

FORM D

FORT BEND INDEPENDENT SCHOOL DISTRICT INCIDENT COMPLAINT AND REQUEST TO ACCESS VIDEO SURVEILLANCE

Pursuant to Section 29.022, Texas Education Code ("TEC") under limited circumstances, the following individuals may access video recordings from a self-contained classroom or other special education setting:

- (1) a staff member involved in an incident that is documented by a video recording for which a complaint has been reported to the District;
- (2) other school district employees involved in an incident documented by a video recording for which a complaint has been reported to the District;
- (3) a parent of a student involved in an incident that is documented by a video recording for which a complaint has been reported to the District;

The complaint must involve an event or circumstance involving alleged: (a) abuse of a student by a school district employee; (b) neglect of a student by a school district employee; (c) physical abuse of a student by another student; or (d) sexual abuse of a student by another student; and the event or circumstance must have allegedly occurred in a self-contained classroom or other special education setting in which video surveillance is conducted.

"Parent" means:

- a person described in TEC § 26.002, whose child receives special education and related services for at least 50% of the instructional day in a self-contained classroom or other special education setting; or
- a student who receives special education and related services for at least 50% of the instructional day in a self-contained classroom or other special education setting and 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.

"Staff member" means:

- a teacher, related service provider, paraprofessional, or educational aide assigned to work in a self-contained classroom or other special education setting; or
- the principal or an assistant principal of the campus at which a self-contained classroom or other special education setting is located.

"Incident" means:

- An event or circumstance that:
 - involves alleged "abuse" or neglect," as those terms are described in Texas Family Code ("TFC") § 261.001, of a student by an employee of the school district or charter school or alleged "physical abuse" or "sexual abuse," as those terms are described in TFC § 261.410, of a student by another student; and
 - allegedly occurred in a self-contained classroom or other special education setting in which video surveillance under TEC § 29.022 and 19 T.A.C. § 103.1301.

"Abuse" means:

- As defined in TFC § 261.001(1), the following acts or omissions by a school district employee:
 - 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;

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- 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" means:

- the following acts or omissions by a school district employee:
 - 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

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- 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 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" means:

- 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" means:

- 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.

To file an Incident Complaint and Request to Access Video Recordings, please complete the form set forth on pages 4-5 according to the form's instructions.

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Requestor's Name: _____

According to the above definitions, I qualify as a:

- ☐ *Parent of a student involved in an incident that is documented by a video recording.*
If a parent, please provide your student's name and campus below:
- ☐ _____
Student's name
- ☐ _____
Student's campus and location of video surveillance
- ☐ *Staff member or other school district employee involved in an incident that is documented by a video recording.*

My complaint pertains to an event or circumstance involving alleged:

- ☐ Abuse of a student by a school district employee
☐ Neglect of a student by a school district employee
☐ Physical Abuse of a student by another student
☐ Sexual Abuse of a student by another student

Location of alleged incident: _____

Please describe with specificity the nature of your complaint:

Date/ timeframe you believe the incident occurred: _____

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Requestor's email address: _____

Requestor's phone number: _____

Signature: _____

Date: _____

**Send completed forms to the Executive Director of Special Education via email at
Deena.Hill@fortbendisd.com.**

The District will contact you regarding the status of your complaint/request.