

## **BRILLANTE POLICY AND PROCEDURES FOR VIDEO SURVEILLANCE OF SPECIAL EDUCATION SETTINGS**

Pursuant to Section 29.022 of the Texas Education Code (“TEC”) and 19 § 103.1301 of the Texas Administrative Code (T.A.C.), the following procedures apply to the placement, operation, and maintenance of video cameras in certain special education settings:

### **I. GENERAL REQUIREMENTS**

#### **Governing Law**

Video surveillance of special education settings is subject to TEC § 29.022, 19 T.A.C. § 103.1301, Brillante Policy and Procedures for Video Surveillance of Special Education Settings. Nothing under these procedures limits the access of a student’s parent to an educational record regarding the student under the Family Educational Rights and Privacy Act of 1974 (“FERPA”) or other law. To the extent any provisions in TEC § 29.022, 19 T.A.C. § 103.1301, or Brillante Policy and Procedures for Video Surveillance of Special Education Settings conflict with FERPA or other federal law, federal law prevails.

#### **Purpose**

*Video surveillance is for the purpose of promoting student safety in certain self-contained classrooms and other special education settings.*

#### **Background**

On the request of an eligible parent, governing body, principal, assistant principal, or staff member, Brillante Academy must provide video equipment, including video cameras with audio recording capabilities, to campuses in accordance with TEC § 29.022 and 19 T.A.C. § 103.1301. Campuses that receive the equipment must place, operate, and maintain video cameras in certain self-contained classrooms or other special education settings. Video recordings are confidential and may only be accessed or viewed by certain individuals as defined by statute.

#### **Retention Requirements**

The TEC requires that Brillante Academy retain video recordings for at least three months after the date the video was recorded. Brillante Academy will retain video recordings on a rolling basis for three months after the date the recording was made.

In the event that an eligible request to view video recording is made, Brillante Academy shall retain video recordings subject to the request until the requester has viewed the recording and a determination has been made as to whether the recording documents an alleged Incident. If the recording documents an alleged Incident, Brillante Academy shall retain the recording until the alleged Incident has been resolved, including the exhaustion of all appeals.

In the event of disciplinary or legal proceedings, Brillante Academy shall retain video recordings subject to the proceeding until the proceeding has been resolved, including the exhaustion of all appeals.

*Brillante Academy may retain recordings for a longer period as required under TEC § 29.022 and 19 T.A.C. § 103.1301 and as otherwise deemed appropriate by Brillante Academy.*

### **Video Recordings as Governmental Record**

A video recording made in accordance with TEC § 29.022 is a governmental record only for purposes of § 37.10 of the Penal Code, Tampering with Governmental Record.

### **Liability for Non-Compliance**

TEC § 29.022 does not waive any immunity from liability of Brillante Academy , its officers, and its employees, nor does TEC § 29.022 create any liability for a cause of action against Brillante Academy , its school officers, or its employees.

Complaints regarding Brillante Academy 's implementation of TEC § 29.022 or 19 T.A.C. § 103.1301 must be addressed through Brillante Academy 's local grievance policies and procedures. By law, 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 Brillante Academy has failed to comply with TEC § 29.022 or 19 T.A.C. § 103.1301.

### **Definitions**

The following definitions apply when used in these procedures:

- A. *Parent*:
- A person, including a guardian or other person standing in parental relation to a student, described in TEC § 26.002, whose child receives special education and related services in one or more Self-Contained Classrooms or Other Special Education Settings; or
  - A person, including a guardian or other person standing in parental relation to a student, whose child will receive special education and related services in one or more Self-Contained Classrooms or Other Special Education Settings in the following school year; or
  - A student who:
    - receives special education and related services in one or more Self-Contained Classrooms or Other Special Education Settings; and
    - is 18 years of age or older or whose disabilities of minority have been removed for general purposes under Texas Family Code (TFC), Chapter 31, unless the student has been determined to be incompetent or the student's rights have been otherwise restricted by a court order.
- B. *Staff Member*: A teacher, related service provider, paraprofessional, counselor, or educational aide assigned to work in Self-Contained Classrooms or Other Special Education Settings.
- C. *Principal or Assistant Principal*: The principal or an assistant principal of the campus at which a Self-Contained Classroom or Other Special Education Setting is located.
- D. *Board*: The Brillante Academy Board of Directors.
- E. *Self-Contained Classroom*: A classroom on a regular Brillante Academy school campus (*i.e.*, a campus that serves students in general education and students in special education), including a room attached to the classroom used for time-out, but not including a classroom that is a resource room instructional arrangement under TEC 42.151, 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:

- a) self-contained (mild/moderate/severe) regular campus
- b) full-time early childhood (pre-school program for children with disabilities) special education setting;
- c) residential care and treatment facility, self-contained (mild/moderate/severe) regular campus;
- d) residential care and treatment facility, full-time early childhood special education setting;
- e) off home campus, self-contained (mild/moderate/severe) regular campus; or
- f) off home campus, full-time early childhood special education setting.

F. *Other Special Education Setting*: A classroom on a separate Brillante Academy campus (*i.e.*, a campus that serves only students who receive special education and related services), including a room attached to the classroom or setting used for time-out, 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:

- a) residential care and treatment facility, separate campus; or
- b) off home campus, separate campus.

G. *Video Camera*: A video surveillance camera with audio recording capabilities.

H. *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 and 19 T.A.C. § 103.1301.

I. *Incident*: An event or circumstance that:

- a) involves alleged “abuse” or “neglect,” as those terms are described in TFC § 261.001, of a student by an employee of Brillante Academy or alleged “physical abuse” or “sexual abuse,” as those terms are described in TFC § 261.410, of a student by another student; and
- b) 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 is conducted.

J. *Abuse*: As defined in TFC § 261.001(1), means the following acts or omissions by an Brillante Academy employee:

- a) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;
- b) 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;
- c) 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;
- d) 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;
- e) 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 disabled individual 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;
- f) failure to make a reasonable effort to prevent sexual conduct harmful to a child;

- g) 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, solicitation of prostitution under Section 43.021, Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code;
- h) 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;
- i) 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;
- j) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code;
- k) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code;
- l) 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; or
- m) forcing or coercing a child to enter into a marriage.

K. *Neglect*: As defined in TFC § 261.001(4), means the following acts or omissions by an Brillante Academy employee:

- a) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;
- b) 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;
- c) 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;
- d) 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;
- e) 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;
- f) 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;
- g) 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; or
- h) a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or

physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

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:

- a) the child has a severe emotional disturbance;
- b) 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
- c) the person has exhausted all reasonable means available to the person to obtain the mental health services described above.

L. *Physical Abuse*: As defined in the TFC § 261.410(1), means the following acts or omissions by another student:

- a) physical injury that results in substantial harm to the child requiring emergency medical treatment;  
or
- b) 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.

M. *District Business Day*: As defined in TEC § 29.022, means a day that the campus or Brillante Academy administrative offices are open.

N. *Sexual Abuse*: As defined in TFC § 261.410(2), means the following acts or omissions by another student:

- a) sexual conduct harmful to a child's mental, emotional, or physical welfare; or
- b) failure to make a reasonable effort to prevent sexual conduct harmful to a child.

O. *Time-Out*: As defined in TEC § 37.0021, means a behavior management technique in which, to provide an opportunity to regain self-control, the student is separated from other students for a limited period in a setting that is not locked and from which the exit is not physically blocked by furniture, a closed door held shut from the outside, or another inanimate object.

P. *Coordinating Administrator*: As required by TEC § 29.022, Brillante Academy has identified the Superintendent as the administrator at Brillante Academy's primary administrative office with responsibility for coordinating the provision of equipment to schools and campuses in compliance with TEC § 29.022 and 19 T.A.C. § 103.1301.

**Note:** *Any Brillante Academy representative to whom certain responsibilities are assigned under these procedures may, at his/her discretion, designate another Brillante Academy employee to perform such responsibilities.*

## II. REQUESTING VIDEO SURVEILLANCE

### **Who may Request**

A Parent, Board, Principal, Assistant Principal, or Staff Member may request video surveillance.

## **How to Request**

An eligible Parent, Staff Member, or Assistant Principal may request video surveillance by contacting the principal of the campus where the applicable Self-Contained Classroom or Other Special Education Setting is located.

An eligible Principal or the Board may request video surveillance by contacting the Superintendent.

The Superintendent will facilitate submission of the request through the appropriate channels within Brillante Academy .

In order to request video surveillance, the requester must complete Brillante Academy 's Form 1.1 (Request for Video Surveillance)<sup>1</sup> and submit the completed Form 1.1 (Request for Video Surveillance) to the Superintendent in accordance with the instructions found on the form.

*A request for video surveillance is only valid for the current school year. Operation of the requested video camera(s) shall be discontinued at the end of the current school year. If an eligible requester wishes to request video surveillance for a subsequent school year, the requester must submit a new request for video surveillance using Form 1.1 (Request for Video Surveillance).*

The completed Form 1.1 (Request for Video Surveillance) must be signed and must contain, at a minimum, the following information:

1. Name of requester;
2. Status of the requester (*i.e.*, Parent, Board, Principal, Assistant Principal, or Staff Member); and
3. Specific information identifying the Self-Contained Classroom or Other Special Education Setting subject to the request.

## **Eligibility for Video Surveillance**

Brillante Academy must provide Video Equipment, including one or more Video Cameras with audio recording capabilities, to campuses when requested to do so in accordance with TEC § 29.022 and 19 T.A.C. § 103.1301. To trigger Brillante Academy 's obligations, the following conditions must be met:

1. The requester must be a:
  - a. Parent;
  - b. Principal;
  - c. Assistant Principal;
  - d. Board; or
  - e. Staff Member; and
2. The location subject to the request must be a:
  - a. Self-Contained Classroom; or
  - b. Other Special Education Setting.

A Parent may request that equipment be provided to the school or campus at which the Parent's child receives special education services in one or more Self-Contained Classrooms or Other Special Education Settings. The

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<sup>1</sup> All forms referenced in these procedures may be found in the accompanying Appendix.  
Approved by the Board of Directors 10.18.24

Parent of a student whose admission, review, and dismissal committee (ARDC) has determined that the student's placement for the following school year will be in a Classroom/Setting in which a Video Camera may be placed under TEC § 29.022 may make a request for a Video Camera by the later of: (1) the date on which the current school year ends; or (2) the tenth (10th) District Business Day after the date of the placement determination by the ARDC.

A Staff Member assigned to work with one or more children receiving special education services in Self-Contained Classrooms or Other Special Education Settings may request that equipment be provided to the school or campus at which the Staff Member works.

If the District receives a request from a Parent or Staff Member, the District is required to place equipment only in Classrooms/Settings in which the Parent's child is in regular attendance or to which the Staff Member is assigned, as applicable.

A Principal or Assistant Principal of a school or campus at which one or more children receive special education services in Self-Contained Classrooms or Other Special Education Settings may request that equipment be provided to the Principal's or Assistant Principal's school or campus.

The Board may request that equipment be provided to one or more specified schools or campuses at which one or more children receive special education services in Self-Contained Classrooms or Other Special Education Settings.

If Brillante Academy receives a request from a Principal, Assistant Principal, or the Board, Brillante Academy is required to place equipment only in Classrooms/Settings identified by the requester, if the requester limits the request to specific Classrooms or Settings.

#### Exclusions

1. Brillante Academy has no obligation to provide Video Equipment to:
  - a. A campus of another district;
  - b. Another charter school; or
  - c. A non-public school.
  
2. In addition, the following are not subject to the requirements of TEC § 29.022:
  - a. The Texas School for the Deaf;
  - b. The Texas School for the Blind and Visually Impaired;
  - c. The Texas Juvenile Justice Department; and
  - d. Any other state agency that provides special education and related services to students.

#### **Duration of Surveillance Obligation**

A request for video surveillance, if approved, obligates Brillante Academy to provide video surveillance *for the current school year only*. A new request must be submitted to trigger Brillante Academy's obligations under law for any subsequent school year.

#### **District Steps upon Request for Video Surveillance**

Upon written receipt of a request for video surveillance;

1. The Superintendent shall convene a committee consisting of the appropriate campus principal and a representative of the Special Programs Department.
2. The committee will review the request to determine eligibility (*i.e.*, (i) whether the requester a Parent, Board, Principal, Assistant Principal, or Staff Member, and (ii) whether the requested classroom/setting meets the criteria for a Self-Contained Classroom or Other Special Education Setting).
3. If the requester chooses to withdraw the request, the Superintendent will provide Form 1.2 (Withdrawal of Request for Video Surveillance) to the requester to document withdrawal of the request.
4. Within seven District Business Days after the date of receipt noted on the completed Form 1.1 (Request for Video Surveillance), the Superintendent will send the requester written notice of Brillante Academy 's decision using Form 1.3 (Notification Regarding Request for Video Surveillance). The appropriate Regional Special Programs Director will be copied on the response to the requester.
5. After notice has been provided, unless TEA grants an extension of time, operation of the required equipment must begin not later than:
  - a. 45 District Business Days after the date of approval noted on the completed Form 1.3 (Notification Regarding Request for Video Surveillance); or
  - b. the first school day after the 45th District Business Day if that day is not a school day; or
  - c. in the instance of a Parent requester whose child will be placed in a qualifying Classroom/Setting for the following school year per the ARDC decision, the later of:
    - 1) the 10th school day of the fall semester; or
    - (1) the 45th District Business Day (or the first school day after the 45th District Business Day if that day is not a school day) after the date of the request.
6. The Superintendent shall provide a copy of the completed Form 1.1 (Request for Video Surveillance) and Form 1.3 (Notification Regarding Request for Video Surveillance) to the IT / Network Service Director to obtain any surveillance equipment and facilitate installation.
7. Upon receipt of the completed Form 1.1 (Request for Video Surveillance) and Form 1.3 (Notification Regarding Request for Video Surveillance), the IT / Network Service Director will assess the location of approved surveillance for placement of surveillance equipment.
8. The IT / Network Service Director will contact the campus principal upon the completion of installation of equipment.
9. Before activation of surveillance equipment begins, the campus principal shall send written notice of the placement to all school or campus staff and to the parents of students attending class or engaging in school activities in the Classroom/Setting using Form 1.4 (Notice of Video Surveillance). Brillante Academy may not activate the Video Equipment to record the Classroom/Setting until the notice is sent and ample time is allowed for its receipt.
10. When the requisite steps above have been completed, the campus principal will inform the IT / Network Service Director and request activation.
11. The campus principal shall post a Form 1.4 (Notice of Video Surveillance) at the entrance of any Classroom/Setting in which Video Cameras are placed stating that video and audio surveillance is conducted in the Classroom/Setting.
12. In the event a student enrolls or otherwise begins regular attendance in a Classroom/Setting with Video Cameras after the initial notice of surveillance has been sent, the campus principal shall provide written notice of video surveillance to the student's parent using Form 1.4 (Notice of Video Surveillance).

### **III. OPERATION AND MAINTENANCE**

#### **Equipment Specifications**



Upon request, Brillante Academy shall provide “equipment, including a video camera.” This means Brillante Academy must provide:

1. **Video Camera(s)** capable of:
  - a. recording audio from all areas of the Classroom or Setting, including a room attached to the Classroom or Setting used for Time-Out and the inside of a bathroom or any area in which a student’s clothes are changed; and
  - b. recording video from all areas of the Classroom or Setting, including a room attached to the Classroom or Setting used for Time-Out, but excluding the inside of the bathroom or areas where students’ clothes are changed,<sup>2</sup> and
2. **Video Equipment**, which includes:
  - a. one or more Video Cameras;
  - b. any technology and equipment needed to place, operate, and maintain the Video Camera(s);
  - c. Any technology and equipment needed to store and access video recordings; and
  - d. Any technology and equipment needed to redact images of student faces in accordance with FERPA or other applicable law.

### **Time of Recording**

Video cameras must be operated at all times during the instructional day, when students are present in the Self-Contained Classroom or Other Special Education Setting. The Video Cameras are not required to be in operation when students are not present in the Self-Contained Classroom or Other Special Education Setting.

Brillante Academy shall operate and maintain requested video camera(s) in a Classroom/Setting for the remainder of the school year in which Brillante Academy received the request, unless the requester withdraws the request in writing or circumstances change such that the Classroom/Setting no longer continues to satisfy the requirements under TEC § 29.022 and 19 T.A.C. § 103.1301.

For purposes of these procedures, a Classroom/Setting continues to satisfy the requirements under TEC § 29.022 and 19 T.A.C. § 103.1301 if a majority of the students in regular attendance in the Classroom/Setting are:

- (1) Provided special education and related services; and
- (2) Assigned to one or more Self-Contained Classrooms or Other Special Education Settings for at least fifty percent of the instructional day.

**Brillante Academy shall discontinue video surveillance at the end of the current school year, unless a person eligible to make a request for the next school year submits a new request.** Under TEC § 29.022, not later than the 10th school day before the end of the school year, the school or campus must notify the parents of each student in regular attendance in the Classroom/Setting that operation of the video camera will not continue during the following school year unless a person eligible to make a request for the next school year submits a new request. Provided that the parents of each student in regular attendance in the Classroom/Setting (including students who joined the Classroom/Setting after video cameras were installed) has received Form 1.4 (Notice of Video Surveillance), which contains the required notice, no additional notice is required to be given prior to discontinuation at the end of the school year. On the date that video surveillance is actually discontinued, the

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<sup>2</sup> Incidental coverage of a minor portion of a bathroom or changing area may occur as a result of the layout of the Classroom or Setting.

campus principal shall remove the Posted Notice of Video Surveillance from the entrance of the affected Classroom/Setting.

### **Discontinuation of Video Surveillance during the School Year**

For purposes of this Section, decisions whether to discontinue surveillance will be made by the committee consisting of the Superintendent, the campus principal, and a representative of the Special Programs Department.

*Withdrawal of Request by the Requester:* A requester may withdraw a request for video surveillance at any time by submitting Form 1.2 (Withdrawal of Request for Video Surveillance) to the individual to whom the original request for video surveillance was submitted (i.e., campus principal or superintendent, as appropriate). If a requester withdraws a request in writing as provided above, Brillante Academy may discontinue video surveillance, unless another eligible person submits a new request for video surveillance. Notice of discontinued surveillance must be given as provided below. Brillante Academy may also elect to continue video surveillance for the remainder of the current school year and into the next school year as long as the Classroom/Setting continues to satisfy the requirements under TEC § 29.022 and 19 T.A.C. § 103.1301. If Brillante Academy elects to continue video surveillance into the next school year, Brillante Academy should send written notice of video surveillance to all school or campus staff and to the parents of students attending class or engaging in school activities in the Classroom/Setting using Form 1.4 (Notice of Video Surveillance), at the beginning of the next school year.

*Classroom/Setting No Longer Meets Requirements:* **If a Classroom/Setting no longer satisfies the requirements under TEC § 29.022 and 19 T.A.C. § 103.1301, Brillante Academy must discontinue video surveillance.** Notice of discontinued surveillance must be given as provided below. Brillante Academy *may not* continue video surveillance unless and until Brillante Academy obtains parental consent from all parents in the affected Classroom/Setting. While not always possible, Brillante Academy should try to anticipate changed circumstances to allow time to obtain parental consent to avoid any lapse in video surveillance. If Brillante Academy wishes to continue video surveillance after a Classroom/Setting no longer satisfies the requirements under TEC § 29.022 and 19 T.A.C. § 103.1301, Brillante Academy shall:

- (1) Notify the affected parents and staff members of discontinued surveillance as provided below;
- (2) Obtain written consent to continue video surveillance from all affected parents; and
- (3) If consent is obtained from all affected parents, notify the affected parents and staff member(s) that surveillance will continue using Form 1.4 (Notice of Video Surveillance) (Brillante Academy should indicate in the notice whether there was any lapse in video surveillance).

*Notice of Discontinuation During the School Year:* If for any reason Brillante Academy will discontinue operation of a Video Camera during the school year (e.g., the Classroom/Setting no longer satisfies the requirements under TEC § 29.022 and 19 T.A.C. § 103.1301 or the requester withdraws the request), the campus principal must notify the parents of each student in regular attendance in the Classroom/Setting, using Form 1.5 (Notice of Discontinued Video Surveillance), that operation of the Video Camera(s) will be discontinued and will not continue unless requested by a person eligible to make a request. The required notice using Form 1.5 (Notice of Discontinued Video Surveillance), must be given not later than the 5th school day before the date the operation of the Video Camera(s) will be discontinued. It is also recommended, but not required, that the campus principal notify all campus staff that surveillance will be discontinued.

Posted Notice: If Brillante Academy discontinues video surveillance during the school year, on the date that video surveillance is actually discontinued, the campus principal shall remove the Posted Notice of Video Surveillance from the entrance of the affected Classroom/Setting.

### **Extended School Year Services**

These procedures apply to the placement, operation, and maintenance of Video Cameras in Self-Contained Classroom(s) or Other Special Education Setting(s) during the regular school year and during extended school year services. If, at the time Brillante Academy approves a Parent's request for video surveillance, the student's ARDC has determined that the student will receive extended school year services, Video Cameras shall be placed in the Classroom/Setting in which the student receives extended school year services, provided that the Classroom/Setting satisfies the requirements for video surveillance under TEC § 29.022 and 19 T.A.C. § 103.1301. If, at the time Brillante Academy approves a Parent's request for video surveillance, the student's ARDC has not determined that the student will receive extended school year services, the Parent must submit a new request for video surveillance for the Classroom/Setting in which the student receives extended school year services.

## **IV. ACCESS TO VIDEO RECORDINGS**

### **Confidentiality**

Video recordings are confidential and may only be released or viewed under the limited circumstances set forth under TEC § 29.022, to the extent not limited by FERPA. An individual may not view the recordings if prohibited to do so by FERPA, even if that individual is eligible to view the recording pursuant to TEC § 29.022 and 19 T.A.C. § 103.1301. Brillante Academy must follow the procedures for maintaining the security and confidentiality of state assessments specified in 19 TAC § 101.301 and in relevant test administration materials.

### **Use of Video Recordings in Disciplinary Actions**

A video recording believed to document a possible violation of Brillante Academy's policy relating to the Abuse or Neglect of a student may be used as part of a disciplinary action against Brillante Academy personnel and must be released for viewing by the Brillante Academy employee who is the subject of the disciplinary action at the request of that employee.

### **Release of Video Recordings in Legal Proceedings**

A video recording believed to document a possible violation of Brillante Academy's policy relating to the Abuse or Neglect of a student shall be released at the request of the student's parent in a legal proceeding.

### **Prohibited Uses of Video Recordings**

The following uses are *prohibited*:

- Regular or continual monitoring of the video feed;
- Teacher/staff evaluation or monitoring; and
- Any purpose other than promoting the safety of students receiving special education services in Self-Contained Classrooms or Other Special Education Settings.

### **Access by Personnel for Operation and Maintenance Purposes**

Contractors or employees may incidentally view a video recording in performing job duties relating to installation, operation, or maintenance of Video Equipment or the retention of video recordings.

### **Persons Eligible to Request Access in Connection with an Alleged Incident**

Under TEC § 29.022, the following individuals may request to view a video recording in connection with an alleged Incident (an “Eligible Requester”):

- (2) An employee involved in an alleged Incident (as defined in these procedures) that is documented by a video recording and has been reported to Brillante Academy or the school, upon the employee’s request;
- (3) a parent of a student involved in an alleged Incident that is documented by a video recording and has been reported to Brillante Academy or the school, upon the parent’s request;
- (4) appropriate Texas Department of Family and Protective Services (“DFPS”) personnel as part of an investigation under TFC § 261.406;
- (5) the following individuals, in response to a report of an alleged Incident OR an investigation Brillante Academy personnel OR a report of alleged abuse committed by a student:
  - a. a peace officer;\*
  - b. a school nurse;\*
  - c. an Brillante Academy administrator trained in de-escalation and restraint techniques;\*
  - d. a human resources staff member designated by the Board;\*
- (6) appropriate TEA or State Board for Educator Certification personnel or agents as part of an investigation;\*
- or
- (7) if a person described in items 3, 4, or 5 above views a video recording and believes that the recording documents a possible violation of Brillante Academy policy, the person may allow access to the recording to appropriate legal and human resources personnel.

*\*Child Abuse and Neglect Reporting:* If a person described in items 4 or 5 above views a video recording and believes that the recording documents possible Abuse or Neglect of a child under TFC, Chapter 261, Subchapter E, the person must notify DFPS for investigation in accordance with TFC § 261.406 and Brillante Academy policy.

### **Requirements to Request Access to Video Recordings**

The requester must fall into one of the above categories of Eligible Requesters and file an Incident Report and Request to View Video Recording using Form 2.1 (Incident Report and Request to View Video Recording), or a Request to View Video Recording using Form 2.2 (Request to View Video Recording), as indicated below.

Form 2.1 (Incident Report and Request to View Video Recording), should be completed by:

- a) An employee involved in an alleged Incident (as defined in these procedures) that is documented by a video recording and has been reported to Brillante Academy or a school, upon the employee’s request;
- b) A parent of a student involved in an alleged Incident that is documented by a video recording and has been reported to Brillante Academy or the school, upon the parent’s request.

Form 2.2 (Request to View Recording), shall be completed by:

- a) Appropriate Texas Department of Family and Protective Services (“DFPS”) personnel as part of an investigation under TFC § 261.406;
- b) The following individuals, in response to a report of an alleged Incident OR an investigation of Brillante Academy personnel OR a report of alleged abuse committed by a student:
  - 1) a peace officer;
  - 2) a school nurse;
  - 3) an Brillante Academy administrator trained in de-escalation and restraint techniques;
  - 4) a human resources staff member designated by the Board; or

- c) Appropriate TEA or State Board for Educator Certification personnel or agents as part of an investigation.

### **Procedures for Filing an Incident Report and Request to View**

Eligible Requesters should contact the appropriate campus principal to request access to a video recording. If someone other than the campus principal receives a report of an alleged Incident or a request to view a video recording, whether oral or in writing, he or she should forward the report/request or other information to the campus principal as soon as reasonably practicable. The campus principal shall provide the requester Form 2.1 (Incident Report and Request to View Video Recording) or Form 2.2 (Request to View Recording), as appropriate. Eligible Requesters shall submit the completed Form 2.1 (Incident Report and Request to View Video Recording) or Form 2.2 (Request to View Recording), as appropriate, to the campus principal according to the instructions on the form.

### **Steps upon Receipt of Incident Report/Request to View**

***NOTE: NOTHING IN THESE PROCEDURES ALTERS OR OTHERWISE AFFECTS A BRILLANTE ACADEMY EMPLOYEE'S REPORTING, INVESTIGATION, OR RESPONSE OBLIGATIONS UNDER OTHER BRILLANTE ACADEMY POLICIES AND PROCEDURES OR APPLICABLE LAW WITH RESPECT TO ALLEGATIONS OF ABUSE OR NEGLECT.***

- (1) Upon receipt of a completed Form 2.1 (Incident Report and Request to View Video Recording) or Form 2.2 (Request to View Recording), as appropriate, the campus principal shall note the date of receipt on the completed form and notify the requester of Brillante Academy 's receipt of the request using Form 2.3 (Notification Regarding Request to View Video Recording).
- (2) Upon receipt of a completed Form 2.1 (Incident Report and Request to View Video Recording) or Form 2.2 (Request to View Recording), the campus principal will immediately contact the appropriate Superintendent, the VP of Human Resources, Brillante Academy's Legall Counsel, and the Managing Director of Special Program Compliance. A copy of Form 2.1 (Incident Report and Request to View Video Recording) or Form 2.2 (Request to View Recording) should be emailed to the above designated personnel. Authorized Brillante Academy personnel may view the requested video recording(s) in response to a report of an alleged Incident, an investigation of Brillante Academy personnel, or a report of alleged abuse committed by a student.
- (3) Based on the report and other information obtained from the requester, if any, the above designated personnel shall make a preliminary determination of whether the complaint involves:
  - a. An event or circumstance involving alleged:
    - i. Abuse of a student by an Brillante Academy employee;
    - ii. Neglect of a student by an Brillante Academy employee
    - iii. Physical Abuse of a student by another student; and
    - iv. Sexual Abuse of a student by another student;
  - b. that allegedly occurred in a Self-Contained Classroom or Other Special Education Setting in which video surveillance is conducted under these procedures.
- (4) If the above designated personnel determine that the report involves an alleged Incident, the IT / Network Service Director or designee will be contacted to access the applicable video recording(s).
- (5) A Brillante Academy peace officer, school nurse, human resources staff member designated by Brillante Academy 's Board of Directors, or other Brillante Academy administrator trained in de-escalation and restraint techniques may also view the video recording and aid in the determination. (If a restraint, other physical contact with a student, injury to a student, or event or circumstance that is in any way questionable is documented on the video recording, it is recommended that at least one other authorized Brillante

Academy employee view the video recording in order to make a collaborative determination as to whether an alleged Incident is documented by the requested video recording.)

- a. If the authorized Brillante Academy representatives determine that an alleged Incident is not documented by the requested video recording(s), the campus principal shall note the date of denial of the request and notify the requester within ten District Business Days of Brillante Academy 's decision using Form 2.3 (Notification Regarding Request to View Video Recording), Notification Regarding Request to View Video Recording, denying the request because an alleged Incident is not documented by the requested video recording(s).
  - b. If the authorized Brillante Academy representatives determine that an alleged Incident is documented by the requested video recording(s), the campus principal shall note the date of approval of the request and notify the requester within ten District Business Days of Brillante Academy 's decision using Form 2.3 (Notification Regarding Request to View Video Recording).
- (6) If the request is approved, the campus principal shall reasonably coordinate with the requester to schedule a viewing appointment. Prior to allowing the requester to view the recording(s), the IT / Network Service Director or designee will be contacted to prepare the relevant portion of the video recording(s) for viewing and redact students from the video recording(s) as may be required by FERPA.

### **Procedures for Approved Requests to View Video Recordings**

If a Request to View Video Recordings is approved, Form 2.3 (Notification Regarding Request to View Video Recording) directs the requester to contact the campus principal to schedule a viewing appointment. Video recordings will be made available at the applicable Regional Headquarters between the hours of 8:00 a.m. and 4:30 p.m. on regularly scheduled work days. If these times do not work for the requester, Brillante Academy shall reasonably attempt to arrange for an alternative time for the Eligible Requester to view the approved video recording(s).

Prior to allowing the Eligible Requester to view an approved video recording, appropriate IT / Network Service Director staff shall extract only the portion of the approved video recording documenting the alleged Incident and related events or circumstances and prepare the video recording for viewing by redacting confidential information, such as names or, to the extent possible, images of other students protected under FERPA and any protected state assessment information.

When an Eligible Requester views a video recording, the following rules apply:

- The right to view a video recording does not equate to the right to receive a copy of the video recording(s). For purposes of these procedures, "access" shall mean the right to view the video recording(s) in accordance with these procedures.
- A Brillante Academy representative must be present at all times during the viewing. Only the following individuals may act as Brillante Academy 's representative at the viewing:
  - a peace officer;
  - a school nurse;
  - a Brillante Academy administrator trained in de-escalation and restraint techniques as provided by commissioner rule; or
  - a human resources staff member designated by Brillante Academy 's Board of Directors
- No person other than the Eligible Requester and the Brillante Academy representative may be present during the viewing. If the Eligible Requester brings a representative or other individual to the viewing appointment, those individuals must remain outside the room during the viewing, unless the other individual is the student's other parent or an attorney representing the student.

- Recording is strictly prohibited during the viewing. The Brillante Academy representative will monitor for unauthorized recording (e.g., by cell phone, etc.) during the viewing and shall immediately stop the viewing appointment if an Eligible Requester attempts to record the video during the viewing appointment.

### **Local Grievance Procedures for Filing a Complaint Alleging Violation of TEC § 29.022 / 19 T.A.C. § 103.1301**

The requester has the right to file a grievance/complaint if he or she believes Brillante Academy erroneously denied his or her request in violation of TEC § 29.022 or 19 T.A.C. § 103.1301. To file a complaint alleging a violation of TEC § 29.022 or 19 T.A.C. § 103.1301, the individual must comply with Brillante Academy’s local grievance procedures or other dispute resolution channels in accordance with Brillante policies respecting employee complaints/grievances and/or student and parent complaints/grievances. Except as otherwise provided below, a TEA complaint, mediation, or due process procedures are not the appropriate channels to file a complaint alleging a failure to comply with TEC § 29.022 or 19 T.A.C. § 103.1301.

### **Appeals to the Commissioner for a Violation of TEC § 29.022 / 19 T.A.C § 103.1301**

After exhausting Brillante Academy’s local grievance procedures, a person may appeal an action by Brillante Academy that the person believes to be in violation of TEC § 29.022, 19 T.A.C. § 103.1301, or Brillante Policy and Procedures for Video Surveillance of Special Education Settings to the Commissioner through the appeals process set forth in TEC § 7.057.

### **Expedited Review by TEA**

Brillante Academy, a parent, a staff member, or an administrator may request an expedited review through TEA of Brillante Academy’s:

- a. Denial of a request made under TEC § 29.022;
- b. Request for an extension of time to begin operation of a Video Camera; or
- c. Determination to not release a video recording to an Eligible Requester.

If an expedited review is requested, TEA shall notify all other interested parties of the request. Additionally, TEA shall issue a preliminary judgement as to whether Brillante Academy is likely to prevail on the issue under a full review by the agency. If TEA determines that Brillante Academy is not likely to prevail, Brillante Academy shall fully comply with TEC § 29.022, notwithstanding an appeal of the agency’s decision. TEA shall notify the requester and Brillante Academy, if Brillante Academy is not the requester, of the agency’s determination.

### **No Admission of Fault or Liability**

Approval of a Request to View Video Recording shall in no way be construed as an admission that an Incident occurred or as an admission of fault or liability by any person or entity.

### **Request for Access under FERPA**

Generally, video recordings made pursuant to TEC § 29.022 and 19 T.A.C. § 103.1301 are surveillance videos and do not constitute a student’s education record subject to disclosure in response to a request made under FERPA, unless an alleged Incident is documented on the video recording or the student otherwise becomes the “focus” of the video recording as defined by the U.S. Department of Education.

**APPENDIX TO PROCEDURES FOR  
VIDEO SURVEILLANCE OF SPECIAL EDUCATION SETTINGS**

- Form 1.1 Request for Video Surveillance
- Form 1.2 Withdrawal of Request for Video Surveillance
- Form 1.3 Notification Regarding Request for Video Surveillance
- Form 1.4 Notice of Video Surveillance
- Form 1.5 Notice of Discontinued Video Surveillance
- Form 2.1 Incident Report and Request to View Video Recording
- Form 2.2 Request to View Video Recording
- Form 2.3 Notification Regarding Request to View Video Recording



## FORM 1.1 – REQUEST FOR VIDEO SURVEILLANCE

On the request of an eligible parent, staff member, principal, assistant principal, or the Board of Directors, Brillante Academy Public Schools (“Brillante Academy”) must provide video equipment, including video cameras with audio recording capabilities, to campuses in accordance with Section 29.022, Texas Education Code, 19 T.A.C. § 103.1301, and Brillante Policy and Procedures for Video Surveillance of Special Education Settings. Campuses that receive equipment must place, operate, and maintain video cameras in certain self-contained classrooms or other special education settings. Video surveillance is solely for the purpose of promoting student safety. Regular or continual monitoring of video recordings is prohibited by law. Video recordings are confidential by law and may only be accessed or viewed by certain individuals under very limited circumstances as defined by the Texas Education Code. **An approved request for video surveillance is only valid for the current school year. Operation of the requested video camera(s) shall be discontinued at the end of the current school year and will not continue during the following school year unless a person eligible to make a request for the next school year submits a new request.**

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“**Self-Contained Classroom**” means: a classroom on a regular Brillante Academy school campus (*i.e.*, a campus that serves students in 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:

- self-contained (mild/moderate/severe) regular campus;
- full-time early childhood (pre-school program for children with disabilities) special education setting;
- residential care and treatment facility—self-contained (mild/moderate/severe) regular campus;
- residential care and treatment facility—full-time early childhood special education setting;
- off home campus—self-contained (mild/moderate/severe) regular campus; or
- off home campus—full-time early childhood special education setting.

Self-Contained Classroom does not include a classroom that is a resource room instructional arrangement as described in TEC 42.151.

“**Other Special Education Setting**” means: a classroom on a separate Brillante Academy campus (*i.e.*, a campus that serves only students who receive special education and related services) 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:

- residential care and treatment facility—separate campus; or
- off home campus—separate campus.

“**Board**” means Brillante Academy’s Board of Directors.

“**Parent**” means:

- a person, including a guardian or other person standing in parental relation to a student, described in Section 26.002, Texas Education Code, whose child receives special education and related services for at least 50% of the instructional day in the Self-Contained Classroom or Other Special Education Setting;
- a person, including a guardian or other person standing in parental relation to a student, whose child will receive special education and related services for at least 50% of the instructional day in the Self-Contained Classroom or Other Special Education Setting for the following school year; or
- a student who receives special education and related services for at least 50% of the instructional day in the 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.

**“Principal or Assistant Principal”** means the principal or an assistant principal of the campus at which the Self-Contained Classroom or Other Special Education Setting is located.

**“Staff Member”** means a teacher, related service provider, paraprofessional, counselor, or educational aide assigned to work in the Self-Contained Classroom or Other Special Education Setting.

**“Coordinating Administrator”** means: As required under TEC §29.022, Brillante Academy has identified the Superintendent as the administrator at Brillante Academy’s Headquarters with responsibility for coordinating the provision of equipment to schools and campuses in compliance with TEC § 29.022 and 19 T.A.C. § 103.1301.

To request video surveillance for the current school year pursuant to Texas Education Code § 29.022, please complete the form contained on the next page. Brillante Academy will review the request and notify you of its decision.

**FORM 1.1 – REQUEST FOR VIDEO SURVEILLANCE**

Requester's Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Contact Information:

Home Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Email address: \_\_\_\_\_

According to the above definitions, I (we) qualify as a

Please provide the following information, as applicable, regarding your request:

Student Name: \_\_\_\_\_ Student ID #: \_\_\_\_\_

Campus Name: \_\_\_\_\_

Location of requested surveillance: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*If you are a Parent, Assistant Principal, or Staff Member, please return the completed Form 1.1 (Request for Video Surveillance) to the campus principal of the campus addressed in this request.*

*If you are a Principal or Board Member, please return the completed Form 1.1 (Request for Video Surveillance) to the Superintendent.*

*Brillante Academy will contact you regarding the status of your request within seven school business days after receipt of the completed Form 1.1 (Request for Video Surveillance).*

**For Internal Use Only**

Room Number:

Teacher Name:

Date Completed Form 1.1:

Received By:

Superintendent Signature:

Date of approval/denial:



**FORM 1.2 – WITHDRAWAL OF REQUEST FOR VIDEO SURVEILLANCE**

Requester's Printed Name: \_\_\_\_\_

Address: \_\_\_\_\_

City, State, Zip: \_\_\_\_\_

Contact Information:

Home Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Email address: \_\_\_\_\_

Date of request for video surveillance: \_\_\_\_\_

Student Name: \_\_\_\_\_ Student ID #: \_\_\_\_\_

Campus Name: \_\_\_\_\_

Location of requested surveillance: \_\_\_\_\_

**Having initiated the above-referenced request for video surveillance pursuant to Texas Education Code § 29.022, 19 T.A.C. § 103.1301, and Brillante Policy and Procedures for Video Surveillance of Special Education Settings, I hereby voluntarily withdraw my request. I understand that Brillante Academy will take no further action regarding my request and, if video surveillance has already begun, will discontinue video surveillance of the requested classroom/special education setting. I further understand that I will be required to submit a new request for video surveillance in the event that I wish to resume video surveillance pursuant to Section 29.022, Texas Education Code, and 19 T.A.C. § 103.1301 at a later date.**

Requester's Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*If you are a parent, assistant principal, or staff member, please return the completed Form 1.2 to the campus principal. If you are a principal or Board Member, please return the completed Form 1.2 to the Superintendent.*

**For Internal Use Only**

Date Completed Form 1.2:

Received By:

Superintendent Signature:

Date:

**FORM 1.3 – NOTIFICATION REGARDING REQUEST FOR VIDEO SURVEILLANCE**

Date: Date

Dear Requester Name:

Brillante Academy public Schools (“Brillante Academy”) has received your request for video surveillance for the current school year. This correspondence is to inform you as to the status of your request.

**Brillante Academy has processed your request, and it is:**

**APPROVED** for the remainder of the current school year for the following locations:

Brillante Academy and Room Number

Brillante Academy is now in the process of preparing the classroom(s)/setting(s) for video surveillance and will notify you when surveillance begins.

**DENIED** for the following reason(s):

The requester is not an individual eligible to request video surveillance pursuant to Texas Education Code § 29.022 and the Commissioner’s rules found at 19 T.A.C. § 103.1301.

The requested location is not a “Self-Contained Classroom” or “Other Special Education Setting” under Texas Education Code § 29.022 and the Commissioner’s rules found at 19 T.A.C. § 103.1301.

Please contact me if you have any questions. If you have a concern or complaint regarding Brillante Academy’s implementation of Texas Education Code § 29.022 or the Commissioner’s rules found at 19 T.A.C. § 103.1301, you may also address your concern or complaint to Brillante Academy through Brillante Academy’s local grievance procedures.

Sincerely,

Superintendent

FORM 1.4 – NOTICE OF VIDEO SURVEILLANCE

Insert Date

For the promotion of student safety, an eligible Parent, Principal, Assistant Principal, Staff Member, or Board Member may request the installation of video cameras in certain Self-Contained Classrooms and Other Special Education Settings under Texas Education Code § 29.022. Before Brillante Academy activates the requested video cameras, Brillante Academy is required by law to provide written notice of the placement to all campus staff and to the parents of each student attending class or engaging in school activities in the Classroom or Setting.

As required by law, the purpose of this notice is to inform you that Brillante Academy has received an eligible request and plans to install and operate video and audio recording equipment in the following Classroom(s)/Setting(s), including any attached rooms, during the instructional day for the remainder of the current school year:

Campus: \_\_\_\_\_

Room #	Teacher	Program

Video and audio recording equipment will be installed and tested prior to activation. Operation of the requested video camera(s) is expected to begin within approximately 45 school business days (or the first school day after the 45th school business day if that day is not a school day) after Brillante Academy’s approval of the request, subject to any extensions of installation time permitted by law. Brillante Academy will post a notice of surveillance next to the door of the affected Classroom(s)/Setting(s) upon activation of the requested video camera(s). **Please note that Section 29.022 does not require the occurrence of an incident before a request for installation of video cameras can be made, and Brillante Academy’s receipt of a request for video surveillance pursuant to Section 29.022 does not indicate that an incident has occurred in any Self-Contained Classroom or Other Special Education Setting.**

The sole purpose of video surveillance is to promote the safety of students receiving special education services. Regular or continual monitoring of video recordings is prohibited by law. Video recordings are confidential by law and may only be accessed or viewed by certain individuals under very limited circumstances as defined by the Texas Education Code. Video recordings may not be used for routine teacher evaluation or monitoring or for any purpose other than the promotion of student safety. **An approved request for video surveillance is only valid for the current school year. Operation of the requested video camera(s) shall be discontinued at the end of the current school year and will not continue during the following school year unless a person eligible to make a request for the next school year submits a new request.** Brillante Academy will retain video recordings for three months following the date the recording was made or longer if required by law or deemed necessary by Brillante Academy.

For more information about Brillante Academy’s video surveillance procedures under TEC § 29.022, please refer to Brillante Policy and Procedures for Video Surveillance of Special Education Settings. Please contact me with any questions.

\_\_\_\_\_  
Principal

**FORM 1.5 – NOTICE OF DISCONTINUED VIDEO SURVEILLANCE**

Insert Date

To Whom It May Concern:

The Texas Education Code (TEC) requires a school or campus that places a video camera in a self-contained classroom or other special education setting in accordance with TEC § 29.022 to operate and maintain the video camera, as long as the classroom or setting continues to satisfy the requirements of TEC § 29.022, for the remainder of the school year in which the school or campus received the request for video surveillance, unless the requester withdraws the request in writing. If a school or campus will discontinue operation of a video camera during a school year, it must provide notice of such discontinuation to the parents of each student in regular attendance in the classroom or setting.

**In accordance with TEC § 29.022, the purpose of this notice is to inform you that, as permitted by applicable law, operation of the video camera(s) in the location(s) listed below will be discontinued on the date listed below and will not continue unless a person eligible to make a request for video surveillance under TEC § 29.022 submits a new request.**

Campus: \_\_\_\_\_

<b>Room #</b>	<b>Teacher</b>	<b>Program</b>

Discontinuation Date: \_\_\_\_\_

For more information about Brillante Academy 's video surveillance procedures under TEC § 29.022, please refer to Brillante Policy and Procedures for Video Surveillance of Special Education Settings. Please contact me or the Principal, Liz Troncoso, with any questions or concerns.

\_\_\_\_\_  
Superintendent



**FORM 2.1 – INCIDENT REPORT AND REQUEST TO VIEW VIDEO RECORDING  
BY EMPLOYEE OR PARENT OF STUDENT INVOLVED IN ALLEGED INCIDENT**

Under Section 29.022 of the Texas Education Code (“TEC”), the following individuals may request to view a video recording of a self-contained classroom or other special education setting in connection with an alleged Incident:

- (1) **An employee involved in an alleged Incident** that is documented by a video recording and has been reported to Brillante Academy ; and
- (2) **A parent of a student involved in an alleged Incident** that is documented by a video recording and has been reported to Brillante Academy .

**Incident**, as defined in 19 T.A.C. § 103.1301(b)(9), means an event or circumstance that:

- involves alleged:
  - abuse of a student by an Brillante Academy employee;
  - neglect of a student by an Brillante Academy employee;
  - physical abuse of a student by another student; or
  - sexual abuse of a student by another student; and
- allegedly occurred in a self-contained classroom or other special education setting in which video surveillance is conducted.

**Abuse**, as defined in Texas Family Code § 261.001(1), means the following acts or omissions:

- a) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;
- b) 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;
- c) 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;
- d) 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;
- e) 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 disabled individual 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;
- f) failure to make a reasonable effort to prevent sexual conduct harmful to a child;
- g) 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, solicitation of prostitution under Section 43.021, Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code;
- h) 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;
- i) 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;
- j) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code;
- k) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code;

- l) 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; or
- m) forcing or coercing a child to enter into a marriage.

**Neglect**, as defined in Texas Family Code § 261.001(4), means the following acts or omissions:

- a) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;
- b) 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;
- c) 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;
- d) 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;
- e) 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;
- f) 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;
- g) 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; or
- h) a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

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 of Family and Protective Services 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**, as defined in Texas Family Code § 261.410(1), means the following acts or omissions:

- a) Physical injury that results in substantial harm to the child requiring emergency medical treatment; or
- b) 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**, as defined in TFC § 261.410(2), means the following acts or omissions:

- a) sexual conduct harmful to a child's mental, emotional, or physical welfare; or
- b) failure to make a reasonable effort to prevent sexual conduct harmful to a child.

**FORM 2.1 – INCIDENT REPORT AND REQUEST TO VIEW VIDEO RECORDING  
BY EMPLOYEE OR PARENT OF STUDENT INVOLVED IN ALLEGED INCIDENT**

**Incident reports should be filed with the Superintendent as soon as possible after the individual filing the reports suspects the alleged incident. If possible, incident reports should be filed no later than 48 hours after the event or circumstance giving rise to the allegation.**

Requester's Name: \_\_\_\_\_

Requester's email address: \_\_\_\_\_

Requester's phone number: \_\_\_\_\_

I am a (please check one):

- An Brillante Academy employee involved in an alleged incident that is documented by a video recording.
- A parent of a student involved in an alleged incident that is documented by a video recording.  
Please provide your child's name and campus information below:

Student's Name: \_\_\_\_\_

Campus Name: \_\_\_\_\_

My report pertains to an event or circumstance involving alleged (please check all that apply):

- Abuse of a student by an Brillante Academy employee
- Neglect of a student by an Brillante Academy employee
- Physical abuse of a student by another student
- Sexual abuse of a student by another student
- Other: \_\_\_\_\_

Location of the self-contained classroom or other special education setting where the alleged incident occurred:

\_\_\_\_\_  
\_\_\_\_\_

Date and time of the alleged incident (please be specific and identify the date and time within a 48-hour window, if possible):

\_\_\_\_\_  
\_\_\_\_\_

Please describe with specificity the nature of your report, including the events or circumstances giving rise to your report and the name of any Brillante Academy employee or student that may be involved in the alleged incident (please attach additional pages if necessary):

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_ Please provide any additional information that you would like to share in connection with your report:

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Signature: \_\_\_\_\_ Date: \_\_\_\_\_

*Please submit the completed Form 2.1 to the Principal. Brillante Academy will contact you regarding the status of your report/request. ‘*

**For Internal Use Only**

Date Completed Form 2.1:

Received By:

Superintendent Signature:

Date of approval/denial:

**FORM 2.2 – REQUEST TO VIEW VIDEO RECORDING**  
**NOT AN EMPLOYEE OR PARENT OF STUDENT INVOLVED IN ALLEGED INCIDENT**

Under Section 29.022 of the Texas Education Code (“TEC”), in addition to certain eligible parents and employees described in the TEC, the following individuals may request to view a video recording of a self-contained classroom or other special education setting:

1. appropriate Texas Department of Family and Protective Services (“DFPS”) personnel as part of an investigation under TFC § 261.406;
2. the following individuals, in response to a report of an alleged Incident OR an investigation of Brillante Academy personnel OR a report of alleged abuse committed by a student:
  - a. a peace officer;
  - b. a school nurse;
  - c. an Brillante Academy administrator trained in de-escalation and restraint techniques;
  - d. a human resources staff member designated by the Board; and
3. appropriate TEA or State Board for Educator Certification personnel or agents as part of an investigation.

**Incident**, as defined in 19 T.A.C. § 103.1301(b)(9), means an event or circumstance that:

- involves alleged:
  - o abuse of a student by an Brillante Academy employee;
  - o neglect of a student by an Brillante Academy employee;
  - o physical abuse of a student by another student; or
  - o sexual abuse of a student by another student; and
- allegedly occurred in a self-contained classroom or other special education setting in which video surveillance is conducted.

**Abuse**, as defined in Texas Family Code § 261.001(1), means the following acts or omissions:

- a) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;
- b) 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;
- c) 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;
- d) 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;
- e) 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 disabled individual 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;
- f) failure to make a reasonable effort to prevent sexual conduct harmful to a child;
- g) 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, solicitation of prostitution under Section 43.021, Penal Code, or compelling prostitution under Section 43.05(a)(2), Penal Code;
- h) 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;
- i) 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;

- j) causing, expressly permitting, or encouraging a child to use a controlled substance as defined by Chapter 481, Health and Safety Code;
- k) causing, permitting, encouraging, engaging in, or allowing a sexual performance by a child as defined by Section 43.25, Penal Code;
- l) 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; or
- m) forcing or coercing a child to enter into a marriage.

**Neglect**, as defined in Texas Family Code § 261.001(4), means the following acts or omissions:

- a) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, without arranging for necessary care for the child, and the demonstration of an intent not to return by a parent, guardian, or managing or possessory conservator of the child;
- b) 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;
- c) 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;
- d) 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;
- e) 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;
- f) 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;
- g) 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; or
- h) a negligent act or omission by an employee, volunteer, or other individual working under the auspices of a facility or program, including failure to comply with an individual treatment plan, plan of care, or individualized service plan, that causes or may cause substantial emotional harm or physical injury to, or the death of, a child served by the facility or program as further described by rule or policy.

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 of Family and Protective Services 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**, as defined in Texas Family Code § 261.410(1), means the following acts or omissions:

- a) Physical injury that results in substantial harm to the child requiring emergency medical treatment; or
- b) 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**, as defined in TFC § 261.410(2), means the following acts or omissions:

- a) sexual conduct harmful to a child's mental, emotional, or physical welfare; or
- b) failure to make a reasonable effort to prevent sexual conduct harmful to a child.

**FORM 2.2 – REQUEST TO VIEW VIDEO RECORDING**  
**NOT AN EMPLOYEE OR PARENT OF STUDENT INVOLVED IN ALLEGED INCIDENT**

**Incident reports should be filed with the Superintendent as soon as possible after the individual filing the reports suspects the alleged incident. If possible, incident reports should be filed no later than 48 hours after the event or circumstance giving rise to the allegation.**

Requester's Name: \_\_\_\_\_

Requester's email address: \_\_\_\_\_

Requester's phone number: \_\_\_\_\_

Requester's employer/agency: \_\_\_\_\_

I am a (please check one and attach a copy of appropriate credentials/documentation of status):

- Appropriate Texas Department of Family and Protective Services (“DFPS”) personnel as part of an investigation under Texas Family Code § 261.406.
- One of the following individuals, in response to a report of an alleged Incident OR an investigation of Brillante Academy personnel OR a report of alleged abuse committed by a student:
  - A peace officer
  - A school nurse
  - An Brillante Academy administrator trained in de-escalation and restraint techniques
  - A Human Resources staff member designated by the Board; or
- Appropriate Texas Education Agency or State Board for Educator Certification personnel or agents as part of an investigation.

Location of the self-contained classroom or other special education setting where the alleged incident occurred:

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Date and time of the alleged incident (please be specific and identify the date and time within a 48-hour window, if possible):

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Please describe with specificity the nature of your report, including the events or circumstances giving rise to your report and the name of any Brillante Academy employee or student that may be involved in the alleged incident (please attach additional pages if necessary):

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Please provide any additional information that you would like to share in connection with your report:

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*I attest that the aforementioned criteria for viewing the requested video recording have been met, in accordance with applicable law.*

Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Badge Number, if applicable: \_\_\_\_\_

*If the requestor carries a badge, Brillante Academy will make a copy of it.*

*Please submit the completed Form 2.1 to the Superintendent. Brillante Academy will contact you regarding the status of your report/request.*

**For Internal Use Only**

Date Completed Form 2.2:

Received By:

Superintendent Signature:

Date of approval/denial:



**FORM 2.3 – NOTIFICATION REGARDING REQUEST TO VIEW RECORDING**

Date

Dear Requester's Name:

Brillante Academy has received your Request to View Video Recording. This correspondence is to inform you as to the status of your request.

- Brillante Academy is processing your request. We will contact you with additional information once a determination of eligibility has been made.
- Brillante Academy has processed your request, and it is:
- APPROVED.** Please contact the Superintendent, Mrs. Ana Karen Salinas, at (956) 616-9359 or [ana.salinas@brillanteacademy.org](mailto:ana.salinas@brillanteacademy.org) if you wish to schedule an appointment to view the approved video recording(s). Brillante Academy will arrange for you to view the video recording(s) at 706 Los Ebanos Rd. Mission, Tx. 78572. Viewing appointments are available between the hours of 8:00am and 4:00pm on regularly scheduled work days. While viewing the video recording(s), you will be accompanied by an authorized Brillante Academy representative. No other person will be permitted to view the video recording(s), unless the other person is the child's other parent or your attorney. Recording is strictly prohibited during the viewing. THE APPROVAL OF A REQUEST TO VIEW A VIDEO RECORDING SHALL IN NO WAY BE CONSTRUED AS AN ADMISSION THAT AN INCIDENT OCCURRED OR AS AN ADMISSION OF FAULT OR LIABILITY BY ANY PERSON OR ENTITY.
- DENIED** for the following reason(s):
- The requester is not an individual eligible to view a video recording made pursuant to TEC § 29.022 and the Commissioner's rules found at 19 T.A.C. § 103.1301.
- An alleged Incident as defined under TEC § 29.022 and the Commissioner's rules found at 19 T.A.C. § 103.1301 is not documented by the requested video recording.
- Other: \_\_\_\_\_

Please contact me if you have any questions. If you have a concern or complaint regarding Brillante Academy's implementation of Texas Education Code § 29.022 or the Commissioner's rules found at 19 T.A.C. § 103.1301, you may also address your concern or complaint to Brillante Academy through Brillante Academy's local grievance procedures.

Sincerely,

Superintendent