



# TCSA Model Board Policy Series

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400.100. IDEA Policies & Procedures

## **INTRODUCTION**

The Model Board Policies for Charter Schools is a series of publications by the Texas Charter Schools Association (TCSA). These publications are an educational tool for charter school leaders to aid in the operation and management of open-enrollment charter schools in Texas.

### **Overall Policy Framework**

Each module in the Board Policy Series provides a summary of federal and state statutes, regulations, and related materials applicable to open enrollment charter schools. Citations to these materials are provided throughout the module and many contain a hyperlink so the actual statutory or regulatory provision can be accessed on the Internet. The summary is designated by the LEGAL AUTHORITY tab on the right edge of each page.

After the LEGAL AUTHORITY portion of the module you will find the model policy section designed to comply with current statutory and regulatory requirements described in the LEGAL AUTHORITY summaries. These policies are designated by the red CHARTER BOARD POLICY tab on the right edge of each page.

These are suggested policies to address the requirements set forth in this Module. Prior to adoption of the model policies by the Board of a charter school, each policy should be customized by including the school's name and by tailoring the language, if appropriate, to fit the specific needs, culture and requirements of the school. TCSA recommends that the Board of a charter school consult with and obtain the advice of the school's legal counsel in connection with adopting policies to comply with laws governing charter schools.

TCSA plans to update the Model Board Policies for Charter Schools after each Texas Legislative Session to reflect changes in applicable laws. We also will regularly and continually update the Policy Series when changes occur in state and federal case law and administration regulations that affect open enrollment charter schools. We encourage you to renew your subscription to the policy series each year to ensure that your school has the most recent laws and regulations.

### **Scope of Service & Copyright Notice**

This policy module prepared by the TCSA is designed and intended as a resource of information for charter schools and is not to be construed as legal advice. It should be used in connection with consulting and obtaining the advice of the school's legal counsel to ensure compliance with applicable legal requirements.

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## **Module 400: Students**

The Students Module 400, is the fourth module of the Model Board Policies. The material included in this module provides a comprehensive summary of statutes and regulations that apply to charter schools, as well as specific model board policies designed to comply with these legal requirements. Other policy modules in the series include:

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Module 100: Financial Operations

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Module 200: Charter School Governance & Organization

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Module 300: General School Operations

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Module 500: Open Government

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Module 600: Human Resources

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## **Legal Abbreviations Used In the TCSA Model Board Policy Series**

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Atty. Gen. Op.	Attorney General Opinion
C.F.R	Code of Federal Regulations
Tex. Admin. Code	Texas Administrative Code
Tex. Educ. Code	Texas Education Code
Tex. Gov't Code	Texas Government Code
Tex. Labor Code	Texas Labor Code
Tex. Loc. Gov't Code	Texas Local Government Code
U.S.C.A	United States Code Annotated

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## **400.100. IDEA POLICIES & PROCEDURES**

### **A. Assurance**

Pursuant to the Individuals with Disabilities in Education Act, open-enrollment charter schools must submit a plan to the Texas Education Agency that provides assurances that the open-enrollment charter school has in effect policies, procedures, and programs that are consistent with the State policies and procedures governing special education.

[20 U.S.C.A §1413\(a\)\(1\); 34 C.F.R. §§300.200 - .201.](#)

### **B. Regular Education Teacher IEP Review Request**

Each charter school must develop a process to be used by a teacher who instructs a student with a disability in a regular classroom setting:

1. to request a review of the student's individualized education program;
2. that provides for a timely response from the charter school to the teacher's request; and
3. that provides for notification to the student's parent or legal guardian of that response.

[Tex. Educ. Code §29.001\(11\).](#)

### **C. Video Surveillance of Special Education Settings**

1. Application
  - a. To promote safety, upon request of a parent, staff member, or member of the board of directors, the Texas Education Code §29.022 requires each open-enrollment charter school to place, operate, and maintain video cameras with audio recording capabilities in each self-contained classroom or other special education setting.
  - b. Video surveillance must be available during the regular school year and during extended school year (ESY) services.
  - c. An open-enrollment charter school may not allow regular or continual monitoring of the video recording.
  - d. A video recording made under Texas Education Code §29.022 may not be used for teacher evaluation or for any other purpose other than promotion of student safety.

[Tex. Educ. Code §29.022](#)

2. Funding

Charter schools cannot use any Individuals with Disabilities Education Act (IDEA), Part B, funds or state special education funds to implement TEC §29.022. Schools may solicit and accept gifts, grants, and donations from any person to implement these requirements.

[Tex. Educ. Code §29.022](#)

3. Definitions

a. Parent

A person standing in parental relation to the student or a student 18 years of age or older. Parent does not include a person as to whom the parent-child relationship has been terminated or a person not entitled to possession of or access to a child through court order.

[Tex. Educ. Code §26.002](#)

b. Staff Member

Any employee of the charter district.

[Attorney General Opinion, No. KP-0113](#)

c. Board Member

A member of an open-enrollment charter school's governing body.

d. Self-contained Classroom

A classroom on a regular school campus (i.e., a campus that serves students in general education and students in special education) of an open-enrollment charter school 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 adopted under Texas Administrative Code §129.1025 (relating to Adoption by Reference: Student Attendance Accounting Handbook)

i. Self-contained (mild/moderate/severe) regular campus;

ii. Full-time early childhood (preschool program for children with disabilities) special education setting;

iii. Residential care and treatment facility--self-contained (mild/moderate/severe) regular campus;

iv. Residential care and treatment facility--full-time early childhood special education setting;

v. Off home campus--self-contained (mild/moderate/severe) regular campus; or

vi. Off home campus--full-time early childhood special education setting.

e. Other Special Education Setting

Other special education setting means a classroom on a separate campus (i.e.,

a campus that serves only students who receive special education and related services) of an open-enrollment charter school 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 adopted under Texas Administrative Code §129.1025:

- i. Residential care and treatment facility--separate campus; or
  - ii. Off home campus--separate campus
- f. Video Camera  
A video surveillance camera with audio recording capabilities.
- g. Video Equipment  
One or more video cameras and any technology and equipment needed to place, operate, and maintain video cameras as required by TEC §29.022. Video equipment also means any technology and equipment needed to store and access video recordings as required by TEC §29.022.
- h. Incident  
An event or circumstance that:
- i. involves alleged "abuse" or "neglect," as those terms are described in Texas Family Code §261.001, of a student by an employee of the 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
  - ii. allegedly occurred in a self-contained classroom or other special education setting in which video surveillance under TEC §29.022 is conducted.

[Tex. Admin. Code §103.1301\(b\)](#)

4. Mandatory Policy

Each open-enrollment charter school must adopt a policy that includes the following:

- a. A statement that video surveillance is for the purpose of promoting student safety in certain self-contained classrooms and other special education settings;
- b. The procedures for requesting video surveillance and the procedures for responding to a request for video surveillance;
- c. The procedures for providing advanced written notice to the campus staff and the parents of the students assigned to a self-contained classroom or other special education setting that video and audio surveillance will be conducted in the classroom or setting;
- d. A requirement that video cameras be operated at all times during the instructional

- day when students are in the self-contained classroom or other special education setting;
- e. 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;
  - f. A requirement that a campus continue to operate and maintain any video camera placed in a self-contained classroom or other special education setting for as long as the classroom or setting continues to satisfy the requirements in TEC §29.022(a);
  - g. A requirement that video cameras placed in a self-contained classroom or other special education setting be capable of recording video and audio of all areas of the classroom or setting, except that no video surveillance may be conducted of the inside of a bathroom or other area used for toileting or diapering a student or removing or changing a student's clothes;
  - h. A statement that video recordings must be retained for at least six months after the date the video was recorded;
  - i. A statement that the regular or continual monitoring of video surveillance 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;
  - j. At the open-enrollment charter school's discretion, a requirement that campuses post a notice at the entrance of any self-contained 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;
  - k. The procedures for reporting a complaint alleging that an incident occurred in a self-contained classroom or other special education setting in which video surveillance under TEC §29.022 is conducted;
  - l. The local grievance procedures for filing a complaint alleging violations of TEC §29.022; and
  - m. A statement that video recordings made under TEC §29.022 are confidential and a description of the limited circumstances under which the recordings may be viewed.
5. Abuse and Neglect  
If a school officer, nurse, administrator, or human resource person designated to investigate a complaint of an incident has cause to believe that a recording documents possible abuse or neglect of a child under the Texas Family Code, Chapter 261, the person must submit a report to the Texas Department of Family and Protective Services.

[Tex. Admin. Code §103.1301\(i\)](#)

## 6. Video Access

- a. All video recordings made under TEC §29.022 are confidential and may only be viewed by the following:
  - i. Staff member or other charter school employee or parent of student involved in an incident documented by a video recording, which a complaint has been reported to the charter school;
  - ii. Appropriate Texas Department of Family and Protective Services personnel as part of an investigation under Texas Family Code §241.406;
  - iii. A peace officer, school nurse, administrator trained in de-escalation and restraining techniques as provided by commissioner rule, or a human resources staff member designated by the board of directors in response to a complaint or investigation of an incident;
  - iv. Appropriate TEA or SBOE Certification personnel or agents as part of an investigation.

### [Tex. Admin. Code §103.1301\(h\)](#)

- b. Disciplinary actions and legal proceedings
  - i. If a person views a recording and believes that it documents a possible violation of a charter school policy, the person may allow access to the recording to appropriate legal and human resources personnel of the charter school, consistent with FERPA or other confidentiality laws.
  - ii. A recording believed to document a violation of the charter school's policies may be used in a disciplinary action against school personnel and must be released in a legal proceeding at the request of a parent of the student involved in the incident of the recording.
  - iii. At the request of an employee, a recording believed to document a possible violation of the charter school's policies must be released for viewing to the employee subject to disciplinary action.

### [Tex. Admin. Code §103.1301\(j\)](#)

## 7. Immunity and Liability

Texas Education Code § 29.022 does not waive immunity from liability of a charter school, school officers, or employees; and does not create any liability for a cause of action against an open-enrollment charter school, school officers, or employees.

### [Tex. Educ. Code §29.022](#)