

BOARD LEGAL STATUS
POWERS, DUTIES, RESPONSIBILITIES

BAA
(LEGAL)

Responsibilities

It is the policy of this state that the governing boards of institutions of higher education, including college districts, being composed of lay members, shall exercise the traditional and time-honored role for such boards as their role has evolved in the United States and shall constitute the keystone of the governance structure. In this regard, each governing board:

1. Is expected to preserve institutional independence and to defend its right to manage its own affairs through its chosen administrators and employees.
2. Shall enhance the public image of each institution under its governance.
3. Shall interpret the community to the campus and interpret the campus to the community.
4. Shall nurture each institution under its governance to the end that each institution achieves its full potential within its role and mission.
5. Shall insist on clarity of focus and mission of each institution under its governance.

Education Code 51.352(a)

Extent of State and Local Control

All authority not vested by Education Code Chapter 130 or by other laws of the state in the Coordinating Board or in the Texas Education Agency shall be reserved and retained locally in each of the respective public junior college districts or the governing board of such junior colleges as provided in the laws applicable. *Education Code 130.002*

Oil and Gas
Operations

"Oil and gas operation" means an activity associated with the exploration, development, production, processing, and transportation of oil and gas, including drilling, hydraulic fracture stimulation, completion, maintenance, reworking, recompletion, disposal, plugging and abandonment, secondary and tertiary recovery, and remediation activities. An oil and gas operation is subject to the exclusive jurisdiction of this state. A municipality or other political subdivision, including a college district, may not enact or enforce an ordinance or other measure, or an amendment or revision of an ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within the boundaries or extraterritorial jurisdiction of the municipality or political subdivision. *Natural Resources Code 81.0523(a)(2), (b)*

Powers and Duties

State statute assigns specific powers and duties to a college district board of trustees. Examples of these powers and duties are described below.

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Governance	<p>The governing board of an institution of higher education shall provide the policy direction for each institution of higher education under its management and control. Said 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 this section. <i>Education Code 51.352(b), 130.082(d)</i></p> <p>The governing board of a junior college district shall be governed in the establishment, management, and control of a public junior college in the district by the general law governing the establishment, management, and control of independent school districts insofar as the general law is applicable. <i>Education Code 130.084(a)</i></p>
Establish Goals	<p>Each governing board shall establish, for each institution under its control and management, goals consistent with the role and mission of the institution. [See AD and AE] <i>Education Code 51.352(d)</i></p>
Taxes and Bonds	<p>The governing board of each junior college district, annually shall cause the taxable property in its district to be assessed for ad valorem taxation and the ad valorem taxes in the district to be collected, in accordance with any one of the methods set forth in Education Code 130.121, and any method adopted shall remain in effect until changed by the board.</p> <p>The governing board of each junior college district and each regional college district for and on behalf of its junior college division, shall be authorized to issue negotiable coupon bonds for the construction and equipment of school buildings and the purchase of the necessary sites therefor, and levy and pledge annual ad valorem taxes sufficient to pay the principal of and interest on said bonds as the same come due, and to levy annual ad valorem taxes for the further maintenance of its public junior college or junior colleges.</p> <p><i>Education Code 130.121(a), .122(a)</i> [See CAD and CAI]</p>
Tuition and Fees	<p>The governing board of a junior college district may set and collect with respect to a public junior college in the district any amount of tuition, rentals, rates, charges, or fees the board considers necessary for the efficient operation of the college district, except that a tuition rate set under this provision must satisfy the requirements of Education Code 54.051(n). The governing board may set a different tuition rate for each program, course, or course level offered by the college, including a program, course, or course level to which a provision of Section 54.051 applies, as the governing board con-</p>

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	siders appropriate to reflect course costs or to promote efficiency or another rational purpose. [See FD] <i>Education Code 130.084(b)</i>
Management of College District Funds	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. <i>Education Code 51.352(e)</i>
Annual Budget	The governing board of each institution shall approve an itemized current operating budget on or before September 1 of each year. [See CC] <i>19 TAC 13.42</i>
Annual Audit	The board must have the accounts of the college district audited in accordance with the approved financial reporting system. [See CDC] <i>Education Code 61.065</i>
Endowment Fund	The board of trustees of a public junior college may establish an endowment fund outside the state treasury in a depository selected by the board of trustees. <i>Education Code 130.007</i>
Depository	The governing board of each institution may select one or more depositories as places of deposit for the funds enumerated in Education Code 51.002. [See CB] <i>Education Code 51.003</i>
Elections	Each election shall be called by resolution or order of the board. <i>Education Code 130.082(f), .122(b)</i>
Eminent Domain	A board may, by the exercise of the right of eminent domain, acquire the fee simple title to real property on which to construct school buildings or for any other public use necessary for the district. [See CFG] <i>Education Code 11.155, 130.084; Atty. Gen. Op. M-700 (1970)</i>
Appoint and Evaluate Chief Executive Officer	Each governing board shall appoint the president or other chief executive officer of each institution under the board's control and management and evaluate the chief executive officer of each component institution and assist the officer in the achievement of performance goals. [See BF series] <i>Education Code 51.352(d), 130.082(d)</i>
Employment of Personnel	The board shall be authorized to appoint or employ such agents, employees, and officials as deemed necessary or advisable to carry out any power, duty, or function of said board; and to employ a dean or other administrative officer, and upon the president's recommendation to employ faculty and other employees of the College District. [See DC series] <i>Education Code 130.082(d)</i>
Rentals, Rates, and Charges	Each board shall be authorized to fix and collect rentals, rates, charges, and/or fees, including student union fees, from students and others for the occupancy, use, and/or availability of all or any

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of its property, buildings, structures, activities, operations, or facilities, of any nature, in such amounts and in such manner as may be determined by such board. *Education Code 130.123(c)*

Real Property The governing body of a governmental agency may execute, perform, and make payments under a contract under the Public Property Finance Act for the use or purchase or other acquisition of real property or an improvement to real property. [See CFG] *Local Gov't Code 271.004*

Personal Property The governing body of a governmental agency may execute, perform, and make payments under a contract with any person for the use or the purchase or other acquisition of any personal property, or the financing thereof. [See CFH] *Local Gov't Code 271.005*

Lawsuits The board may sue and be sued. *Education Code 11.151(a); 130.084*

Settlements A governmental unit may not enter into a settlement of a claim or action against the governmental unit in which:

1. The amount of the settlement is equal to or greater than \$30,000;
2. The money that would be used to pay the settlement is derived from taxes collected by a governmental unit; received from the state; or insurance proceeds received from an insurance policy for which the premium was paid with taxes collected by a governmental unit or money received from the state; and
3. A condition of the settlement requires a party seeking affirmative relief against the governmental unit to agree not to disclose any fact, allegation, evidence, or other matter to any other person, including a journalist or other member of the media.

A settlement agreement provision entered into in violation of the provisions above is void and unenforceable.

Civ. Prac. Rem. Code 116.002

Communicate with Coordinating Board Each governing board shall ensure that its formal position on matters of importance to the institutions under its governance is made clear to the Coordinating Board when such matters are under consideration by the Coordinating Board. *Education Code 51.352(d)*

Student Admissions Each governing board shall set campus admission standards consistent with the role and mission of the institution and considering admission standards of similar institutions nationwide having a sim-

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ilar role and mission, as determined by the Coordinating Board.
[See FB] *Education Code 51.352(d)*