

## TEXAS SCHOOL FOR THE DEAF

### BOARD MEMBERS: AUTHORITY

BBE

**BOARD ACTIONS** Because the Board is a body corporate, members can perform no valid act except as a body at a meeting properly convened and conducted. *Tovah ISD v. Pecos-Barstow ISD*, 466 S.W. 2d 377 (Tex. Civ. App.-San Antonio, 1971, no writ); *Buchele v. Woods*, 528 S.W. 2d 95 (Tex. Civ. App.-Tyler, 1975, no writ)

**ACCESS TO INFORMATION** When acting in the member's official capacity, a board member has an inherent right of access to information, documents, and records maintained by the School.

"Official capacity" means all duties of office and includes administrative decisions or actions.

The School shall provide the information, documents, and records to the board member without requiring the board member to submit a public information request under Texas Government Code Chapter 552 (Public Information Act) and without regard to whether the requested items are the subject of or relate to an item listed on an agenda for an upcoming meeting.

The School may withhold or redact information, a document, or a record requested by a board member to the extent that the item is excepted from disclosure or is confidential under the Public Information Act or other law [see GBA]. Education Code 11.1512 does not require the district to provide information, documents, and records that are not subject to disclosure under the Family Educational Rights and Privacy Act of 1974 [see FL].

The School shall post, in a place convenient to the public, the cost of responding to one or more requests submitted by a board member under Education Code 11.1512(c) if the requests are for 200 or more pages of material in a 90-day period.

The School shall report annually to TEA not later than September 1 of each year:

1. The number of requests submitted by a board member under Education Code 11.1512(c) during the preceding school year; and
2. The total cost to the School for that school year of responding to the requests.

*Education Code 11.1512(c)-(f)*

An individual board member has an inherent right of access to records maintained by the School when the board member requests the records in his or her official capacity. *Atty. Gen. Op. No. 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 School may not absolutely prohibit an individual board member from viewing records involving district business that are otherwise properly available to the board as a governmental body. *Atty. Gen. Op. No. GA-138 (2004)*

**TEXAS SCHOOL FOR THE DEAF**

**BOARD MEMBERS:  
AUTHORITY**

**BBE**

ACCESS TO STUDENT  
RECORDS

Personally identifiable information in education records may be released, without the written consent of the student’s parents, only to a school official who has a legitimate educational interest in the education records. 34 CFR 99.31

RESPONSIBILITY FOR  
RECORDS

A person, including a board member, commits a criminal offense if the person:

1. Knowingly or intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a School record in contravention of Local Government Code Chapter 202. *Local Gov’t Code 202.008; Penal Code 37.10*
2. Willfully destroys, mutilates, alters, or removes public information without permission as provided by Government Code Chapter 552 (Public Information Act). *Gov’t Code 552.351*
3. Distributes information considered confidential under the Public Information Act. *Gov’t Code 552.352*

PROTECTIONS FOR ACTING  
ON A LEGISLATIVE  
MEASURE

A board member 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 actions relating to a legislative measure; or the substance, effects, or potential effects of a legislative measure.

*Gov’t Code 572.059*

BOARD MEMBER  
IMMUNITIES

The statutory immunity detailed below is in addition to and does not preempt the common law doctrine of official and governmental immunity. Education Code 22.051(b)

STATE LAW  
IMMUNITIES

A board member is not personally liable for any act that is incident to or within the scope of the duties of the board member’s position and that involves the exercise of judgment or discretion. Education Code 22.0511(a)

FEDERAL LAW  
IMMUNITIES

Except as provided in 20 U.S.C. Section 6736(b), no board member shall be liable for harm caused by an act or omission of the board member on behalf of the School if the conditions of the Paul. D. Coverdell Teacher Protection Act of 2001 are met. 20 U.S.C. Section 6733, 6736(a)

**TEXAS SCHOOL FOR THE DEAF**

**BOARD MEMBERS:  
AUTHORITY**

**BBE**

Issued:

Adopted: 05-29-82

Amended: 12-08-90  
07-25-92 03-25-94  
12-14-02 02-13-09  
10-30-09