EXCEPTIONS FOR CLOSED MEETINGS

The Board may conduct a closed meeting for the purposes described in the following provisions:

ATTORNEY CONSULTATION

1. The Board may conduct a private consultation with its attorney only when it seeks the attorney's advice about pending or contemplated litigation or a settlement offer or on a matter in which the duty of the attorney to the Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the requirement for open meetings. *Gov't Code 551.071* [See BE for permissible methods of communication for attorney consultations]

REAL PROPERTY

2. The Board may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person. *Gov't Code 551.072*

PROSPECTIVE GIFT

3. The Board may conduct a closed meeting to deliberate a negotiated contract for a prospective gift or donation to the District if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person. *Gov't Code 551.073*

PERSONNEL MATTERS

4. The Board is not required to conduct an open meeting to deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee or to hear a complaint or charge against an officer or employee. However, the Board may not conduct a closed meeting for these purposes if the officer or employee who is the subject of the deliberation or hearing requests a public hearing. *Gov't Code 551.074*

The closed meeting exception for personnel matters does not apply when the Board discusses an independent contractor who is not a school employee, such as an engineering, architectural, or consultant firm, or when the Board discusses a class or group of employees, not a particular employee. *Atty. Gen. Op. MW-129 (1980), Atty. Gen. Op. H-496 (1975)*

EMPLOYEE-EMPLOYEE COMPLAINTS

The Board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against a District employee by another employee and the complaint or charge directly results in the need for a hearing. However, the Board may not conduct a closed meeting for this purpose if the employee against whom the complaint or charge is brought makes a written request for an open hearing. *Gov't Code 551.082*

STUDENT DISCIPLINE

5. The Board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school child. However, the Board may not conduct a closed meeting for this purpose if the child's parent or guardian makes a written request for an open hearing. *Gov't Code 551.082*

PERSONALLY IDENTIFIABLE STUDENT INFORMATION

6. The Board is not required to conduct an open meeting to deliberate a matter regarding a student if personally identifiable information about the student will necessarily be revealed by the deliberation.

   Directory information about a public school student is considered to be personally identifiable information about the student for this purpose only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the District that the directory information should not be released without prior consent. [See FL]

   This exception does not apply if an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age.

   Gov't Code 551.0821

MEDICAL OR PSYCHIATRIC RECORDS

7. A board that administers a public insurance, health, or retirement plan is not required to conduct an open meeting to deliberate:

   a. The medical records or psychiatric records of an individual applicant for a benefit from the plan; or

   b. A matter that includes a consideration of information in the medical or psychiatric records of an individual applicant for a benefit from the plan.

   Gov't Code 551.0785

SECURITY

8. The Board is not required to conduct an open meeting to deliberate:

   a. The deployment, or specific occasions for implementation, of security personnel or devices; or

   b. A security audit.

   Gov't Code 551.076

ASSESSMENT INSTRUMENTS

9. The Board shall conduct a closed meeting to discuss or adopt individual assessment instruments or assessment instrument items. *Education Code 39.030(a)*

EMERGENCY MANAGEMENT

10. The Board is not required to conduct an open meeting to deliberate information confidential under Government Code 418.175–418.182, relating to Homeland Security. However, the Board must make a tape recording of the proceedings of a closed meeting held to deliberate the information. *Gov't Code 418.183(f)*

ECONOMIC DEVELOPMENT NEGOTIATIONS

11. The Board is not required to conduct an open meeting:

    a. To discuss or deliberate regarding commercial or financial information that the Board has received from a business prospect that the Board seeks to have locate, stay, or expand in or near the District and with which the Board is conducting economic development negotiations; or

    b. To deliberate the offer of a financial or other incentive to such a business prospect.

    Gov't Code 551.087

PROCEDURES FOR CLOSED MEETINGS

If a closed meeting is allowed, the Board shall not conduct the closed meeting unless a quorum of the Board first convenes in an open meeting for which proper notice has been given [see BE] and the presiding officer has publicly announced that a closed meeting will be held and has identified the section or sections of the Open Meetings Act or other applicable law under which the closed meeting is held. *Gov't Code 551.101*

VOTE OR FINAL ACTION

A final action, decision, or vote on a matter deliberated in a closed meeting shall be made only in an open meeting for which proper notice has been given. *Gov't Code 551.102* [See BE]

CERTIFIED AGENDA OR TAPE RECORDING

The Board shall either keep a certified agenda or make a tape recording of the proceedings of each closed meeting, except for private consultation with the District's attorney. The certified agenda must include a statement of the subject matter of each deliberation, a record of any further action taken, and an announcement by the presiding officer at the beginning and end of the closed meeting indicating the date and time. A presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. If a tape recording is made, it must include announcements by the presiding officer at the beginning and end of the meeting indicating the date and time. *Gov't Code 551.103*

Closed meetings may not be recorded by an individual trustee against the wishes of a majority of the Board. *Zamora v. Edgewood ISD, 592 S.W.2d 649 (Tex. App.—San Antonio, 1979, writ ref'd n.r.e.)*

PRESERVATION	The Board shall preserve the certified agenda or tape recording of a closed meeting for at least two years after the date of the meeting. If a legal action involving the meeting is brought within that period, the Board shall preserve the certified agenda or tape recording while the action is pending. *Gov't Code 551.104(a)*
PUBLIC ACCESS	A certified agenda or tape recording of a closed meeting is available for public inspection and copying only under a court order issued as a result of litigation involving an alleged violation of the Open Meetings Act. *Gov't Code 551.104(b), (c)*
PROHIBITIONS	No Board member shall participate in a closed meeting knowing that neither a certified agenda nor a tape recording of the closed meeting is being made. *Gov't Code 551.145*
	No individual, corporation, or partnership shall without lawful authority disclose to a member of the public the certified agenda or tape recording of a meeting that was lawfully closed to the public. *Gov't Code 551.146*
	No Board member shall knowingly call or aid in calling or organizing a closed meeting that is not permitted under the Open Meetings Act, close or aid in closing a regular meeting to the public except as permitted under the Open Meetings Act, or participate in a closed meeting that is not permitted under the Open Meetings Act. *Gov't Code 551.144(a)*
AFFIRMATIVE DEFENSE	It is an affirmative defense to prosecution under Subsection 551.144(a) that a Board member acted in reasonable reliance on a court order or a written interpretation of the open meetings law contained in an opinion of a court of record, the attorney general, or the Board's attorney. *Gov't Code 551.144(c)*