

March 11, 2016

The Honorable Ken Paxton  
Attorney General of Texas  
Attention Opinion Committee  
Post Office Box 12548  
Austin, Texas 78711-2548

**Re: Request for Expedited Opinion Regarding Texas Education Code Section 29.022**

Dear General Paxton:

I am writing to ask for your opinion regarding the proper construction of Texas Education Code section 29.022, as enacted by Senate Bill 507, 84<sup>th</sup> Texas Legislature. The new section 29.022 requires video surveillance of certain special education settings upon request beginning with the 2016-2017 school year. Because the Texas Education Agency (TEA) needs to provide guidance and adopt rules as soon as possible, I would appreciate an expedited opinion.<sup>1</sup>

By way of background, the introduced bill required that on request by a parent, trustee, or staff member, a school district or open-enrollment charter school<sup>2</sup> provide video equipment to each campus in the district or charter school with a self-contained classroom.<sup>3</sup> The bill further required that each campus that received such equipment place and maintain a video camera in a classroom in which the only students in regular attendance are students with disabilities who are eligible to take alternative state assessments and who are nonverbal or have limited communication ability, except that a video camera could not be placed in a classroom if a parent of a student in the classroom objected.<sup>4</sup> The sponsor's statement of intent reflects that the purpose of the bill is to deter incidences of abuse against vulnerable non-verbal children while also protecting special education teachers from unfounded claims of misconduct.<sup>5</sup>

Senate Bill 507 was amended during both the Senate and House floor debates. After the Senate refused to concur in the House amendments, the bill was assigned to a conference committee. The conference committee report was adopted by both chambers on May 31, 2015. The enacted bill bears some significant differences from the introduced bill.<sup>6</sup> Most notably, the enacted bill requires video surveillance in self-contained instructional settings in which a majority of the students receive special education

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<sup>1</sup>Section 29.022(k) grants the commissioner the authority to adopt rules to implement and administer the section.

<sup>2</sup>The terms "open-enrollment charter school" and "charter school" refer to a public school operated by a charter holder under charter granted by the State Board of Education or the commissioner. A charter school may operate one campus or multiple campuses. See 19 TEX. ADMIN. CODE §100.1001.

<sup>3</sup>A "self-contained classroom" is defined as a classroom on a regular campus (i.e., a campus that serves both students in general education and in special education) in which students receive special education services for 50 percent or more of the regular school day. See 19 TEX. ADMIN. CODE §89.63(c)(6). Similar classrooms can also be found on separate campuses (i.e., campuses that only serve students who receive special education services). See 19 TEX. ADMIN. CODE §89.63(c)(7)(C). In this letter, TEA collectively refers to these classrooms as "self-contained instructional settings."

<sup>4</sup>A copy of the introduced version of Senate Bill 507 is attached at **Tab 1**. Senate Bill 507 was similar to a bill introduced during the 83rd legislative session (i.e., Senate Bill 1380) that was passed by the Senate but not voted on by the House. The text of Senate Bill 1380 is available at <http://www.legis.state.tx.us/billlookup/text.aspx?LegSess=83R&Bill=SB1380>.

<sup>5</sup>The *Author's/Sponsor's Statement of Intent* is attached at **Tab 2**.

<sup>6</sup>The enrolled version of Senate Bill 507 is attached at **Tab 3**.

services for at least 50 percent of the instructional day, not just self-contained classrooms comprised of students who are eligible to take alternative assessments and who have little or no communication ability. In addition, the enacted bill does not include a provision allowing parents to object to the placement of video cameras in their children's classrooms. And finally, the enacted bill contains a requirement that a campus that places a video camera in a classroom or setting must continue to operate and maintain the camera in the classroom or setting "as long as the classroom or setting continues to satisfy the requirements under [section 29.022(a)]."

Stakeholders have expressed that portions of the bill are unclear or subject to varying interpretations and are eager for TEA to provide clarification through rulemaking. For instance, section 29.022(a) provides that a "staff member" may request video surveillance but the term is not defined in the statute. Some contend that the term should be narrowly construed so that only a teacher or teacher assistant assigned to a self-contained instructional setting can request video surveillance. At the other end of the spectrum are those who maintain that any campus or district employee should be allowed to request surveillance.

Furthermore, stakeholders disagree as to the number of self-contained instructional settings affected by a request for video surveillance. Section 29.022(a) states as follows:

- (a) In order to promote student safety on request by a parent, trustee, or staff member, a school district or open enrollment charter school shall provide equipment, including a video camera, to each school in the district or each charter school campus in which a student who receives special education services in a self-contained classroom or other special education setting is enrolled. Each school or campus that receives equipment shall place, operate, and maintain one or more video cameras in each 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.

Some stakeholders assert that the intent of the bill is for a request to trigger video surveillance in a single self-contained instructional setting, while others contend that the language in the bill reflects that a request requires that video surveillance be conducted in all of the self-contained instructional settings in the district or charter school. Significantly, a representative of Disability Rights Texas, the federally designated legal protection and advocacy agency for people with disabilities in Texas and a proponent of the bill, recently provided written testimony at a legislative hearing that supports the "one request equals one classroom" position:

There has been some discussion about how broadly a request for cameras applies – whether just to the individual classroom or beyond. Although there are mixed feelings on this question, it appears to us that most parents trust that the parents of students in other classrooms are in the best position to judge whether cameras are needed there. It would seem reasonable for TEA to interpret SB 507 that when parents of a student with a disability ask for video monitoring, they are speaking only to the need of the room where their child is assigned.<sup>7</sup>

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<sup>7</sup>See attached *Statement of Disability Rights Texas* at Tab 4. Steven Aleman of Disability Rights Texas also provided live testimony during the hearing of the Senate Education Committee referenced in footnote 9.

Though TEA is aware that case law and previous Attorney General opinions advise that post-enactment statements of legislators are not entitled to probative weight in construing a statute,<sup>8</sup> for purposes of full disclosure, TEA notes that the sponsors of Senate Bill 507, as well as members of the Senate Education Committee, have made post-enactment statements of their intent. Specifically, the legislators have asserted that the intent was for one request to trigger video surveillance in one instructional setting.<sup>9</sup>

Some stakeholders have also requested clarification regarding the interpretation of section 29.022(b) which states that a campus must continue to operate and maintain the camera in a classroom as long as the classroom continues to satisfy the requirements of section 29.022(a). Specifically, school officials have asked whether video surveillance in an instructional setting must continue even if the student whose parent requested video surveillance is no longer assigned to that instructional setting or has withdrawn from the district or charter school.

My specific questions are as follows:

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.)?

With regard to questions 1 and 2, the legislative history surrounding Senate Bill 507 appears to be silent as to the "one classroom versus each classroom" issue. The literal text in section 29.022(a) appears to require that a request triggers the placement of one or more video cameras in each self-contained

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<sup>8</sup>See, e.g., *In re Doe*, 19 S.W.3d 346, 352 (Tex. 2000)("[C]ourts construing statutory language should give little weight to post-enactment statements by legislators. Explanations produced, after the fact, by individual legislators are not statutory history, and can provide little guidance as to what the legislature collectively intended.")(citations omitted); *Gen. Chem. Corp. v. De La Lastra*, 852 S.W.2d 916, 923 (Tex. 1993)("[T]he intent of an individual legislator, even a statute's principal author, is not legislative history controlling the construction to be given a statute."). See also Tex. Att'y Gen. Op. No. GA-0283 (2004) at 6; Tex. Att'y Gen. Op. No. GA-0016 (2003) at 6; Tex. Att'y Gen. Op. No. JC- 0567 (2002) at 7.

<sup>9</sup>See attached letter dated October 1, 2015, from State Senator Eddie Lucio, Jr. and State Representative Senfronia Thompson at Tab 5. In addition, members of the Senate Education Committee urged TEA staff during a recent hearing to adopt rules reflecting that a request for video surveillance requires the placement of video cameras in a single classroom. The audio recording of the February 10, 2016 hearing is available at <http://www.senate.state.tx.us/avarchive/>. The discussion of Senate Bill 507 begins at approximately 2:20:16.

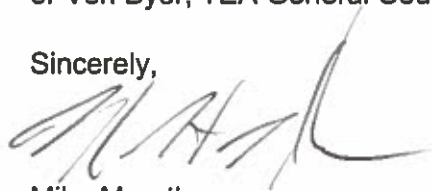
instructional setting in the school district or charter school. A strict construction of the statute, however, would create quite an anomaly in that other provisions in the Texas Education Code that afford an individual the right to request an action do not require that the district or charter school implement the requested action across the district or charter school for all similarly situated individuals. In addition, applying a strict construction of the statute will likely result in unintended financial hardships on school districts and open-enrollment charter schools. According to school officials, the estimates that they have received reflect that the costs of purchasing, installing, and operating video equipment in each self-contained instructional setting and of storing video recordings for at least six months will be substantial and will require them to divert scarce educational resources.<sup>10</sup> If it is not inconsistent with the statute, it would be beneficial if a parent, trustee, or staff member were permitted to designate the specific setting or settings in which video surveillance is desired.

Regarding question 3, TEA finds no indication that there was a legislative intent for any district or campus employee to be allowed to request video surveillance. Accordingly, we are considering proposing a rule that defines the term "staff member" for purposes of section 29.022(a) as employees who are assigned to a self-contained instructional setting and certain campus employees with supervisory authority.

As for question 4, the legislative history does not reveal the legislative intent of section 29.022(b). The intent may be to keep the cameras in place for virtual perpetuity, or it may simply be to prevent school districts and charter schools from disabling or removing cameras from a setting when the requestor still wants video surveillance. While a student who receives special education services may be assigned to the same self-contained instructional setting for multiple school years, at some point the student's educational placement will change. The student may transition to a less restrictive educational environment, may move to another self-contained classroom, or may move up to the next grade-level campus. In any event, if the original requestor no longer has a valid interest in having video cameras in the self-contained classroom and no other parent, trustee, or staff member has an interest in continued surveillance, it seems sensible to allow the school district or charter school the discretion to use the video cameras as it sees fit.

Thank you for your consideration of these matters. Because school districts and charter schools need to begin planning for the 2016-2017 school year very soon, we hope that your office will accommodate our request for an expedited opinion. If you need any additional information, please feel free to contact me or Von Byer, TEA General Counsel, at (512) 463-9720.

Sincerely,



Mike Morath  
Commissioner of Education

Enclosures

MM/mb

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<sup>10</sup>While the fiscal notes estimated that an inexpensive camera with limited-quality video or audio would cost \$150, school districts have estimated that most classrooms will require more than one camera and that the initial costs of purchasing the necessary equipment and software will be between \$3,000 and \$5,000 per classroom.

84R186 JSL-D

By: Lucio

S.B. No. 507

A BILL TO BE ENTITLED

AN ACT

relating to the placement of video cameras in self-contained classrooms providing special education services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 26.009(b), Education Code, is amended to read as follows:

(b) An employee of a school district is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used only for:

(1) purposes of safety, including the maintenance of order and discipline in common areas of the school or on school

buses;

(2) a purpose related to a cocurricular or extracurricular activity;

(3) a purpose related to regular classroom instruction;

[~~ex~~]

(4) media coverage of the school; or

(5) a purpose related to the promotion of student safety under Section 29.022.

SECTION 2. Subchapter A, Chapter 29, Education Code, is amended by adding Section 29.022 to read as follows:

Sec. 29.022. VIDEO SURVEILLANCE OF CLASSROOMS. (a) In order to promote student safety on request by a parent, trustee, or staff member, a school district or open-enrollment charter school shall provide equipment, including a video camera, to each school in the district or each charter school campus in which a student receiving special education services in a self-contained classroom is enrolled. Each school or campus that receives equipment shall

place and maintain the video camera in a self-contained classroom in which the only students in regular attendance:

(1) are eligible to take an alternative assessment instrument under Section 39.023(b) or would be eligible to take an alternative assessment instrument under Section 39.023(b) if the students were enrolled in a grade level for which an assessment instrument required under Section 39.023 is administered; and

(2) are nonverbal or have a limited ability to communicate as those terms are defined by the agency.

(b) Video cameras placed under this section must be capable of:

(1) covering all areas of the classroom, except that a bathroom or any area in the classroom in which a student's clothes are changed may not be monitored; and

(2) recording audio from all areas of the classroom covered as required by Subdivision (1).

(c) Before a school or campus places a video camera in a

classroom under this section, the school or campus shall provide written notice of the placement to the parents of a student receiving special education services in the classroom. For purposes related to this section, but subject to Subsection (d), parental consent is not required.

(d) A school district or open-enrollment charter school may not place a video camera in the classroom of a student whose parent sends to the district or school a written objection to the placement of a camera not later than the 30th day after the date on which the district or school sends the notice required under Subsection (c).

(e) A school district or open-enrollment charter school shall retain video recorded from a camera placed under this section for at least one year after the date the video was recorded.

(f) A school district or open-enrollment charter school may solicit and accept gifts, grants, and donations from any person for use in placing video cameras in classrooms under this section.



(g) This section does not:

(1) waive any immunity from liability of a school district or open-enrollment charter school, or of district or school officers or employees; or

(2) create any liability for a cause of action against a school district or open-enrollment charter school or against district or school officers or employees.

(h) A school district or open-enrollment charter school may not:

(1) allow regular or continual monitoring of video recorded under this section; or

(2) use video recorded under this section for teacher evaluation or for any other purpose other than the promotion of safety of students receiving special education services in a self-contained classroom.

(i) A video recording of a student made according to this section is confidential and may not be released or viewed except by

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appropriate Department of Family and Protective Services personnel as part of an investigation under Section 261.406, Family Code. This subsection does not limit the access of a student's parent to a record regarding the student under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or other law.

SECTION 3. This Act applies beginning with the 2016-2017 school year.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

**BILL ANALYSIS**

Senate Research Center  
84R186 JSL-D

S.B. 507  
By: Lucio  
Education  
4/20/2015  
As Filed

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Every instance of abuse and bullying in school is unacceptable. Unfortunately, when the victim is a nonverbal special needs student, such incidents often go unreported. With their victims unable to speak for themselves and with no way to prove the abuse, those who would prey on these most vulnerable children frequently continue their abusive behavior with no fear of repercussion. In these instances, video footage of misconduct can serve as a child's only cry for help.

To ensure the safety interests of these children, S.B. 507 affords them the opportunity for special protection by placing cameras in their classrooms under very limited circumstances. The presence of cameras only in the self-contained, unique learning environments of nonverbal students may deter incidences of abuse against these vulnerable children, and also protect special education teachers from unfounded claims of misconduct. As filed, S.B. 507 includes the necessary safeguards to ensure that video footage will only be used to ensure the safety of special needs children, and not to scrutinize innocent educators (e.g., the footage can only be accessed under very narrow circumstances, and can only be used as part of an investigation by the Department of Family and Protective Services into allegations of abuse).

As proposed, S.B. 507 amends current law relating to the placement of video cameras in self-contained classrooms providing special education services.

**RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution or agency.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 26.009(b), Education Code, as follows:

(b) Provides that an employee of a school district is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used only for certain purposes, including for a purpose related to the promotion of student safety under Section 29.022. Makes nonsubstantive changes.

SECTION 2. Amends Subchapter A, Chapter 29, Education Code, by adding Section 29.022, as follows:

Sec. 29.022. VIDEO SURVEILLANCE OF CLASSROOMS. (a) Requires a school district or open-enrollment charter school to provide equipment, including a video camera, to each school in the district or each charter school campus in which a student receiving special education services in a self-contained classroom is enrolled in order to promote student safety on request by a parent, trustee, or staff member. Requires each school or campus that receives equipment to place and maintain the video camera in a self-contained classroom in which the only students in regular attendance:

(1) are eligible to take an alternative assessment instrument under Section 39.023(b) or would be eligible to take an alternative assessment instrument under Section 39.023(b) (requiring the Texas Education Agency (TEA) to develop or

adopt an appropriate criterion-referenced alternative assessment instruments to be administered to a student in a certain special education program) if the students were enrolled in a grade level for which an assessment instrument required under Section 39.023 (Adoption and Administration of Instruments) is administered; and

(2) are nonverbal or have a limited ability to communicate as those terms are defined by TEA.

(b) Requires that video cameras placed under this section be capable of:

(1) covering all areas of the classroom, except that a bathroom or any area in the classroom in which a student's clothes are changed may not be monitored; and

(2) recording audio from all areas of the classroom covered as required by Subdivision (1).

(c) Requires the school or campus to provide written notice of the placement to the parents of a student receiving special education services in the classroom, before a school or campus places a video camera in a classroom under this section. Provides that parental consent is not required for purposes related to this section, but subject to Subsection (d).

(d) Prohibits a school district or open-enrollment charter school from placing a video camera in the classroom of a student whose parent sends to the district or school a written objection to the placement of a camera not later than the 30th day after the date on which the district or school sends the notice required under Subsection (c).

(e) Requires a school district or open-enrollment charter school to retain video recorded from a camera placed under this section for at least one year after the date the video was recorded.

(f) Authorizes a school district or open-enrollment charter school to solicit and accept gifts, grants, and donations from any person for use in placing video cameras in classrooms under this section.

(g) Provides that this section does not:

(1) waive any immunity from liability of a school district or open-enrollment charter school, or of district or school officers or employees; or

(2) create any liability for a cause of action against a school district or open-enrollment charter school or against district or school officers or employees.

(h) Prohibits a school district or open-enrollment charter school from:

(1) allowing regular or continual monitoring of video recorded under this section; or

(2) using video recorded under this section for teacher evaluation or for any other purpose other than the promotion of safety of students receiving special education services in a self-contained classroom.

(i) Provides that a video recording of a student made according to this section is confidential and is prohibited from being released or viewed except by appropriate Department of Family and Protective Services (DFPS) personnel as part of an investigation under Section 261.406 (Investigations in Schools), Family Code. Provides that this subsection does not limit the access of a student's parent to a record regarding the student under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or other law.

SECTION 3. Provides that this Act applies beginning with the 2016-2017 school year.

SECTION 4. Effective date: upon passage or September 1, 2015.

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AN ACT

relating to the placement and use of video cameras in self-contained classrooms or other settings providing special education services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 26.009(b), Education Code, is amended to read as follows:

(b) An employee of a school district is not required to obtain the consent of a child's parent before the employee may make a videotape of a child or authorize the recording of a child's voice if the videotape or voice recording is to be used only for:

(1) purposes of safety, including the maintenance of order and discipline in common areas of the school or on school buses;

(2) a purpose related to a cocurricular or extracurricular activity;

(3) a purpose related to regular classroom instruction;  
[ex]

(4) media coverage of the school; or

(5) a purpose related to the promotion of student safety under Section 29.022.

SECTION 2. Subchapter A, Chapter 29, Education Code, is amended by adding Section 29.022 to read as follows:

Sec. 29.022. VIDEO SURVEILLANCE OF SPECIAL EDUCATION SETTINGS. (a) In order to promote student safety on request by a parent, trustee, or staff member, a school district or open-enrollment charter school shall provide equipment, including a video camera, to each school in the district or each charter school campus in which a student who receives special education services in a self-contained classroom or other special education setting is enrolled. Each school or campus that receives equipment shall place, operate, and maintain one or more video cameras in each

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.

(b) A school or campus that places a video camera in a classroom or other special education setting in accordance with Subsection (a) shall operate and maintain the camera in the classroom or setting as long as the classroom or setting continues to satisfy the requirements under Subsection (a).

(c) Video cameras placed under this section must be capable of:

- (1) covering all areas of the classroom or other special education setting, except that the inside of a bathroom or any area in the classroom or setting in which a student's clothes are changed may not be visually monitored; and

- (2) recording audio from all areas of the classroom or



other special education setting.

(d) Before a school or campus places a video camera in a classroom or other special education setting under this section, the school or campus shall provide written notice of the placement to all school or campus staff and to the parents of a student receiving special education services in the classroom or setting.

(e) A school district or open-enrollment charter school shall retain video recorded from a camera placed under this section for at least six months after the date the video was recorded.

(f) A school district or open-enrollment charter school may solicit and accept gifts, grants, and donations from any person for use in placing video cameras in classrooms or other special education settings under this section.

(g) This section does not:

(1) waive any immunity from liability of a school district or open-enrollment charter school, or of district or school officers or employees; or

(2) create any liability for a cause of action against a

school district or open-enrollment charter school or against district or school officers or employees.

(h) A school district or open-enrollment charter school may not:

(1) allow regular or continual monitoring of video recorded under this section; or

(2) use video recorded under this section for teacher evaluation or for any other purpose other than the promotion of safety of students receiving special education services in a self-contained classroom or other special education setting.

(i) A video recording of a student made according to this section is confidential and may not be released or viewed except as provided by this subsection or Subsection (j). A school district or open-enrollment charter school shall release a recording for viewing by:

(1) a school district employee or a parent or guardian of a student who is involved in an incident documented by the recording for which a complaint has been reported to the district,

on request of the employee, parent, or guardian, respectively;

(2) appropriate Department of Family and Protective Services personnel as part of an investigation under Section 261.406, Family Code;

(3) a peace officer, a school nurse, a district 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 of the school district or the governing body of the open-enrollment charter school in response to a complaint or an investigation of district or school personnel or a complaint of abuse committed by a student; or

(4) appropriate agency or State Board for Educator Certification personnel or agents as part of an investigation.

(j) If a person described by Subsection (i)(3) or (4) 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 Subsection (i) (2), (3), or (4) 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 believed to document a possible violation of district or school policy may be used as part of a disciplinary action against district or school personnel and shall be released at the request of the student's parent or guardian in a legal proceeding. This subsection does not limit the access of a student's parent to a record regarding the student under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g) or other law.

(k) The commissioner may adopt rules to implement and administer this section, including rules regarding the special education settings to which this section applies.

SECTION 3. Subchapter E, Chapter 42, Education Code, is amended by adding Section 42.2528 to read as follows:

Sec. 42.2528. EXCESS FUNDS FOR VIDEO SURVEILLANCE OF SPECIAL

EDUCATION SETTINGS. (a) Notwithstanding any other provision of law, if the commissioner determines that the amount appropriated for the purposes of the Foundation School Program exceeds the amount to which school districts are entitled under this chapter, the commissioner by rule shall establish a grant program through which excess funds are awarded as grants for the purchase of video equipment, or for the reimbursement of costs for previously purchased video equipment, used for monitoring special education classrooms or other special education settings required under Section 29.022.

(b) In awarding grants under this section, the commissioner shall give highest priority to districts with maintenance and operations tax rates at the greatest rates permitted by law. The commissioner shall also give priority to:

(1) districts with maintenance and operations tax rates at least equal to the state maximum compressed tax rate, as defined by Section 42.101(a), and lowest amounts of maintenance and operations tax revenue per weighted student; and

(2) districts with debt service tax rates near or equal to the greatest rates permitted by law.

(c) The commissioner may adopt rules to implement and administer this section.

SECTION 4. (a) Subject to the availability of funds, the commissioner of education shall distribute grant funds in accordance with Section 42.2528, Education Code, as added by this Act, beginning with the 2015-2016 school year.

(b) The change in law made by Section 29.022, Education Code, as added by this Act, applies beginning with the 2016-2017 school year.

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2015.

S.B. No. 507

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President of the Senate

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Speaker of the House

I hereby certify that S.B. No. 507 passed the Senate on May 11, 2015, by the following vote: Yeas 24, Nays 7; May 28, 2015, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 29, 2015, House granted request of the Senate; May 31, 2015, Senate adopted Conference Committee Report by the following vote: Yeas 21, Nays 10.

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Secretary of the Senate

I hereby certify that S.B. No. 507 passed the House, with amendments, on May 27, 2015, by the following vote: Yeas 132, Nays 12, two present not voting; May 29, 2015, House granted request of the Senate for appointment of Conference Committee;

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May 31, 2015, House adopted Conference Committee Report by the following vote: Yeas 140, Nays 0, three present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor





2222 West Braker Lane  
Austin, Texas 78758  
MAIN OFFICE 512.454.4816  
TOLL-FREE 800.315.3876  
FAX 512.302.4936

Statement of Disability Rights Texas  
Senate Education Committee  
February 10, 2016

Disability Rights Texas is the federally designated legal protection and advocacy agency for people with disabilities in Texas. Our mission is to advocate, protect and advance the legal, human and service rights of people with disabilities. Thank you for this opportunity to submit comments on Senate Bill 507, signed into law by Governor Abbott on June 19, 2015.

As you know, SB 507 strives to help protect the most vulnerable students in Texas schools, students with disabilities in our most segregated settings – self-contained special education classrooms. The bill deploys common technology already in use in other parts of the campus as a safeguard. When this Committee held its hearing on SB 507 almost a year ago, too many stories of anguish and pain were told and relived. You heard about the anguish and pain that students with disabilities suffered from physical and emotional abuse, illegal restraints, and injuries in Texas public schools. You heard about the anguish and pain of parents having to learn terrible news. All of the members of the Committee were touched by those stories and pledged that this state would take action. The enactment of SB 507, we know, is not a silver bullet. It will not magically stop all horrible things that have happened and do happen. But it is a bold step and a tool that parents of children with disabilities value.

Today we identify five concerns from the family perspective as we move toward implementation of SB 507, starting late this summer as the 2016-2017 school year gets underway.

First, parents most appreciate that this legislation creates independent evidence that can corroborate an allegation or complaint that something wrong has happened. Of course, no parent wants to find herself in this situation but if there is suspicion of inappropriate conduct, let's get to the truth as best possible. So parents want to make sure they have access to the recording. The bill does make reference to the federal Family Educational Rights and Privacy Act or FERPA. Our reading of that language is that these recordings should be considered education records, protected as confidential, viewed by others on an as-needed basis only, and that parents have a right to inspect and review. While some redaction of information might be necessary, it should be limited and the original recording of an incident should always be preserved. The Texas Education Agency (TEA) in its rulemaking should clarify and reaffirm the right of access for parents.

Second, parents have been patient and understand that schools need time to plan for the law. Starting this fall the expectation is that schools will respond to a parental request for the installation of a camera in a timely manner. We anticipate that districts already have begun, or will begin very soon, surveying and inspecting all their self-contained classrooms to identify any complicating factors so that should a request be received in the 2016-17 school year, that is not the first time the district is figuring out how coverage of all required areas will be accomplished. SB 507 does not contain a timeline requirement for installation once the school receives a camera request. We trust that TEA will be monitoring the timeliness of the process from request to camera operation. Parents should have a mechanism to voice concerns about undue delay.

Third, a complaint is the triggering action that results in review and utilization of the recordings. Those complaints can be made not only by parents but by others at the campus as well. SB 507 does not specifically address the process for a parent to make a complaint. Parents and others who may make a complaint will benefit from a uniform process across all school districts and open-enrollment charter schools. Some school districts have spoken of creating complaint forms. Certainly some details will be needed to initiate the process. However, it would be unfair if schools were not to recognize a complaint from a family merely because they did not fill out the right form. If a school receives information clearly indicating that a parent is making a complaint, then that should be sufficient to start the investigation and review process. Also, though parents no doubt will raise a complaint as soon as they believe something inappropriate might have happened to their child, there is effectively a six month limitations period for making a complaint since at that point schools no longer have to retain the recording. No district should be permitted to impose a shorter deadline for submitting a complaint.

Fourth, the legislation authorizes others to have access to these recordings. This includes district personnel as well as officials from state agencies such as the State Board for Educator Certification. If anyone looks at a recording or the recording is forwarded to an investigating agency, then a procedural requirement for notification of parents is only fair and should be part of the new TEA regulations. SB 507 speaks to parents having a right of access if a teacher is suspected of violating a district policy. How will the parent know and how soon? It is in the best interest of families for the state to have a uniform rule for how these circumstances are handled.

Fifth, parents worry about the well-being of not only their child but also about the well-being of their child's classmates. That being said, when parents speak up about requesting a camera, the primary concern is about the classroom where their son or daughter is being served for the majority of the day, not all of the other special education classrooms of the school district or open-enrollment charter school. There has been some discussion about how broadly a request for cameras applies – whether just to the individual classroom or beyond. Although there are mixed feelings on this question, it appears to us that most parents trust that the parents of students in other classrooms are in the best position to judge whether cameras are needed there. It would seem reasonable for TEA to interpret SB 507 that when parents of a student with a disability ask for video monitoring, they are speaking only to the need of the room where their child is assigned.

We do not see any of these issues as insurmountable. With open dialogue among stakeholders, reasonable solutions can be crafted. As you know, the regulatory process through TEA is underway.

In closing, we would be remiss if we did not add that as important as SB 507 is, it is just a first step. Attention to state training and experience requirements for teachers and aides in segregated special education settings, state dissemination of evidence-based curricula and practices, and a state emphasis on inclusion and making self-contained classrooms obsolete might all together do more for these children than big brother watching from above.

Thank you for your attention to the safety and well-being of students with disabilities. Disability Rights Texas looks forward to continuing to keep you informed on implementation of this legislation.

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October 1, 2015

Commissioner Michael Williams  
Texas Education Agency  
1701 N. Congress Ave.  
Austin, TX 78701

Dear Commissioner Williams:

As you know, the 84th Legislature passed Senate Bill 507 in order to offer additional protection in classrooms which serve vulnerable Texas students with special needs. The bill requires school districts to place closed-circuit cameras in certain classrooms which service this student population upon the request of a parent or staff member.

In developing SB 507, we worked with numerous stakeholders, including school districts and special education advocates, to ensure a workable solution to this urgent issue. With sensitivity to the significant financial impact that the bill carries to school districts, the scope was limited to classrooms for which a parent or school staff member requests a camera. However, as written, the bill does not clearly address the number of classrooms affected by a single request.

As the authors of SB 507, we wish to provide legislative intent. **A request by a teacher or parent/guardian to install cameras requires installation only in the classroom where the teacher offers instruction or the child/dependent attends class.** This ensures protections in special education environments while responsibly containing costs for large districts.

Districts have reported they are earnestly preparing for the implementation of SB 507, but are finding it difficult to do so without explicit guidance on this and other issues. TEA can clarify these concerns through rulemaking, and we **urge the agency to begin this process as soon as possible to give stakeholders an opportunity to offer input and to give school districts guidance as they work to conform to the law.**

Thank you for your consideration, and for your service to our public schools.

Sincerely,

Handwritten signature of Eddie Lucio, Jr.

Eddie Lucio, Jr.  
State Senator

Handwritten signature of Senfronia Thompson.

Senfronia Thompson  
State Representative