

BOARD MEMBERS
AUTHORITY

BBE
(LEGAL)

BOARD AUTHORITY

Because the board is a body corporate, members can perform no valid act except as a body at meetings properly convened and conducted. *Toyah ISD v. Pecos-Barstow Indep. Sch. Dist.*, 466 S.W.2d 377 (Tex. App.—San Antonio, 1971, no writ); *Buchele v. Woods*, 528 S.W.2d 95 (Tex. App. —Tyler, 1975, no writ)

ACCESS TO
INFORMATION

An individual board member has an inherent right of access to records maintained by the college district when the board member requests the records in his or her official capacity. *Atty. Gen. Op. JM-119 (1983)*

When there are competing confidentiality or security concerns, it may be proper for a board to establish reasonable procedures to preserve confidentiality, but the college district may not absolutely prohibit an individual board member from viewing records involving college district business that are otherwise properly available to the board as a governmental body. *Atty. Gen. Op. GA-138 (2004)*

ACCESS TO
STUDENT
RECORDS

An educational agency or institution may disclose personally identifiable information from an education record of a student without the written consent of the student required by 34 C.F.R. 99.30 if the disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests. 34 C.F.R. 99.30, .31(a) [See FJ]

DESTRUCTION OF
AND TAMPERING
WITH RECORDS

An officer, including a board member, or employee of a local government commits a criminal offense if the officer or employee knowingly or intentionally violates Local Government Code Title 6, Subtitle C or rules under it by destroying or alienating a local government record in contravention of Subtitle C or by intentionally failing to deliver records to a successor in office as provided by Local Government Code 201.006(a). *Local Gov't Code 202.008*

A person commits an offense if the person:

1. Knowingly makes a false entry in, or false alteration of, a governmental record;
2. Makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;
3. Intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record;
4. Possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully;

5. Makes, presents, or uses a governmental record with knowledge of its falsity; or
6. Possesses, sells, or offers to sell a governmental record or a blank governmental record form with knowledge that it was obtained unlawfully.

It is an affirmative defense to prosecution for possession under paragraph 6 that the possession occurred in the actual discharge of official duties as a public servant. It is a defense to prosecution under paragraph 1, 2, or 5 that the false entry or false information could have no effect on the government's purpose for requiring the governmental record.

Penal Code 37.10(a), (e)–(f)

A person commits an offense if the person willfully destroys, mutilates, removes without permission as provided by Government Code Chapter 552 (Public Information Act), or alters public information. *Gov't Code 552.351(a)*

DISTRIBUTION OF
CONFIDENTIAL
INFORMATION

A person commits an offense if the person distributes information considered confidential under the terms of Chapter 552. *Gov't Code 552.352(a)*

FIDUCIARY

Each member of a governing board has the legal responsibilities of a fiduciary in the management of funds under the control of institutions subject to the board's control and management. *Education Code 51.352(e)*

PROTECTIONS FOR
ACTING ON A
LEGISLATIVE
MEASURE

To protect the independence of state and local officers acting in a legislative capacity, a state or local officer, whether elected or appointed, including a member of the governing body of a school district or other political subdivision of this state, may not be subject to disciplinary action or a sanction, penalty, disability, or liability for:

1. An action permitted by law that the officer takes in the officer's official capacity regarding a legislative measure;
2. Proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure;
3. The effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or
4. A breach of duty, in connection with the member's practice of or employment in a licensed or regulated profession or occupation, to disclose to any person information, or to obtain a waiver or consent from any person, regarding the officer's ac-

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tions relating to a legislative measure; or the substance, effects, or potential effects of a legislative measure.

Gov't Code 572.059