

**TEXAS SCHOOL FOR THE DEAF**

**BOARD MEETINGS  
CLOSED MEETINGS**

**BEC**

**EXCEPTIONS FOR  
CLOSED MEETINGS**

The Board may conduct a closed meeting for the purposes described in the following provisions.

**ATTORNEY  
CONSULTATION**

The Board may conduct a private consultation with the Board's attorney only when it seeks the attorney's advice about pending or contemplated litigation or a settlement offer or on a matter in which the duty of the attorney to the Board under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the requirement for open meetings. Government Code 551.071

**REAL PROPERTY**

The Board 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 Board's position in negotiations with a third person. Government Code 551.072

**PROSPECTIVE GIFT**

The Board may conduct a closed meeting to deliberate a negotiated contract or a prospective gift or donation to the School if deliberation in an open meeting would have a detrimental effect on the Board's position in negotiations with a third person. Government Code 551.073

**PERSONNEL  
MATTERS**

The Board is not required to conduct an open meeting to deliberate the appointment, employment, evaluation, duties, reassignment, discipline or dismissal of a public officer or employee or to hear a complaints or charges against an officer or employee. However, the Board may not conduct a closed meeting for these purposes if the officer or employee who is the subject of the deliberation or hearing requests a public hearing. Government Code 551.074

The closed meeting exception for personnel matters does not apply when a board discusses an independent contractor who is not a school employee, such as an engineering, architectural, or consultant firm, or when the Board discusses a class or group of employees, not a particular employee. Atty. Gen. Op. MW-129 (1980), Atty. Gen. Op H-496

**EMPLOYEE-  
EMPLOYEE  
COMPLAINTS**

The Board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against a School employee by another employee, and the complaint or charge directly results in the need for a hearing. However, the Board may not conduct a closed meeting for this purpose if the employee against whom the complaint or charge is brought makes a written request for an open hearing. Government Code 551.082

**STUDENT DISCIPLINE**

The Board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school child. However, the Board may not conduct a closed meeting for this purpose if the child's parent or guardian makes a written request for an open hearing. Government Code 551.082

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**PERSONALLY IDENTIFIABLE  
STUDENT INFORMATION**

The Board is not required to conduct an open meeting to deliberate a matter regarding a student if personally identifiable information about the student will necessarily be revealed by the deliberation.

Directory information about a TSD student is considered to be personally identifiable information about the student for the 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 that the directory information should not be released without prior consent.

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.

Government Code 551.0821

**SECURITY**

The Board is not required to conduct an open meeting to deliberate:

- a. The deployment, or specific occasions for implementation, of security personnel or devices; or
- b. A security audit.

Government Code 551.076

The Board is not required 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*

**ASSESSMENT  
INSTRUMENTS**

The Board shall conduct a closed meeting to discuss or adopt individual assessment instruments and assessment instrument items. Education Code 39.030(a)

**EMERGENCY  
MANAGEMENT**

The Board is not required to conduct an open meeting to deliberate information confidential under Government Code 418.175—418.182, relating to Homeland Security. However, the

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Board must make a tape recording of the proceedings of a closed meeting held to deliberate the information. Government Code 418.183(f)

**ECONOMIC  
DEVELOPMENT  
NEGOTIATIONS**

The Board is not required to conduct an open meeting:

- a. To discuss or deliberate regarding commercial or financial information that the Board has received from a business prospect that the Board seeks to have locate, stay, or expand in or near the School with which the Board is conducting economic development negotiations; or
- b. To deliberate the offer of a financial or other incentive to such a business prospect.

Government Code 551.087

**PROCEDURES FOR  
CLOSED MEETINGS**

If a closed meeting is allowed, the Board shall not conduct the closed meeting unless a quorum of the Board first convenes in an open meeting for which proper notice has been given and the Board President has publicly announced that a closed meeting will be held and has identified the section or sections of the Open Meetings Act or other applicable law under which the closed meeting is held. The Board shall reconvene the open meeting after a closed meeting prior to adjourning the meeting. Government Code 551.101;

**VOTE OR FINAL ACTION**

A final action, decision, or vote on a matter deliberated in a closed meeting shall be made only in an open meeting for which proper notice has been given. Gov't Code 551.102

**CERTIFIED AGENDA OR TAPE  
RECORDING**

The Board shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for private consultations with the School's attorney. 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 Board President at the beginning and end of the closed meeting indicating the date and time. The Board President shall certify that a certified agenda is a true and correct record of the proceedings. If a tape recording is made, it must include announcements by the Board President at the beginning and end of the meeting indicating the date and time. Government Code 551.103

"Recording" means a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed. Government Code 551.001(7)

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Closed meetings may not be recorded by an individual Board member against the wishes of a majority of the Board. Zamora v. Edgewood ISD, 592 S.W.2d 649 (Tex. App.--San Antonio, 1979)

**PRESERVATION**

The Board shall preserve the certified agenda or recording of a closed meeting for at least two years after the date of the meeting. If a legal action involving the meeting is brought within that period, the Board shall preserve the certified agenda or recording while the action is pending. Government Code 551.104(a)

**PUBLIC ACCESS**

A certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued as a result of litigation involving an alleged violation of the Open Meetings Act. Government Code 551.104(b), (c)

**PROHIBITIONS**

No Board member shall participate in a closed meeting knowing that neither a certified agenda nor a recording of the closed meeting is being made. Government Code 551.145

No individual, corporation, or partnership shall without lawful authority disclose to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public. Government Code 551.146

No Board member shall knowingly call or aid in calling or organizing a closed meeting that is not permitted under the Open Meetings Act, close or aid in closing a regular meeting to the public except as permitted under the Open Meetings Act, or participate in a closed meeting that is not permitted under the Open Meetings Act. Government Code 551.144(a)

**AFFIRMATIVE DEFENSE**

It is an affirmative defense to prosecution under Subsection 551.144(a) that the Board member acted in reasonable reliance on a court order or a written interpretation of the open meetings law contained in an opinion of a court of record, the Attorney General, or the Board's attorney. Government Code 551.144(c)

Adopted: 05.29.82

Amended: 10.10.86, 10.06.87, 12.09.89, 05.20.94, 12.10.99, 10.30.09, 12.09.11, 12.13.18