

BOARD MEETINGS

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(LEGAL)

DEFINITIONS

“MEETING”

“Meeting” means a deliberation among a quorum of a governmental body, including a college district board of trustees, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered, or during which the governmental body takes formal action. “Meeting” also means a gathering:

1. That is conducted by the governmental body or for which the governmental body is responsible;
2. At which a quorum of members of the governmental body is present;
3. That has been called by the governmental body; and
4. At which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

Gov't Code 551.001(3)–(4)

“DELIBERATION”

“Deliberation” means a verbal exchange during a meeting between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body or any public business. *Gov't Code 551.001(2)*

“QUORUM”

“Quorum” means a majority of a governmental body. *Gov't Code 311.013(b), 551.001(6)*

“RECORDING”

“Recording” means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed. *Gov't Code 551.001(7)*

“VIDEO-
CONFERENCE
CALL”

“Videoconference call” means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through duplex audio and video signals transmitted over a telephone network, a data network, or the Internet. *Gov't Code 551.001(8)*

“MEETING”
EXCEPTIONS

SOCIAL FUNCTION
OR CONVENTION

The term “meeting” does not include the gathering of a quorum of a governmental body, including a college district board of trustees, at a social function unrelated to the public business that is conducted by the body, or the attendance by a quorum of the governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken

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and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, or press conference. *Gov't Code 551.001(4)*

LEGISLATIVE
COMMITTEE OR
AGENCY MEETING

The attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature is not considered to be a meeting of that governmental body if the deliberations at the meeting by the members of that governmental body consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency. *Gov't Code 551.0035(b)*

ONLINE MESSAGE
BOARD

A communication or exchange of information between members of a governmental body about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of Government Code Chapter 551 if the communication is in writing and the writing is posted to an online message board or similar Internet application in accordance with Government Code 551.006. [See BBI(LEGAL)] *Gov't Code 551.006(a)*

OPEN TO PUBLIC

Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by Government Code Chapter 551. [See BCB and BDA] *Gov't Code 551.002*

EXCLUSION OF A
WITNESS

A governmental body that is investigating a matter may exclude a witness from a hearing during the examination of another witness in an investigation. *Gov't Code 551.084*

RECORDING BY
ATTENDEES

A person in attendance may record all or any part of an open meeting of a governmental body by means of a recorder, video camera, or any other means of aural or visual reproduction. A governmental body may adopt reasonable rules to maintain order at a meeting, including rules related to the location of recording equipment and the manner in which the recording is conducted. A rule adopted under this section may not prevent or unreasonably impair a person from exercising the right to record. *Gov't Code 551.023*

MINUTES

A governmental body shall prepare and keep minutes or make a recording of each open meeting of the body. The minutes must state the subject of each deliberation and indicate each vote, order, decision, or other action taken.

The minutes and recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body's chief administrative officer or the officer's designee.

Gov't Code 551.021-.022

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NOTICE REQUIRED The governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body. *Gov't Code 551.041*

CONTINUED MEETING Government Code 551.041 does not require a governmental body that recesses an open meeting to the following regular business day to post notice of the continued meeting if the action is taken in good faith and not to circumvent Government Code Chapter 551. If an open meeting is continued to the following regular business day and, on that following day, the board continues the meeting to another day, the governmental body must give the required written notice of the meeting continued to that other day. *Gov't Code 551.0411(a)*

INQUIRY DURING MEETING If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which the required notice has not been given, the notice provisions do not apply to a statement of specific factual information given in response to the inquiry or a recitation of existing policy in response to the inquiry. Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda of a subsequent meeting. *Gov't Code 551.042*

TIME OF NOTICE AND ACCESSIBILITY The notice of a meeting of a governmental body must be posted on a bulletin board at a place convenient to the public in the central administration office for at least 72 hours before the scheduled time of the meeting. The notice must be posted in a place readily accessible to the public at all times for at least 72 hours before the scheduled time of the meeting. *Gov't Code 551.043(a), .051; City of San Antonio v. Fourth Court of Appeals, 820 S.W.2d 762 (Tex. 1991)*

If the Open Meetings Act (OMA) specifically requires or allows a governmental body to post notice of a meeting on the Internet, the governmental body satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period.

The governmental body must still comply with any duty to physically post the notice at a particular location. If the governmental body makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the notice physically posted on the location prescribed by the OMA must be readily accessible to the general public during normal business hours.

Gov't Code 551.043(b)

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INTERNET POSTING
GENERALLY

This section applies only to a governmental body that maintains an Internet website or for which an Internet website is maintained. In addition to the other place at which notice is required to be posted, the governing body of a junior college or junior college district, including a college or district that has changed its name in accordance with Education Code Chapter 130 must also concurrently post notice of a meeting on the Internet website of the governmental body.

The governing body of a junior college district, including a district that has changed its name in accordance with Chapter 130, that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more must also concurrently post the agenda for the meeting on the Internet website of the governmental body.

The validity of a posted notice of a meeting or an agenda by a governmental body that made a good-faith attempt to comply with the Internet posting requirements is not affected by a failure to comply that is due to a technical problem beyond the control of the governmental body.

Gov't Code 551.056

LARGE COLLEGE
DISTRICTS

The governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year, for any regularly scheduled meeting of the governing board for which notice is required under Government Code Chapter 551, shall post as early as practicable in advance of the meeting on the Internet website of the district any written agenda and related supplemental written materials provided by the district to the board members for the members' use during the meeting. This requirement does not apply to written materials that the general counsel or other appropriate attorney for the district certifies are confidential or may be withheld from public disclosure under Government Code Chapter 552 (Texas Public Information Act).

The governing board of a junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

Gov't Code 551.1282

SPECIFICITY OF
AGENDA / NOTICE

Agendas for all meetings shall be sufficiently specific to inform the public of the subjects to be deliberated at the meeting, setting out any special or unusual matters to be considered or any matter in which the public has a particular interest. Deliberations or actions pertaining to top administrators are of particular public interest, and

notice of those subjects must be worded with such clarity that the public will understand what the board proposes to discuss or accomplish. *Cox Enterprises, Inc. v. Austin Indep. Sch. Dist.*, 706 S.W.2d 956 (Tex. 1986); *Point Isabel Indep. Sch. Dist. v. Hinojosa*, 797 S.W.2d 176 (Tex. App.—Corpus Christi, 1990, writ denied); *Atty. Gen. Ops. M-494 (1969), H-419 (1974), H-662 (1975), H-1045 (1977)*

The terms “employee briefing” or “staff briefing” do not give adequate notice of the subject matter to be presented to the board by employees or staff members. *Atty. Gen. Op. JC-169 (2000)*

The subject of a report or update by college district staff or a member of the board must be set out in the notice in a manner that informs a reader about the subjects to be addressed. *Atty. Gen. Op. GA-668 (2008)*

EMERGENCY
MEETING OR
EMERGENCY
ADDITION TO
AGENDA

In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added as an item to the agenda for a meeting for which the required notice has been posted is sufficient if it is posted for at least two hours before the meeting is convened.

An emergency or urgent public necessity exists only if immediate action is required of a governmental body because of an imminent threat to public health and safety or a reasonably unforeseeable situation. The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice.

The sudden relocation of a large number of residents from the area of a declared disaster to a governmental body’s jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. Notice of an emergency meeting or supplemental notice of an emergency item added to the agenda of a meeting to address such a situation must be given to members of the news media as provided by Government Code 551.047 not later than one hour before the meeting.

Gov’t Code 551.045

CATASTROPHE

A governmental body that is prevented from convening an open meeting that was otherwise properly posted under Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code 551.045 if the action is taken in good faith and not to circumvent the OMA. If the governmental body is unable to convene the open meeting within those 72 hours, the governmental body may subse-

quently convene the meeting only if the governmental body gives the required written notice of the meeting.

“Catastrophe” means a condition or occurrence that interferes physically with the ability of the governmental body to conduct a meeting, including:

1. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
2. Power failure, transportation failure, or interruption of communication facilities;
3. Epidemic; or
4. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

Gov't Code 551.0411(b)–(c)

SPECIAL NOTICE TO
NEWS MEDIA

A school district shall provide special notice of each meeting to any news meeting that has requested special notice and agreed to reimburse the district for the cost of providing the special notice. The notice shall be by telephone, facsimile transmission, or electronic mail. *Gov't Code 551.052; Att'y Gen. Op. JM-340 (1985) (a college district board of trustees is considered a school district board of trustees for the purposes of the OMA)*

EMERGENCY
MEETING OR
EMERGENCY ITEM

The presiding officer of a governmental body, or the member of a governmental body who calls an emergency meeting of the governmental body or adds an emergency item to the agenda of a meeting of the governmental body, shall notify the news media of the emergency meeting or emergency item. The presiding officer or member is required to notify only those members of the news media that have previously filed at the headquarters of the governmental body a request containing all pertinent information for the special notice and agreed to reimburse the governmental body for the cost of providing the special notice. The presiding officer or member shall give the notice by telephone, facsimile transmission, or electronic mail any news media who have previously requested special notice of all meetings. *Gov't Code 551.047*

DISASTER

Notwithstanding any other law, a quorum is not required for the governing body of a local governmental entity to act if:

1. The entity's jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and

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2. A majority of the members of the governing body are unable to be present at a meeting of the governing body as a result of the disaster.

Gov't Code 418.1102

SECRET BALLOT

No vote shall be taken by secret ballot. *Atty. Gen. Op. H-1163 (1978)*

MEETING BY
TELEPHONE
CONFERENCE CALL
SPECIAL MEETING

The OMA does not prohibit the governing board of an institution of higher education from holding a meeting by telephone conference call. A meeting held by telephone conference call authorized by this section may be held only if the meeting is a special called meeting and immediate action is required, and the convening at one location of a quorum of the board is difficult or impossible. *Gov't Code 551.121(b)–(c)*

PUBLIC ACCESS

Each part of the telephone conference call meeting that is required to be open to the public must be:

1. Audible to the public at the location specified in the notice of the meeting as the location of the meeting; and
2. Broadcast over the Internet in the manner prescribed by Government Code 551.128, below.

Gov't Code 551.121(f)

NOTICE

The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice of a telephone conference call meeting of a governing board must specify as the location of the meeting the location where meetings of the governmental board are usually held. *Gov't Code 551.121(d)–(e)*

RECORDING

Each part of the telephone conference call meeting that is required to be open to the public must be recorded and made available to the public in an online archive located on the Internet website of the entity holding the meeting. *Gov't Code 551.121(f)*

QUORUM AT ONE
LOCATION

The OMA does not prohibit the governing board of a junior college district from holding an open or closed meeting by telephone conference call. A meeting held by telephone conference call authorized by this section may be held only if a quorum of the governing board is physically present at the location where meetings of the board are usually held. *Gov't Code 551.121(a)–(b)*

PUBLIC ACCESS

Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location where the quorum is present. The location of the meeting shall provide two-way communication during the entire telephone conference call meeting, and the identification of each party to the tel-

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ephone conference shall be clearly stated before the party speaks.
Gov't Code 551.122(d)–(e)

NOTICE

The telephone conference call meeting is subject to the notice requirements applicable to other meetings. *Gov't Code 551.122(c)*

RECORDING

Each part of the telephone conference call meeting that is required to be open to the public shall be recorded. The recording shall be made available to the public. *Gov't Code 551.122(d)*

ATTENDANCE

A member of a governing board of a junior college district who participates in a board meeting by telephone conference call but is not physically present at the location of the meeting is considered to be absent from the meeting for purposes of Education Code 130.0845. *Gov't Code 551.122(g)*

MEETING BY
VIDEOCONFERENCE
CALL

A member or employee of a governmental body, including a college district board of trustees, may participate remotely in a meeting of the governmental body by means of a videoconference call if the video and audio feed of the member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions of this section. A member of a governmental body who participates in the meeting as provided shall be counted as present at the meeting for all purposes.

A meeting of a governmental body may be held by videoconference call only if:

1. The governmental body makes available to the public at least one suitable physical space located in or within a reasonable distance of the geographic jurisdiction, if any, of the governmental body that is equipped with videoconference equipment that provides an audio and video display, as well as a camera and microphone by which a member of the public can provide testimony or otherwise actively participate in the meeting;
2. The member of the governmental body presiding over the meeting is present at that physical space; and
3. Any member of the public present at that physical space is provided the opportunity to participate in the meeting by means of a videoconference call in the same manner as a person who is physically present at a meeting of the governmental body that is not conducted by videoconference call.

The location where the member of the governmental body presiding over the meeting is physically present shall be open to the public during the open portions of the meeting.

Gov't Code 551.127(a-1)–(a-2), (c), (e)

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NOTICE

A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section. *Gov't Code 551.127(d)*

The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where the member of the governmental body presiding over the meeting will be physically present and specify the intent to have the member of the governmental body presiding over the meeting present at that location. *Gov't Code 551.127(e)*

QUALITY OF AUDIO
AND VIDEO
SIGNALS

Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at the location specified under Government Code 551.127(e), above. If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned. *Gov't Code 551.127(f)*

The physical location specified under Section 551.127(e), and each remote location from which a member of the governmental body participates, shall have two-way audio and video communication with each member who is participating by videoconference call during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by Section 551.127(e) and at any other location of the meeting that is open to the public. *Gov't Code 551.127(h)*

The Department of Information Resources by rule shall specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards. *Gov't Code 551.127(i)*

The audio and video signals perceptible by members of the public at each location of the meeting described by Government Code 551.127(h) must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting. *Gov't Code 551.127(j); 1 TAC 209.30-.31*

RECORDING

The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public. *Gov't Code 551.127(g)*

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REMOTE
PARTICIPATION

Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call. *Gov't Code 551.127(k)*

INTERNET
BROADCAST

A governmental body may broadcast an open meeting over the Internet. Except as provided by Government Code 551.128(b-2), a governmental body that broadcasts a meeting over the Internet shall establish an Internet site and provide access to the broadcast from that site. The governmental body shall provide on the Internet site the same notice of the meeting that the governmental body is required to post under Government Code Chapter 551, Subchapter C. The notice on the Internet must be posted within the time required for posting notice under Chapter 551, Subchapter C. *Gov't Code 551.128(b)-(c)*

LARGE COLLEGE
DISTRICTS

The governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year, for any regularly scheduled meeting of the governing board for which notice is required under Government Code Chapter 551, shall:

1. Broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the Internet in the manner prescribed by Government Code 551.128; and
2. Record the broadcast and make that recording publicly available in an online archive located on the district's Internet website.

The governing board of the junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

Gov't Code 551.1282(a)-(b), (d)

MEETING RECORDING
REQUIRED

An elected school district board of trustees for a school district that has a student enrollment of 10,000 or more shall:

1. Make a video and audio recording of reasonable quality of each regularly scheduled open meeting that is not a work session or a special called meeting; and
2. Make available an archived copy of the video and audio recording of each meeting described by item 1 on the Internet.

Gov't Code 551.128(b-1); Att'y Gen. Op. JM-340 (1985) (a college district board of trustees is considered a school district board of trustees for the purposes of the OMA)

A governmental body described by Government Code 551.128(b-1) may make available the archived recording of a meeting on an existing Internet site, including a publicly accessible video-sharing or social networking site. The governmental body is not required to establish a separate Internet site and provide access to archived recordings of meetings from that site. *Gov't Code 551.128(b-2)*

A governmental body described by Government Code 551.128(b-1) that maintains an Internet site shall make available on that site, in a conspicuous manner the archived recording of each meeting or an accessible link to the archived recording of each such meeting. *Gov't Code 551.128(b-3)*

A governmental body described by Government Code 551.128(b-1) shall make the archived recording of each meeting available on the Internet not later than seven days after the date the recording was made and maintain the archived recording on the Internet for not less than two years after the date the recording was first made available. *Gov't Code 551.128(b-4)*

A governmental body described by Government Code 551.128(b-1) is exempt from the requirements of Government Code (b-2) and (b-4) if the governmental body's failure to make the required recording of a meeting available is the result of a catastrophe, as defined by Government Code 551.0411, or a technical breakdown. Following a catastrophe or breakdown, a governmental body must make all reasonable efforts to make the required recording available in a timely manner. *Gov't Code 551.128(b-5)*

A governmental body described by Government Code 551.128(b-1) may broadcast a regularly scheduled open meeting of the body on television. *Gov't Code 551.128(b-6)*

ATTORNEY
CONSULTATION

A governmental body may use a telephone conference call, videoconference call, or communications over the Internet to conduct a public consultation with its attorney in an open meeting of the governmental body or a private consultation with its attorney in a closed meeting of the governmental body. [See BDA]

Each part of a public consultation by a governmental body with its attorney in an open meeting of the governmental body must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

Gov't Code 551.129(a)-(b)

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PASSING
RESOLUTIONS OR
ORDERS

The board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with Education Code 130.082. *Education Code 130.082(d)*

HEARING-IMPAIRED
PERSONS

In a proceeding before the governing body of a political subdivision in which the legal rights, duties, or privileges of a party are to be determined by the governing body after an adjudicative hearing, the governing body shall supply for a party who is deaf or hearing impaired an interpreter who has qualifications approved by the Texas Department of Assistive and Rehabilitative Services.

“Deaf or hearing impaired” means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of an examination or proceeding or communication with others.

Gov't Code 558.001, .003