CAMERAS IN THE CLASSROOM:
LIGHTS! CAMERA! ACTION!

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WHY ARE WE REQUIRED TO PUT UP CAMERAS?

- T.E.C. 29.022 is the law that requires it.
- It applies to regular school year and ESY.
- The purpose is to promote student safety.
- Not the ARD committee’s business; has nothing to do with FAPE
WHEN DO WE HAVE TO INSTALL THE CAMERAS?

- Cameras must be installed upon request.
- After required notice to staff and parents.
WHO CAN MAKE A REQUEST?

Statute allows any parent, staff member or trustee to make the request for cameras.

But Commissioner’s Rule defines “parent” as the parent of a student who receives special ed and related services for at least 50% of the day in the type of classroom to which the law applies. 19 T.A.C. 103.1301(b)(1).

The Rule defines “trustee” as a member of the board or of the charter’s governing body. 19 T.A.C. 103.1301(b)(3).

Commissioner’s Rules define “staff member” as limited to “a teacher, related service provider, paraprofessional, or educational aide assigned to work in the self-contained classroom or other special education setting. Staff member also includes the principal or assistant principal of the campus at which the self-contained classroom or other special education setting is located.” 19 T.A.C. 103.1301(b)(2).

But WAIT! The Attorney General has spoken...
The plain language of subsection 29.022(a) authorizes a “staff member” to make a request for the installation of video equipment. Tex. Educ. Code § 29.022(a). As the sponsors of the bill enacting that section have recognized, section 29.022 provides “no explicit direction on the scope of the term ‘staff member’ as it pertains to who can request a camera.” Lucio Brief at 2. While they urge a narrow construction of the term that “precludes staff from requesting cameras in classrooms or on campuses with which they have no connection,” nothing in the language of section 29.022 itself creates this limitation on who qualifies as a staff member. Id. at 3. A common understanding of the word “staff” is “all the people employed by a particular organization.” New Oxford American Dictionary 1695 (3d ed. 2010). A rule defining “staff member” more narrowly than the common understanding imposes additional restrictions in excess of the plain language used in the statute. A court addressing the definition of “staff member” in this context would therefore likely conclude that TEA has exceeded its rulemaking authority by adopting a definition more restrictive than the plain language of the statute.
WHERE DO WE PUT THEM?

- The law applies only in a “self-contained classroom” or “other special education setting.”

- Self-contained: “a classroom on a regular school campus (i.e., a campus that serves 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: 43, 44, 45, 84, 85, 89, 94, 95, or 98.”

- Are the majority of the kids in regular attendance in that classroom within the PEIMS codes that the rules identify? If so, that’s a “self-contained classroom.”
Other Special Education Setting is “A classroom on a separate campus (i.e., a campus that serves only students who receive special education and related services)” where “a majority of the students in regular attendance” are coded as:

A. Residential care and treatment facility—separate campus; or
B. Off-home campus—separate campus. 19 T.A.C. 103.1301(b)(6).

PEIMS codes: 86 or 96.

19 T.A.C. 103.1301(b)(5).
Question for the AG: Does the request only trigger installation in one classroom or all the self-contained settings in the school district or charter school?
The plain language of subsection 29.022(a) requires a school district or open-enrollment charter school to, upon request, “provide equipment, including a video camera, to each school . . . in which a student who receives special education services in a self-contained classroom or other special education setting is enrolled.” Tex. Educ. Code § 29.022(a) (emphasis added).

Furthermore, schools receiving equipment pursuant to such a request must place a video camera “in each self-contained classroom or other special education setting” that meets the requirements of the statute. Id. The common understanding of the word “each” is “[e]very one of a group considered individually.” American Heritage College Dictionary 439 (4th ed. 2002); see Jaster v. Comet II Constr., Inc., 438 S.W.3d 556, 563 (Tex. 2014) (explaining that courts give meaning). Nothing in the plain language of section 29.022 suggests that a parent, trustee, or staff member’s request is limited to or results in the provision of equipment to only a single classroom. To the contrary, the Legislature has required that upon receiving a request, a school district shall provide the equipment not to a single classroom but “to each school in the district” providing students special education services. Tex. Educ. Code § 29.022(a). Each school receiving equipment must, in turn, place, operate, and maintain a camera in “each self-contained classroom or other special education setting.” Id. Were TEA to construe subsection 29.022(a) otherwise, it would contravene the plain language of the statute.³
WHAT MUST THE CAMERA DO?

- Be capable of recording video of the classroom, but not bathroom or changing area.
- Be capable of recording audio in the entire classroom, bathroom, changing area.
- Store audio and video for six months.
HOW CAN WE USE THE RECORDING?

- Basic rule: the video may only be viewed by a school employee or parent of a student “involved in an incident” that is “documented by video recording for which a complaint has been reported” to the school.

- Incident: alleged abuse or neglect of a student by an employee; or alleged physical or sexual abuse of a student by another student that allegedly occurred in the self-contained classroom or other special education setting.

- 19 T.A.C. 103.1301(b)(9).

- Others who can have access:
  - DFPS, TEA, SBEC in conjunction with an investigation; or
  - A “peace officer, school nurse, administrator trained in de-escalation and restraint techniques….or a HR staff member designated” by the board in response to a complaint or an investigation of an “incident.” 19 T.A.C. 103.1301(h).
HOW NOT TO USE THE RECORDING

- Recording cannot be continuously monitored
- Cannot use for teacher evaluation
- Recordings are confidential and cannot be released except pursuant to this law.
- But FERPA is a trump card. If parents are entitled to access under FERPA, they must be provided access. 19 T.A.C. 103.1301(k).
- Operating Guidelines can clarify this.
WHAT POLICIES MUST BE CONSIDERED?

- The Rules require adoption of policies that address at least 13 issues.
- Look at TASB Policy EHBAF In Update 106.
- You may want to adopt Operating Guidelines to address issues in more detail.
Subsection 29.022(b) allows a school to discontinue operation and maintenance of a camera if a setting in which the camera has been placed is no longer a “self-contained classroom or other special education setting in which a majority of the students in regular attendance are: (1) provided special education and related services; and (2) assigned to a self-contained classroom or other special education setting for at least 50 percent of the instructional day.”

Very truly yours,

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