

**Exceptions for  
Closed Meetings**

Attorney  
Consultation

A governmental body, including a college district board of trustees, may not conduct a private consultation with its attorney except when the governmental body seeks the advice of its attorney about pending or contemplated litigation or a settlement offer or on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Government Code Chapter 551. [See BD for permissible methods of communication for attorney consultations] *Gov't Code 551.071*

Real Property

A governmental body 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 position of the governmental body in negotiations with a third person. *Gov't Code 551.072*

Prospective Gift

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

Public Officer or  
Employee Matters

Chapter 551 does not require a governmental body 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. This exception does not apply 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 governmental body discusses an independent contractor who is not a college district employee, such as an engineering, architectural, or consultant firm, or when the governmental body 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

A school board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in the need for a hearing. The exception does not apply if an open hearing is requested in writing by the employee against whom the complaint or charge is brought. *Gov't Code 551.082; 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 Open Meetings Act (OMA)]*

BOARD MEETINGS  
CLOSED MEETINGS

BDA  
(LEGAL)

**Student Discipline** A school board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school child. The exception does not apply if an open hearing is requested in writing by a parent or guardian of the child. *Gov't Code 551.082; Att'y Gen. Op. JM-340 (1985) [a college district board of trustees is considered a school district board of trustees for purposes of the OMA]*

**Personally Identifiable Student Information** A school board is not required to conduct an open meeting to deliberate a matter regarding a public school 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 school board that the directory information should not be released without prior consent. "Directory information" has the meaning assigned by the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g. [See FJ]

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; 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]*

**Medical or Psychiatric Records** A governmental body that administers a public insurance, health, or retirement plan is not required to conduct an open meeting to deliberate:

1. The medical records or psychiatric records of an individual applicant for a benefit from the plan; or
2. 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** Chapter 551 does not require a governmental body to conduct an open meeting to deliberate:

1. The deployment, or specific occasions for implementation, of security personnel or devices; or
2. A security audit.

*Gov't Code 551.076*

Chapter 551 does not require a governmental body to conduct an open meeting to deliberate:

1. Security assessments or deployments relating to information resources technology;
2. Network security information as described by Government Code 2059.055(b); or
3. The deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

*Gov't Code 551.089*

Test Item

A governmental body is not required to conduct an open meeting to deliberate a test item or information related to a test item if the governmental body believes that the test item may be included in a test the governmental body administers to individuals who seek to obtain or renew a license or certificate that is necessary to engage in an activity. *Gov't Code 551.088*

Emergency  
Management

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

**Procedures for  
Closed Meetings**

If a closed meeting is allowed, the governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by Government Code Chapter 551 [see BD] and during which the presiding officer publicly announces that a closed meeting will be held and identifies the section or sections of Chapter 551 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 under Government Code Chapter 551 may only be made in an open meeting that is held in compliance with the notice provisions of Chapter 551. [See BD] *Gov't Code 551.102*

**Certified Agenda or  
Recording**

A governmental body shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for private consultation permitted under Government Code 551.071. [See Attorney Consultation, above]

The presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. 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 recording of the proceedings must include announcements by the presiding officer at the beginning and the 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 governmental body. Zamora v. Edgewood ISD, 592 S.W.2d 649 (Tex. App.—San Antonio 1979, writ ref'd n.r.e.)

Preservation A governmental body shall preserve the certified agenda or recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the governmental body shall preserve the certified agenda or recording while the action is pending. *Gov't Code 551.104(a)*

Public Access The certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued under Government Code 551.104(b)(3). *Gov't Code 551.104(c)*

### **Prohibitions**

Closed Meeting Without Certified Agenda or Recording A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a recording of the closed meeting is not being made. *Gov't Code 551.145(a)*

Disclosure of Certified Agenda or Recording An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public under this Government Code Chapter 551 commits an offense and is liable to a person injured or damaged by the disclosure. *Gov't Code 551.146(a)*

Involvement in Illegal Closed Meeting A member of a governmental body commits an offense if a closed meeting is not permitted under Chapter 551 and the member knowingly:

1. Calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;
2. Closes or aids in closing the meeting to the public, if it is a regular meeting; or
3. Participates in the closed meeting, whether it is a regular, special, or called meeting.

*Gov't Code 551.144(a)*

It is an affirmative defense to prosecution under Government Code 551.144(a) that the member of the governmental body acted in reasonable reliance on a court order or a written interpretation of Chapter 551 contained in an opinion of a court of record, the attorney general, or the attorney for the governmental body. *Gov't Code 551.144(c)*