 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, and this section.
- (e) Dispute resolution. 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 a school district or an open-enrollment charter school has failed to comply with TEC, §29.022, and/or this section. Complaints alleging violations of TEC, §29.022, and/or this section must be addressed through the district's or charter school's local grievance procedures or other dispute resolution channels.
- (f) Regular school year and extended school year services. TEC, §29.022, and this section apply to video surveillance during the regular school year and during extended school year services.
- (g) Policies and procedures. Each school district board of trustees and open-enrollment charter school governing body must adopt written policies relating to the placement, operation, and maintenance of video cameras under TEC, §29.022, and this section. At a minimum, the policies must include:
  - (1) a statement that video surveillance is for the purpose of promoting student safety in special education classrooms and other special education settings;
  - (2) information on how a person may appeal an action by the school district or open-enrollment charter school 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 §103.1303 of this title (relating to Commissioner's Review of Actions Concerning Video Cameras in Special Education Settings) and the appeals process under TEC, §7.057;
  - (3) a requirement that the school district or open-enrollment charter school provide a response to a request made under this section not later than the seventh school business day after receipt of the request by the person to whom it must be submitted under TEC, §29.022(a-3), that authorizes the request or states the reason for denying the request;
  - (4) except as provided by paragraph (6) of this subsection, a requirement that a school or campus begin operation of a video camera in compliance with this section 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 unless the Texas Education Agency (TEA) grants an extension of time;
  - (5) a provision permitting the 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 under this section to make a request for the video camera by the later of:
    - (A) the date on which the current school year ends; or
    - (B) the 10th school business day after the date of the placement determination by the admission, review, and dismissal committee;
  - (6) a requirement that, if a request is made by a parent in compliance with paragraph (5) of this subsection, unless TEA grants an extension of time, a school or campus begin operation of a video camera in compliance with this section not later than the later of:
    - (A) the 10th school day of the fall semester; or
    - (B) 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;
  - (7) the procedures for requesting video surveillance and the procedures for responding to a request for video surveillance;

- (8) the procedures for providing advanced written notice to the campus staff and the parents of the students assigned to a special education classroom or other special education setting that video and audio surveillance will be conducted or cease in the classroom or setting, including procedures for notice, in compliance with TEC, §29.022(b), of the opportunity to request continued video and audio surveillance if video and audio surveillance will otherwise cease;
  - (9) a requirement that video cameras be operated at all times during the instructional day when one or more students are present in a special education classroom or other special education setting in which video cameras are placed;
  - (10) a statement regarding the personnel who will have access to video equipment or video recordings for purposes of operating and maintaining the equipment or recordings;
  - (11) a requirement that a campus continue to operate and maintain any video camera placed in a special education classroom or other special education setting for as long as the classroom or setting continues to satisfy the requirements in TEC, §29.022(a), for the remainder of the school year in which the school or campus received the request, unless the requestor withdraws the request in writing;
  - (12) a requirement that video cameras placed in a special education classroom or other special education setting be capable of recording video and audio of all areas of the classroom or setting, except that no visual monitoring of bathrooms and areas in which a student's clothes are changed may occur. Incidental visual coverage of the inside of a bathroom or any area of the classroom or other special education setting in which a student's clothes are changed is permitted only to the extent that such coverage is the result of the layout of the classroom or setting. Audio recording of the inside of a bathroom or any area of the classroom or other special education setting in which a student's clothes are changed is required;
  - (13) a statement that video recordings must be retained for at least three months after the date the video was recorded and that video recordings will be maintained in accordance with the requirements of TEC, §29.022(e-1), when applicable;
  - (14) a statement that the regular or continual monitoring of video is prohibited and that video recordings must not be used for teacher evaluation or monitoring or for any purpose other than the promotion of student safety;
  - (15) at the school district's or open-enrollment charter school's discretion, a requirement that campuses post a notice at the entrance of any special education classroom or other special education setting in which video cameras are placed stating that video and audio surveillance are conducted in the classroom or setting;
  - (16) the procedures for reporting an allegation to the school district, charter school, or school that an incident occurred in a special education classroom or other special education setting in which video surveillance under TEC, §29.022, and this section is conducted;
  - (17) the local grievance procedures for filing a complaint alleging violations of TEC, §29.022, and/or this section; and
  - (18) a statement that video recordings made under TEC, §29.022, and this section are confidential and a description of the limited circumstances under which the recordings may be viewed.
- (h) Confidentiality of video recordings. A video recording made under TEC, §29.022, and this section is confidential and may only be released and/or viewed by the following individuals, to the extent permitted or required by TEC, §29.022(i), and to the extent not limited by the Family Educational Rights and Privacy Act of 1974 (FERPA) or other law:
- (1) a staff member or a parent of a student involved in an incident described in subsection (b)(7) of this section that is documented by a video recording for which an incident has been reported to the district, charter school, or school;
  - (2) appropriate Texas Department of Family and Protective Services personnel as part of an investigation under Texas Family Code, §261.406;

- (3) a peace officer, school nurse, or administrator of a school district, charter school, or school trained in de-escalation and restraint techniques as provided by §89.1053 of this title (relating to Procedures for Use of Restraint and Time-Out), or a human resources staff member designated by the school district's board of trustees or open-enrollment charter school's governing body in response to a report or an investigation of an incident described in subsection (b)(7) of this section; or
  - (4) appropriate TEA or State Board for Educator Certification personnel or agents as part of an investigation.
- (i) Exception to restrictions on viewing. 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 does not violate subsection (h) of this section.
- (j) Child abuse and neglect reporting. If a person described in subsection (h)(3) or (4) of this section views a video recording and has cause to believe that the recording documents possible abuse or neglect of a child under Texas Family Code, Chapter 261, the person must submit a report to the Texas Department of Family and Protective Services or other authority in accordance with the local policy adopted under §103.1401 of this title (relating to Reporting Child Abuse or Neglect, Including Trafficking of a Child) and Texas Family Code, Chapter 261.
- (k) Disciplinary actions and legal proceedings. If a person described in subsection (h)(2), (3), or (4) of this section views a video recording and believes that it documents a possible violation of school district, open-enrollment charter school, or campus policy, the person may allow access to the recording to appropriate legal and human resources personnel of the district or charter school to the extent not limited by FERPA or other law. A recording believed to document a possible violation of school district, open-enrollment charter school, or campus policy relating to the neglect or abuse of a student may be used in a disciplinary action against district or charter school personnel and must be released in a legal proceeding at the request of a parent of the student involved in the incident documented by the recording. A recording believed to document a possible violation of school district, open-enrollment charter school, or campus policy relating to the neglect or abuse of a student must be released for viewing by the district or charter school employee who is the subject of the disciplinary action at the request of the employee.
- (l) Access rights. Subsections (j) and (k) of this section do not limit the access of a student's parent to an educational record of the student under FERPA or other law. To the extent any provisions in TEC, §29.022, and this section conflict with FERPA or other federal law, federal law prevails.