

BOARD MEETINGS

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(LEGAL)

DEFINITIONS

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

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

Gov't Code 551.001(4)

DELIBERATION

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

SOCIAL FUNCTION OR
CONVENTION

The term “meeting” does not include the gathering of a quorum of the Board at a social function unrelated to the public business that is conducted by the Board, or the attendance by a quorum of the Board at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken 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 the Board at a meeting of a committee or agency of the legislature is not considered to be a meeting of the Board if the deliberations at the meeting by the Board members consist only of publicly testifying, publicly commenting, and publicly responding to a question asked by a member of the legislative committee or agency. *Gov't Code 551.0035(b)*

OPEN TO PUBLIC

Every meeting of the Board shall be open to the public. The Board may, however, exclude a witness from a hearing during the examination of another witness in a matter being investigated and may enter into a closed meeting, as provided by law. *Gov't Code 551.002, .071–.089, .101–.104* [See BCB and BEC]

RECORDING

All or any part of an open meeting may be recorded by any person in attendance by means of a tape recorder, video camera, or any

BOARD MEETINGS

BD
(LEGAL)

other means of aural or visual reproduction. The Board 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. These rules shall not prevent or unreasonably impair a person from exercising the right to record a meeting that is open to the public. *Gov't Code 551.023*

MINUTES

The Board shall prepare and keep minutes or make a tape recording of each open meeting. The minutes shall state the subject matter of each deliberation and indicate each vote, order, decision, or other action taken. The minutes and tapes are public records and shall be available for public inspection and copying on request to the College President or designee. *Gov't Code 551.021-.022*

NOTICE REQUIRED

The Board shall give written notice of the date, hour, place, and subject(s) of each meeting it holds. *Gov't Code 551.041*

CONTINUED
MEETING

If the Board recesses an open meeting to the following regular business day, the Board is not required 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 Board must give the required written notice of the meeting continued to that other day. *Gov't Code 551.0411(a)*

INQUIRY DURING
MEETING

If a member of the public or of the Board inquires at a meeting about a subject for which 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 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

Notice of a Board meeting shall 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. That notice or a notice posted at another Board-designated place shall at all times be readily accessible to the public 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 College District is required to post notice of a meeting on the Internet, the College District 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.

BOARD MEETINGS

BD
(LEGAL)

The College District must still comply with the duty to physically post the notice in the central administration office and if the College District makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the physically posted notice must be readily accessible to the general public during normal business hours.

Gov't Code 551.043(b)

INTERNET POSTING

If the College District maintains an Internet Web site, in addition to the other place at which notice is required to be posted, the Board must also concurrently post notice of a meeting on the Internet Web site.

A college district 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 with the notice, post on the college district's Internet Web site the agenda for a Board meeting, if the agenda differs from the posted notice.

The validity of a posting of a college district 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 college district.

Gov't Code 551.056

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)*

BOARD MEETINGS

BD
(LEGAL)

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 to an agenda posted in accordance with law 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 because of an imminent threat to public health and safety or a reasonably unforeseeable situation. The Board shall clearly identify the emergency or urgent public necessity for each item in the notice of an emergency meeting and each item added in a supplemental notice.

The sudden relocation of a large number of residents from the area of a declared disaster to the College District'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 a situation described by this subsection 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 board prevented from convening an open meeting that was otherwise properly posted under Government Code Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code Section 551.045 if the action is taken in good faith and not to circumvent Government Code Chapter 551. If the Board is unable to convene the open meeting within those 72 hours, the Board may subsequently convene the meeting only if the Board gives the required written notice of the meeting.

"Catastrophe" means a condition or occurrence that interferes physically with the ability of the Board 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)

BOARD MEETINGS

BD
(LEGAL)

SPECIAL NOTICE TO NEWS MEDIA	The College District shall provide special notice of each meeting by telephone, facsimile transmission, or electronic mail to any news media that has requested it and agreed to reimburse the College District for the cost of providing the special notice. When an emergency meeting is called or an emergency item added to an agenda, the Board President shall notify by telephone, facsimile transmission, or electronic mail any news media who have previously requested special notice of all meetings. <i>Gov't Code 551.047, .052</i>
QUORUM	A majority of the Board (e.g., four members of a seven-member board or five members of a nine-member board, regardless of the number of vacancies) constitutes a quorum for meetings of the Board. <i>Gov't Code 551.001(6), 311.013(b)</i>
DISASTER	Notwithstanding any other law, a quorum is not required for the Board to act if: <ol style="list-style-type: none">1. The College District's jurisdiction is wholly or partly located in the area of a disaster declared by the president of the United States or the governor; and2. A majority of the members of the Board are unable to be present at a Board meeting as a result of the disaster. <i>Gov't Code 418.1102</i>
SECRET BALLOT	No vote shall be taken by secret ballot. <i>Atty. Gen. Op. H-1163 (1978)</i>
MEETING BY CONFERENCE CALL SPECIAL MEETING	The Board may hold a meeting by telephone conference call if the meeting is a specially called meeting and immediate action is required, and the convening at one location of a quorum of the Board is difficult or impossible.
QUORUM AT ONE LOCATION	A meeting held by telephone conference call may be held if a quorum of the Board is physically present at the location where meetings of the Board are usually held. A Board member who participates in the 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.
PUBLIC ACCESS	Each part of the telephone conference call meeting that is required to be open shall be audible to the public at the location specified in the notice of the meeting. The location designated in the notice as 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 telephone conference shall be clearly stated prior to speaking.

BOARD MEETINGS

BD
(LEGAL)

NOTICE	<p>The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice must specify as the location of the meeting, the location where meetings of the governmental body are usually held.</p>
RECORDING	<p>The conference call meeting shall be tape-recorded and made available to the public.</p> <p><i>Gov't Code 551.121-.122</i></p>
MEETING BY VIDEOCONFERENCE CALL	<p>If a college district does not extend into three or more counties, a meeting may be held by videoconference call only if a quorum of the board is physically present at one location of the meeting. If a college district extends into three or more counties, a meeting may be held by videoconference call if a majority of the quorum is physically present at one location of the meeting. A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements applicable to meetings by videoconference call.</p> <p><i>Gov't Code 551.127</i></p>
NOTICE OF LOCATIONS	<p>The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the Board will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call by the Board in a college district that extends into three or more counties must specify as a location of the meeting each location where a majority of the quorum of the Board will be physically present and specify the intent to have a majority of the quorum of the Board present at that location. The notice of the meeting must also specify where each participating member of the governmental body will be during the meeting.</p> <p>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 each location specified in the notice.</p> <p>Each location specified in the notice shall have two-way communication with each other location during the entire meeting. Each participant in the videoconference call, while speaking, shall be clearly visible and audible to each other participant and, during the open portion of the meeting, to the members of the public in attendance at a location of the meeting.</p>
RECORDING	<p>The Board shall make at least an audio recording of the meeting. The recording shall be made available to the public.</p>

BOARD MEETINGS

BD
(LEGAL)

QUALITY OF AUDIO AND VIDEO SIGNALS	<p>The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed standards specified by the Department of Information Resources. The quality of the audio and video signals perceptible by members of the public at each location of the meeting must:</p> <ol style="list-style-type: none">1. Meet or exceed the quality of the audio and video signals perceptible by the Board members participating in the meeting; and2. Be of sufficient quality so that members of the public at each location of the meeting can observe the demeanor and hear the voice of each participant in the open portion of the meeting.
REMOTE PARTICIPATION	<p>The Board may allow a member of the public to testify at a meeting from a remote location by videoconference call even if a Board member is not participating in the meeting from a remote location.</p> <p><i>Gov't Code 551.127; 1 TAC 209.30-.31</i></p>
INTERNET BROADCAST	<p>The Board may broadcast an open meeting over the Internet. If the Board broadcasts a meeting over the Internet, it shall establish an Internet site and provide access to the broadcast from that site. The Board shall provide on the Internet site the same notice of the meeting, within the time required for posting that notice, that the Board is required to post under the Open Meetings Act. <i>Gov't Code 551.128</i></p>
ATTORNEY CONSULTATION	<p>The Board 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 Board or a private consultation with its attorney in a closed meeting of the Board. [See BDA]</p> <p>Each part of a public consultation by the Board with its attorney in an open meeting must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.</p> <p><i>Gov't Code 551.129</i></p>
PASSING RESOLUTIONS OR ORDERS	<p>The Board shall proceed by and through resolutions or orders adopted or passed by the Board. The affirmative vote of a majority of all Board members shall be required to adopt or pass a resolution or order. The Board shall adopt such rules, regulations, and bylaws as it deems advisable. <i>Education Code 130.082(d)</i></p>
HEARING-IMPAIRED PERSONS	<p>In a proceeding before the Board in which the legal rights, duties, or privileges of a party are to be determined by the Board after an adjudicative hearing, the Board shall supply for a party who is deaf</p>

BOARD MEETINGS

BD
(LEGAL)

or hearing impaired an interpreter who has qualifications approved by the Texas Department of Assistive and Rehabilitative Services.

For purposes of this requirement, "deaf or hearing impaired" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of a proceeding or inhibits communication with others.

Gov't Code 558.001, .003