

# EHBE(LEGAL) - SPECIAL PROGRAMS: BILINGUAL EDUCATION/ESL

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**Note:** The terms emergent bilingual, English language learner (ELL), English learner, and limited English proficiency (LEP) student are used interchangeably.

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## Title III Requirements

A district that receives funds under Title III of the Elementary and Secondary Education Act shall comply with the statutory requirements regarding English learners and immigrant students. *20 U.S.C. 6801–7014*

A district that receives funds under Title I or Title III to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform the parents of an English learner identified for participation in such a program of the information required by 20 U.S.C. 6312(e)(3). *20 U.S.C. 6312(e)(3)*

## Definitions

"Certified English as a second language teacher" is synonymous with the term "professional transitional language educator" used in Education Code 29.063.

"Dual language immersion" means a state-approved bilingual program model in accordance with Education Code 29.066.

"Emergent bilingual student" means a student whose primary language is other than English and whose English language skills are such that the student has difficulty performing ordinary classwork in English.

"English learner (EL)" is a student who is in the process of acquiring English and has another language as the primary or home language.

"Exit" refers to the point when a student is no longer classified as LEP/EL (i.e., the student is reclassified), no longer requires bilingual or ESL program services, and is classified as non-LEP/English proficient (EP) in the Texas Student Data System Public Education Information Management System. The term "exit" is synonymous with the description in Education Code, Chapter 29, of "transferring out" of bilingual or special language programming.

"Parent" includes the parent or legal guardian of the student in accordance with Education Code 29.052.

*Education Code 29.052; 19 TAC 89.1203(2)–(3), (7)–(8), (13)*

## District Responsibility

Each district shall:

1. Identify English learners based on criteria established by the state;
2. Provide bilingual education and ESL programs as integral parts of the general program;
3. Seek appropriately certified teaching personnel to ensure that English learners are afforded full opportunity to master the essential knowledge and skills; and
4. Assess achievement for essential knowledge and skills in accordance with Education Code Chapter 29 to ensure accountability for English learners and the schools that serve them.

*19 TAC 89.1201(a)*

## Identification of Emergent Bilingual Students

Within the first four weeks of the first day of school, the language proficiency assessment committee (LPAC) shall determine and report to the board the number of emergent bilingual students on each campus and shall classify each student according to the language in which the student possesses primary proficiency. A board shall report that information to TEA before November 1 each year. Education Code 29.053(b)

## Language Proficiency Assessment Committees (LPAC)

Each district that is required to offer bilingual and special language programs shall, by local board policy, establish an LPAC. A district shall establish and operate a sufficient number of LPACs to enable them to discharge their duties within four weeks of the enrollment of English learners. A district shall have on file policy and procedures for the selection, appointment, and training of members of the LPAC.

## Membership of LPAC

The LPAC shall include:

1. An appropriately certified bilingual educator (for students served through a bilingual education program);
2. An appropriately certified English as a second language (ESL) educator (for students served through an ESL program);
3. A parent of an English learner participating in a bilingual or ESL program; and
4. A campus administrator.

A district may add other trained members to the committee.

No parent serving on the LPAC shall be an employee of the school district.

All members of the LPAC, including parents, shall be acting for the district and shall observe all laws and rules governing confidentiality of information concerning individual students. A district shall be responsible for the orientation and training of all members, including the parents, of the LPAC.

Education Code 29.063(a), (b); 19 TAC 89.1220(a)–(f)

## Duties

The LPAC shall have the duties set forth at Education Code 29.063(c) and 19 Administrative Code 89.1220(g)–(i), (k), including duties to review information, classify students, notify parents, and monitor student academic progress.

## Home Language Survey

A district shall administer only one home language survey to each new student enrolling for the first time in a Texas public school in any grade from prekindergarten through grade 12. The district shall require that the survey be signed by the student's parent for each student in prekindergarten through grade 8, or by the student in grades 9 through 12.

It is the district's responsibility to ensure that the student's parent understands the language used in the survey and its implications. The original copy of the survey shall be kept in the student's permanent record.

The home language survey shall be provided in English, Spanish, and Vietnamese. For students of other language groups, the home language survey shall be translated into the primary language whenever possible.

The home language survey shall elicit one language answer to each of the following questions:

1. "What language is used in the child's home most of the time?"
2. "What language does the child use most of the time?"

If the response on the home language survey indicates that a language other than English is used, the student shall be tested in accordance with 19 Administrative Code 89.1226 (Testing and Classification of Students).

19 TAC 89.1215(a)-(c), .1226

#### Emergent Bilingual Classification

The LPAC may classify a student as emergent bilingual if:

1. The student's ability in English is so limited or the student's disabilities are so severe that assessment procedures cannot be administered;
2. The student's score or relative degree of achievement on the TEA-approved English proficiency test is below the levels established by TEA as indicative of reasonable proficiency;
3. The student's primary language proficiency score as measured by a TEA-approved test is greater than the student's proficiency in English; or
4. The LPAC determines, based on other information, including a teacher evaluation, parental viewpoint, or student interview, that the student's primary language proficiency is greater than the student's proficiency in English or that the student is not reasonably proficient in English.

Education Code 29.056(c)

#### Parental Notice and Consent

Not later than the tenth day after the date of the student's classification as emergent bilingual, the LPAC shall give written notice to the student's parent. Education Code 29.056(d)

The district shall notify the parent in English and in the parent's primary language that their child has been classified as an English learner and recommended for placement in the required bilingual education or ESL program. The district shall comply with the parent notification requirements described by 19 Administrative Code 89.1240(a).

The entry or placement of a student in the bilingual education or ESL program must be approved in writing by the student's parent in order to have the student included in the bilingual education allotment. The parent's approval shall be considered valid for the student's continued participation in the required bilingual education or ESL program until the student meets the reclassification criteria described in 19 Administrative Code 89.1226(i) (Testing and Classification of Students), the student graduates from high school, or a change occurs in program placement.

19 TAC 89.1240(a); Education Code 29.056(a)

Pending parental approval of an English learner's entry into a bilingual program recommended by the LPAC, a district shall place the student in the recommended program. Only English learners with parent approval who are receiving services will be included in the bilingual education allotment.

A district may place or exit a student in a program without written approval of the student's parent if:

1. The student is 18 years of age or has had the disabilities of minority removed;
2. The parent provides approval through a phone conversation or email that is documented in writing and retained; or
3. An adult who the district recognizes as standing in parental relation to the student provides written approval. This may include a foster parent or employee of a state or local governmental agency with temporary possession or control of the student.

19 TAC 89.1220(j), (m)

Participation of Other Students

With the approval of a district and a student's parents, a student who is not LEP may also participate in a bilingual education program. Education Code 29.058

The number of participating English proficient students shall not exceed 40 percent of the number of students enrolled in the program district-wide. 19 TAC 89.1233(c)

Students with Disabilities

Districts shall implement assessment procedures that differentiate between language proficiency and disabling conditions in accordance with 19 Administrative Code Chapter 89, Subchapter AA. The district shall establish placement procedures that ensure that placement in a bilingual education or ESL program is not refused solely because the student has a disability. LPAC members shall meet in conjunction with admission, review, and dismissal (ARD) committee members to review and provide recommendations about the education needs of each English learner who qualifies for services in the special education program. [See EHBAB] 19 TAC 89.1230

**Bilingual and ESL Programs**

Each district with an enrollment of 20 or more emergent bilingual students in any language classification in the same grade level shall offer a bilingual education or special language program.

Each district that is required to offer bilingual education and special language programs under this section shall offer the following for emergent bilingual students:

1. Bilingual education in kindergarten through the elementary grades;
2. Bilingual education, instruction in English as a second language, or other transitional language instruction approved by the agency in post-elementary grades through grade 8; and
3. Instruction in English as a second language in grades 9 through 12.

Education Code 29.053(c)–(d); 19 TAC 89.1205

The district shall provide an ESL program to all English learners for whom a district is not required to offer a bilingual education program, regardless of the students' grade levels and primary language, and regardless of the number of such students, except in cases where a district exercises the option to provide a bilingual education program that is not required by law [see below]. 19 TAC 89.1205(c)

A district is authorized to establish a bilingual education program even if the district has fewer than 20 English learners in any language classification in the same grade level district-wide and are not required to do so under the law. A district is also authorized to establish bilingual education programs at grade levels at which the district is not required under the law to establish bilingual programs. If a district does operate such a program under this authorization, the district shall adhere to all program requirements in 19 Administrative Code 89.1210, .1227, .1228, and .1229. 19 TAC 89.1205(f)–(g)

Exceptions and Waivers

A district shall comply with the requirements for bilingual education exceptions and ESL waivers under 19 Administrative Code 89.1207. Education Code 29.054; 19 TAC 89.1207

A district that is unable to employ a sufficient number of teachers, including part-time teachers, who meet the certification requirements for bilingual education and ESL program shall apply for an exception or waiver to the certification requirement on or before November 1. 19 TAC 89.1245(b)

Program Design

A district that is required to offer a bilingual education or ESL program shall provide each English learner the opportunity to be enrolled in the required program at his or her grade level.

A district's bilingual education program shall comply with the program content and design requirements of 19 Administrative Code 89.1210. A district shall provide for ongoing coordination between the ESL program and the regular educational program.

19 TAC 89.1210

English learners shall participate with their English-speaking peers in general education classes provided in subjects such as art, music, and physical education. A district shall provide students enrolled in the program a meaningful opportunity to participate fully with other students in all extracurricular activities. Elective courses included in the curriculum may be taught in a language other than English. Education Code 29.055, .057(b); 19 TAC 89.1210(f)

*Bilingual Education Program Models*

The bilingual education program shall be implemented through at least one of the following program models:

1. Transitional bilingual/early exit;
2. Transitional bilingual/late exit;
3. Dual language immersion/one-way; or
4. Dual language immersion/two-way.

19 TAC 89.1210(c)

*ESL Program Models*

The ESL program shall be implemented through one of the following program models:

1. An ESL/content-based program model is an English acquisition program that serves students identified as English learners through English instruction by a teacher appropriately certified in ESL under Education Code 29.061(c), through English language arts and reading, mathematics, science, and social studies. The goal of content-based ESL is for English learners to attain full proficiency in English in order to participate equitably in school. This model targets English language development through academic content instruction that is linguistically and culturally responsive in English language arts and reading, mathematics, science, and social studies.
2. An ESL/pull-out program model is an English acquisition program that serves students identified as English learners through English instruction provided by an appropriately certified ESL teacher under Education Code 29.061(c), through English language arts and reading. The goal of ESL pull-out is for English learners to attain full proficiency in English in order to participate equitably in school. This model targets English language development through academic content instruction that is linguistically and culturally responsive in English language arts and reading. Instruction shall be provided by the ESL teacher in a pull-out or inclusionary delivery model.

19 TAC 89.1210(d)

*Dual Language Immersion Program*

A district may adopt a dual language immersion program (DLIP) for students enrolled in elementary school grades. Education Code 28.005(c), .0051(c)

*Implementation*

Program implementation shall:

1. Begin at prekindergarten or kindergarten, as applicable;
2. Continue without interruption incrementally through the elementary grades; and
3. Consider expansion to middle school and high school whenever possible.

19 TAC 89.1227(e)

*Minimum  
Requirements*

A DLIP shall:

1. Address all curriculum requirements specified at 19 Administrative Code Chapter 74, Subchapter A (Required Curriculum) to include foundation and enrichment areas, English language proficiency standards, and college and career readiness standards.
2. Be a full-time program of academic instruction in English and another language.
3. Provide equitable resources in English and the additional program language whenever possible.
4. Provide a minimum of 50 percent of instructional time in the language other than English for the duration of the program.
5. Be developmentally appropriate and based on current best practices identified in research.

19 TAC 89.1227

*Two-Way DLIP  
Enrollment*

Student enrollment in a two-way DLIP is optional for English proficient students. The program shall fully disclose candidate selection criteria and ensure that access to the program is not based on race, creed, color, religious affiliation, age, or disability. A district must obtain written parental approval for English proficient students through a district-developed process.

A district implementing a two-way DLIP shall develop a policy on enrollment and continuation for students in the program. The policy must address:

1. Eligibility criteria;
2. Program purpose;
3. The district's commitment to providing equitable access to services for English learners.
4. Grade levels in which the program will be implemented;
5. Support of program goals as stated in 19 Administrative Code 89.1210 (Program Content and Design); and
6. Expectations for students and parents.

19 TAC 89.1228(c)

*Two-Way DLIP State  
Assessment*

A district implementing a two-way DLIP shall determine the appropriate assessment option for program participants as follows:

1. For English learners, the LPAC shall convene before the administration of the state criterion-referenced test each year to determine the appropriate assessment option for each English learner in accordance with 19 Administrative Code 89.1220(i) (Language Proficiency Assessment Committee).
2. For English proficient students, the appropriate assessment option for the administration of the state criterion-referenced test each year is determined through a district-developed process.

19 TAC 89.1228(e)

*School District Recognition*

A district may recognize one or more of its schools that implement an exceptional DLIP if the school meets all of the following criteria:

1. The school must meet the minimum requirements stated in 19 Administrative Code 89.1227.
2. The school must receive an acceptable performance rating in the state accountability system.

The school must not be identified for any stage of intervention for the district's bilingual and/or ESL program under the performance-based monitoring system.

*Student Recognition*

A student participating in a DLIP or any other state-approved bilingual or ESL program may be recognized by the program and the board by earning a performance acknowledgement in accordance with 19 Administrative Code 74.14. [See EIF]

19 TAC 89.1229

Facilities

Bilingual education and ESL programs shall be located in public schools of the district with equitable access to all educational resources rather than in separate facilities. A district may concentrate the programs at a limited number of facilities within the district. Recent immigrant English learners shall not remain enrolled in a newcomer center for longer than two years. Education Code 29.057; 19 TAC 89.1235

Cooperation Among Districts

A district may join with one or more other districts to provide the required bilingual education or special language programs. The availability of the programs shall be publicized throughout the districts involved.

A district may allow a nonresident emergent bilingual student to enroll in or attend its bilingual education or special language programs if the student's district of residence does not provide an appropriate program. The tuition for the student shall be paid by the district in which the student resides.

Education Code 29.059; 19 TAC 89.1205(e)

Documentation

A student's permanent record shall contain the documentation items required by 19 Administrative Code 89.1220(l). Documentation in a student's permanent record shall be forwarded in the same manner as other student records to another school district in which the student enrolls. 19 TAC 89.1220(l)

For students previously enrolled in a Texas public school, the receiving district shall secure the student records, including the home language survey and LPAC documentation as described in 19 Administrative Code 89.1220(l), as applicable. All attempts to contact the sending district to request records shall be documented. Multiple attempts to obtain the student's home language survey shall be made. 19 TAC 89.1215(d)

Summer Program

If a district is required to offer a bilingual education or special language program, it shall offer a voluntary summer school program for emergent bilingual children who will be eligible for admission to kindergarten or first grade at the beginning of the next school year.

A school that operates on a semester system shall offer the program during the period school is recessed for the summer and for one-half day for eight weeks or on a similar schedule approved by the board. A school that operates on any other system shall offer 120 hours of instruction on a schedule established by the board.

The program must be an intensive bilingual education or special language program that meets the standards set by TEA, and the student/teacher ratio may not exceed 18:1. A

district shall comply with the requirements of 19 Administrative Code 89.1250 in providing such a program.

## Other Programs

A district may establish on a full- or part-time basis other summer school, extended day, or extended week bilingual or special language programs for emergent bilingual students and may join with other districts in establishing such programs.

The programs required or authorized by Education Code 29.060 may not be a substitute for programs required to be provided during the regular school year.

### Education Code 29.060

Teachers assigned to a bilingual education program using one of the following program models must be appropriately certified in bilingual education:

1. Transitional bilingual/early exit program model; or
2. Transitional bilingual/late exit program model.

### Education Code 29.061(b)

Teachers assigned to a bilingual education program using a dual language immersion/one-way or two-way program model must be appropriately certified for:

1. Bilingual education for the component of the program provided in a language other than English; and
2. Bilingual education or English as a second language for the component of the program provided in English.

A district that provides a bilingual education program using a dual language immersion/one-way or two-way program model may assign a teacher certified for the language other than English component of the program and a different teacher certified for the English language component.

### Education Code 29.061(b-1)–(b-2)

Teachers assigned to ESL programs must be appropriately certified for ESL. Education Code 29.061(c)

A district that is unable to hire a sufficient number of teachers with bilingual teaching or ESL certificates may request the activation of the appropriate permits in accordance with 19 Administrative Code Chapter 230. A district that is unable to provide the required bilingual education program because of an insufficient number of appropriately certified teachers shall request from the commissioner an exception to the bilingual education program and the approval of an alternative language program. English learners with parental approval for program services under a bilingual education exception will be included in the bilingual education allotment designated for an alternative language program. [See Exceptions and Waivers, above] 19 TAC 89.1207(a)–(b), .1245(a); Education Code 29.054

## Emergent Bilingual Students and State Assessments

In kindergarten–grade 12, an emergent bilingual student shall participate in the state assessment in accordance with commissioner's rules at 19 Administrative Code Chapter 101, Subchapter AA. [See EKBA]

## Program Exit

A district may transfer an emergent bilingual student out of a bilingual education or special language program for the first time or a subsequent time if the student is able to participate equally in a regular all-English instructional program as determined by:

1. TEA-approved tests administered at the end of each school year to determine the extent to which the student has developed oral and written language proficiency



and specific language skills in English;

2. Satisfactory performance on the reading assessment instrument under Education Code 39.023(a) or an English language arts assessment instrument under Education Code 39.023(c), as applicable, with the assessment instrument administered in English, or, if the student is enrolled in the first or second grade, an achievement score at or above the 40th percentile in the reading and language arts sections of an English standardized test approved by TEA; and
3. TEA-approved criterion-referenced tests and the results of a subjective teacher evaluation.

Education Code 29.056(g)

Notice to Parents

A district shall give written notification to the student's parent of a student's reclassification as English proficient and his or her exit from the bilingual or ESL program and acquire written approval. Students meeting reclassification requirements may continue in the bilingual education or ESL program with parental approval. 19 TAC 89.1240(b)

Post-Exit Monitoring and Reenrollment

The language proficiency assessment committee may reenroll the student in the program if later evidence suggests that a student who has been transferred out of a bilingual education or special language program has inadequate English proficiency and achievement. Classification of students for reenrollment must be based on the criteria required by Education Code 29.056. Education Code 29.056(h)

The LPAC shall reevaluate a student who is transferred out of a bilingual education or special language program if the student earns a failing grade in a subject in the foundation curriculum during any grading period in the first two school years after the student is transferred to determine whether the student should be reenrolled in a bilingual education or special language program.

During the first two school years after a student is transferred out of a bilingual education or special language program, the LPAC shall review the student's performance and consider:

1. The total amount of time the student was enrolled in bilingual education or special language programs;
2. The student's grades each grading period in each subject in the foundation curriculum;
3. The student's performance on state assessment instruments;
4. The number of credits the student has earned toward high school graduation, if applicable; and
5. Any disciplinary actions taken against the student under Education Code Chapter 37, Subchapter A.

After the evaluation, the LPAC may require intensive instruction for the student or reenroll the student in a bilingual education or special language program.

Education Code 29.0561

Program Evaluation

A district that is required to conduct a bilingual education or ESL program shall conduct an evaluation in accordance with 19 Administrative Code 89.1265. The annual evaluation report shall be presented to the board before November 1 of each year.

A district shall report to parents the progress of their child in acquiring English as a result of participation in the program offered to English learners.

Each school year, the principal of each campus, with assistance from the campus level committee, shall develop, review, and revise the campus improvement plan for the purposes of improving student performance for English learners. [See BQB]

19 TAC 89.1265

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Pasadena ISD  
EHBE(LEGAL)-P  
UPDATE 118  
DATE ISSUED: 11/8/2021

## EHBE(LOCAL) - SPECIAL PROGRAMS: BILINGUAL EDUCATION/ESL

### Language Proficiency Assessment Committees

The professional staff members of the LPAC(s) shall be assigned those duties by the Superintendent or designee. Selection of parent members of LPAC(s) shall be made after soliciting volunteers and upon the recommendation of professionals involved in the bilingual/ESL programs.

### Training

The District shall provide orientation and training for all members of the LPAC(s), which shall include a discussion of the committee's duties and a thorough explanation and review of all laws and rules governing the confidentiality of information regarding individual students. In performing their duties, committee members shall be acting for the District and shall observe requirements regarding confidentiality of student records. [See FL]

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Pasadena ISD  
EHBE(LOCAL)-A  
UPDATE 40  
DATE ISSUED: 7/8/1991

# BED(EXHIBIT) - BOARD MEETINGS: PUBLIC PARTICIPATION

## Board Operating Procedures for Public Comment

### **. *Speaker Signup***

Individuals who wish to provide public comment or testimony to the Board at the designated time during a Board meeting must sign up at least three hours in advance of the Board meeting in-person with the Board secretary at the District's administration building, 1515 Cherrybrook, Pasadena, Texas, 77502, or via email at [board@pasadenaisd.org](mailto:board@pasadenaisd.org) (<mailto:board@pasadenaisd.org>). Signup will open at 8:00 a.m. on the first business day following the posting of notice of the meeting and agenda and close three hours before the meeting begins. When an individual signs up, the individual must identify the topic on which they wish to address the Board and indicate whether the comment pertains to an item on the Board agenda and, if so, which item or items. An individual who will be accompanied by a translator must notify the District at the time of signup.

If an agenda item is continued or posted again for a meeting on a later date, individuals who wish to address the Board on the item must sign up separately for that later date.

### **. *Topic of Public Comment***

At meetings other than regular Board meetings, public comments are limited to items on the posted meeting notice and agenda. At regular meetings, comments on other topics may be allowed as time permits. Public comments should be limited to topics relevant to District business.

### **. *Time for Public Comment***

Generally, the Board allots a maximum of 30 minutes at the beginning of each Board meeting to hear public comments pertaining to items on the agenda posted with notice of the meeting.

For regular Board meetings only, the Board generally allots an additional maximum of 30 minutes to hear public comments on topics not listed on the agenda posted with notice of the meeting. This public comment portion of the meeting will occur after the Board has deliberated and/or taken action on items listed on the agenda for the open session portion of the meeting.

However, in the interest of time and the orderly conduct of public business, the Board reserves the right to:

- Increase or decrease the per-speaker time limit to address the Board.
- Move comments on non-agenda topics to the end of the meeting and/or postpone comments on non-agenda topics to future meetings.
- Take items in a different order than shown on the meeting notice.
- Proceed first with agenda items for which no speakers have registered to provide comment.
- Recommend that comments involving the performance of individual District employees or officers be made through the grievance policy.
- Require that comments involving personally identifiable student information be made through the grievance policy.
- Continue a meeting or an agenda item to another day in order to allow adequate time for public comment.
- Make other reasonable adjustments to the timing of public comment in accordance with law.

The Board delegates to its presiding officer the authority to make reasonable adjustments to the timing and conduct of public comment in accordance with law. [See BDAA]

The presiding officer will announce these adjustments in an open meeting.

### **. *Per-Speaker Time Limit***

A speaker will be given up to three minutes to address the Board. If, however, the total number of speakers seeking to address the Board at a meeting exceeds ten, the per-speaker time limit may be reduced. In no event will a speaker be given less than one minute to address the Board. A speaker who wishes to address multiple agenda items may be given one minute as additional time to address the Board.

### **. *Written Comments to the Board***

In lieu of or in addition to speaking at an open meeting, a member of the public may also submit written comments to the Board regarding District business by:

- Delivering a copy of the written comments in person to the Board's Secretary at the Pasadena ISD Administration building, 1515 Cherrybrook, Pasadena, Texas 77502;
- Mailing a copy of the written comments to Board of Trustees, Pasadena Independent School District, 1515 Cherrybrook, Pasadena, Texas 77502; or
- Emailing a copy of the written comments to [Board@pasadenaisd.org](mailto:Board@pasadenaisd.org) (<mailto:Board@pasadenaisd.org>).

Written submissions to the Board are subject to public disclosure in accordance with the law.

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Pasadena ISD  
BED(EXHIBIT)-X  
LDU 2020.01  
DATE ISSUED: 2/7/2020

## BE(LEGAL) - BOARD MEETINGS

A board may act only by majority vote of the members present at a meeting held in compliance with Government Code Chapter 551, at which a quorum of the board is present and voting. A majority vote is generally determined from a majority of those present and voting, excluding abstentions, assuming a quorum is present. Education Code 11.051(a-1); Atty. Gen. Op. GA-689 (2009)

### Definitions

#### Meeting

"Meeting" means a deliberation among a quorum of a 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 a board or for which a board is responsible;
2. At which a quorum of members of a board is present;
3. That has been called by a board; and
4. At which board members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of a district, about the public business or public policy over which the board has supervision or control.

Gov't Code 551.001(4)

A communication or exchange of information between board members about public business or public policy over which the board has supervision or control does not constitute a meeting or deliberation for purposes of the Texas Open Meetings Act if the communication is posted to an online message board or similar internet application in compliance with Government Code 551.006. Gov't Code 551.006 [See BBI]

#### Deliberation

"Deliberation" means a verbal or written exchange between a quorum of a board, or between a quorum of a board and another person, concerning an issue within the jurisdiction of the board. Gov't Code 551.001(2)

#### Recording

"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. Gov't Code 551.001(7)

#### Videoconference Call

"Videoconference call" means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through duplex audio and video signals transmitted over a telephone network, a data network, or the internet. Gov't Code 551.001(8)

#### Social Function, Convention, or Candidate Event

The term "meeting" does not include the gathering of a quorum of a board at a social function unrelated to the public business that is conducted by the board, the attendance by a quorum of the board at a regional, state, or national convention or workshop, ceremonial event, or press conference, or the attendance by a quorum of a board at a candidate forum, appearance, or debate to inform the electorate, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, press conference, forum, appearance, or debate. Gov't Code 551.001(4)

#### Legislative Committee or Agency Meeting

The attendance by a quorum of a board at a meeting of a committee or agency of the legislature is not considered to be a meeting of a 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)

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|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Superintendent Participation</b> | A board shall provide a superintendent an opportunity to present at a meeting an oral or written recommendation to the board on any item that is voted on by the board at the meeting. <u>Education Code 11.051(a-1)</u>                                                                                                                                                                                                                                                                                                         |
| <b>Open to Public</b>               | Every meeting of a board shall be open to the public. A 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. <u>Gov't Code 551.002, .084, Ch. 551, Subch. D</u> [See BDB and BEC]                                                                                                                                                                                                              |
| <b>Parental Access</b>              | A parent, as defined in <u>Education Code 26.002</u> , is entitled to complete access to any meeting of a board, other than a closed meeting held in compliance with the Open Meetings Act. <u>Education Code 26.007(a)</u>                                                                                                                                                                                                                                                                                                      |
| <b>Recording</b>                    | All or any part of an open meeting may be recorded by any person in attendance by means of a recorder, video camera, or any other means of aural or visual reproduction. A 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. <u>Gov't Code 551.023</u> |
| <b>Minutes</b>                      | A board shall prepare and keep minutes or make a 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. <u>Gov't Code 551.021</u>                                                                                                                                                                                                                                                                                       |
| Board Member Attendance             | The minutes or recording, as applicable, of a regular or special meeting of a board must reflect each member's attendance at or absence from the meeting. <u>Education Code 11.0621</u>                                                                                                                                                                                                                                                                                                                                          |
| Availability                        | The minutes and recording are public records and shall be available for public inspection and copying on request to a superintendent or designee. <u>Gov't Code 551.022; Education Code 11.0621</u>                                                                                                                                                                                                                                                                                                                              |
| <hr/>                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
|                                     | <b>Note:</b> For website posting requirements regarding the record of a board meeting, see CQA.                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <hr/>                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Notice Required</b>              | A board shall give written notice of the date, hour, place, and subject(s) of each meeting it holds. <u>Gov't Code 551.041</u>                                                                                                                                                                                                                                                                                                                                                                                                   |
| Continued Meeting                   | If a 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, a board continues the meeting to another day, the board must give the required written notice of the meeting continued to that other day. <u>Gov't Code 551.0411(a)</u>                   |
| <b>Inquiry During Meeting</b>       | If a member of the public or of a 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 of 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. <u>Gov't Code 551.042</u>                                       |
| <b>Location</b>                     | A board must hold each public meeting within the boundaries of the district, except: <ol style="list-style-type: none"> <li>1. As otherwise required by law; or</li> <li>2. To hold a joint meeting with another district or with another governmental entity if the boundaries of the governmental entity are in whole or in part within the</li> </ol>                                                                                                                                                                         |

boundaries of the district.

Education Code 26.007(b)

**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 a district is required to post notice of a meeting on the internet, the 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.

A district must still comply with the duty to physically post the notice in the central administration office and if the 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 a district maintains an internet website, in addition to the other place at which notice is required to be posted, a board must also concurrently post notice of a meeting on the internet website.

A 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 district's internet website the agenda for a board meeting, if the agenda differs from the posted notice.

The validity of a posting of a 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 district.

Gov't Code 551.056 [See CQA for website posting requirements regarding notice of board meetings.]

**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 a superintendent and principals are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what a 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 a board by employees or staff members. Atty. Gen. Ops JC-169 (2000)

The subject of a report or update by 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)

**Emergency Meeting or  
Emergency Addition to  
Agenda**

In an emergency or when there is an urgent public necessity, the notice of a meeting to deliberate or take action on the emergency or urgent public necessity, or the supplemental notice to add the deliberation or taking of action on the emergency or



urgent public necessity as an item to the agenda for a meeting for which notice has been posted in accordance with the Open Meetings Act, is sufficient if the notice or supplemental notice is posted for at least one hour before the meeting is convened.

A board may not deliberate or take action on a matter at a meeting for which notice or supplemental notice is posted as described above other than:

1. A matter directly related to responding to the emergency or urgent public necessity identified in the notice or supplemental notice of the meeting; or
2. An agenda item listed on a notice of the meeting before the supplemental notice was posted.

An emergency or urgent public necessity exists only if immediate action is required because of:

1. An imminent threat to public health and safety, including a threat described in item 2, below, if imminent; or
2. A reasonably unforeseeable situation, including:
  - a. Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
  - b. Power failure, transportation failure, or interruption of communication facilities;
  - c. Epidemic; or
  - d. Riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence.

The board shall clearly identify the emergency or urgent public necessity in the notice of an emergency meeting or supplemental notice.

The sudden relocation of a large number of residents from the area of a declared disaster to a district's jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation.

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 a 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 a 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)

**Special Notice to News Media**

A district shall provide special notice of each meeting by telephone, facsimile transmission, or electronic mail to any news media that has requested special notice and agreed to reimburse the district for the cost of providing the special notice. Gov't Code 551.052

The board president or board member who calls an emergency meeting or adds an emergency item to the agenda of a board meeting shall notify the news media of the emergency meeting or emergency item. The president or member is required to notify only those members of the news media that have previously filed a request containing all pertinent information for the special notice and agreed to reimburse the board for the cost of providing the special notice. The president or member shall give the notice by telephone, facsimile transmission, or electronic mail at least one hour before the meeting is convened. Gov't Code 551.047

**Quorum**

A majority of a 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. Gov't Code 551.001(6), 311.013(b)

**Disaster**

Notwithstanding any other law, a quorum is not required for a board to act if:

1. The 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; and
2. A majority of the members of the board are unable to be present at a board meeting as a result of the disaster.

Gov't Code 418.1102

**Secret Ballot**

No vote shall be taken by secret ballot. Atty. Gen. Op. H-1163 (1978)

**Meeting by Telephone Conference Call**

A board may hold a meeting by telephone conference call if an emergency or public necessity exists within the meaning of Government Code 551.045 and the convening at one location of a quorum of the board is difficult or impossible, or if the meeting is held by an advisory board.

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.

**Notice**

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.

**Recording**

The conference call meeting shall be recorded and made available to the public.

Gov't Code 551.125

**Meeting by Videoconference Call**

A board member or district employee may participate remotely in a board meeting by means of a videoconference call if the video and audio feed of the board member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions below. A board member who participates by videoconference call shall be counted as present at the meeting for all purposes. A board member who participates in a meeting by video conference call shall be considered absent from any portion of the meeting during which audio or video communication with the member is lost or disconnected. The board may continue the meeting only if a quorum remains present at the meeting location or, if applicable, continues to participate in a meeting conducted as specified at Multiple Counties, below. Gov't Code 551.001(8), .127(a-1)-(a-3)

Quorum

A meeting may be held by videoconference call only if a quorum of the board is physically present at one location of the meeting, except as provided at Multiple Counties, below.

*Multiple Counties*

A meeting of a board of a district that extends into three or more counties may be held by videoconference call only if the board member presiding over the meeting is physically present at one location of the meeting that is open to the public during the open portions of the meeting.

Notice

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.

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; the notice of a meeting held by videoconference call described above at Multiple Counties must specify as a location of the meeting the location where the board member presiding over the meeting will be physically present and specify the intent to have that member present at that location.

Gov't Code 551.127(b)–(e)

Quality of Audio and Video Signals

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 the location specified in the notice. If a problem occurs that causes a meeting to no longer be visible and audible to the public at that location, the meeting must be recessed until the problem is resolved. If the problem is not resolved in six hours or less, the meeting must be adjourned.

The location specified in the notice, and each remote location from which a member of the board participates, shall have two-way audio and video communication with each other location during the entire meeting. The face of each participant in the videoconference call, while that participant is speaking, shall be clearly visible, and the voice audible, to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location described by the notice and at any other location of the meeting that is open to the public.

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 audio and video signals perceptible by members of the public at the location of the meeting described by the notice and at each remote location from which a member participates must be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting.

Gov't Code 551.127(f), (h)–(j); 1 TAC 209.10–.11

Recording

A board shall make at least an audio recording of the meeting. The recording shall be made available to the public.

Remote Participation by the Public

A 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.

Gov't Code 551.127(g), (k)

**Video and Audio Recording of Meeting**

A board for a district that has a student enrollment of 10,000 or more shall make a video and audio recording of reasonable quality of each:

1. Regularly scheduled open meeting that is not a work session or a special called meeting; and

2. Open meeting that is a work session or special called meeting at which the board votes on any matter or allows public comment or testimony. [See BED for requirements regarding public testimony.]

The board shall make available an archived copy of the video and audio recording of each meeting on the internet not later than seven days after the date the recording was made. The board shall maintain the archived recording on the internet for not less than two years after the date the recording was first made available. A board is exempt from the requirements in this paragraph if the board's failure to make the required recording of a meeting available is the result of a catastrophe, as defined by Government Code 551.0411 [see Catastrophe, above], or a technical breakdown. Following a catastrophe or breakdown, the board must make all reasonable efforts to make the required recording available in a timely manner.

The board may make the archived recording available on an existing internet site, including a publicly accessible video-sharing or social networking site. The board is not required to establish a separate internet site and provide access to archived recordings of meetings from that site.

A district that maintains an internet site shall make available on that site, in a conspicuous manner, the archived recording of each meeting or an accessible link to the archived recording of each such meeting.

A board may broadcast a regularly scheduled open meeting on television.

Gov't Code 551.128(b-1)–(b-6)

#### **Internet Broadcast**

A board that is not subject to the provisions above at Video and Audio Recording of Meeting may broadcast an open meeting over the internet. If a board broadcasts a meeting over the internet, it shall establish an internet site and provide access to the broadcast from that site. A 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. Gov't Code 551.128(b), (c)

#### **Attorney Consultation**

A 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 BEC]

Each part of a public consultation by a 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.

#### **Exception**

This does not apply to a consultation with an attorney who is an employee of a district. An attorney who receives compensation for legal services performed, from which employment taxes are deducted by a district, is an employee of the district.

Gov't Code 551.129

#### **Persons with Hearing Impairments**

In a proceeding before a 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 or hearing impaired an interpreter who has qualifications approved by the Texas Commission for the Deaf and Hard of Hearing.

"Deaf or hearing impaired" means having a hearing impairment, regardless of the existence of a speech impairment, that inhibits comprehension of an examination or proceeding, or communication with others.

Gov't Code 558.001, .003

**Prohibited Series of Communications**

A board member commits an offense if the member:

1. Knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by the Open Meetings Act and that concern an issue within the jurisdiction of the board in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members; and
2. Knew at the time the member engaged in the communication that the series of communications:
  - a. Involved or would involve a quorum; and
  - b. Would constitute a deliberation once a quorum of members engaged in the series of communications.

Gov't Code 551.143

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Pasadena ISD  
BE(LEGAL)-P  
UPDATE 116  
DATE ISSUED: 1/6/2021

## BE(LOCAL) - BOARD MEETINGS

|                                      |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Meeting Place and Time</b>        | The notice for a Board meeting shall reflect the date, time, and location of the meeting.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Regular Meetings</b>              | Regular meetings of the Board shall normally be held on the fourth Tuesday of each month at 7:00 p.m., except in the month of December, when there will be no regular meeting because of the winter break. When determined necessary and for the convenience of Board members, the Board President may change the date, time, or location of a regular meeting with proper notice.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Special or Emergency Meetings</b> | <p>The Board President shall call special meetings at the Board President's discretion or on request by two members of the Board.</p> <p>The Board President shall call an emergency meeting when it is determined by the Board President or two members of the Board that an emergency or urgent public necessity, as defined by law, warrants the meeting.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Agenda</b>                        | <p>The deadline for submitting items for inclusion on the agenda is the fourth calendar day before regular meetings and the fourth calendar day before special meetings.</p> <p>Deadline</p> <p>Preparation</p> <p>In consultation with the Board President, the Superintendent shall prepare the agenda for all Board meetings. Any two Board members may request that a subject be included on the agenda for a meeting, and the Superintendent shall include on the preliminary agenda of the meeting all topics that have been timely submitted by at least two Board members.</p> <p>Before the official agenda is finalized for any meeting, the Superintendent shall consult the Board President to ensure that the agenda and the topics included meet with the Board President's approval. In reviewing the preliminary agenda, the Board President shall ensure that any topics the Board or any two Board members have requested to be addressed are either on that agenda or scheduled for deliberation at an appropriate time in the near future. The Board President shall not have authority to remove from the agenda a subject requested by two Board members without specific authorization from those Board members.</p> |
| <b>Notice to Members</b>             | Members of the Board shall be given notice of regular and special meetings at least 72 hours prior to the scheduled time of the meeting and at least one hour prior to the time of an emergency meeting.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Closed Meeting</b>                | <p>Notice of all meetings shall provide for the possibility of a closed meeting during an open meeting, in accordance with law.</p> <p>The Board may conduct a closed meeting when the agenda subject is one that may properly be discussed in closed meeting. [See BEC]</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Order of Business</b>             | The order of business for regular Board meetings shall be as set out in the agenda accompanying the notice of the meeting. At the meeting, the order in which posted agenda items are taken may be changed by consensus of Board members.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| <b>Rules of Order</b>                | The Board shall observe the parliamentary procedures as found in <i>Robert's Rules of Order, Newly Revised</i> , except as otherwise provided in Board procedural rules or by law. Procedural rules may be suspended at any Board meeting by majority vote of the members present.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| Voting                               | Voting shall be by voice vote or show of hands, as directed by the Board President. Any member may abstain from voting, and a member's vote or failure to vote shall be recorded upon that member's request. [See BDAA(LOCAL) for the Board President's voting rights]                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

**Consent Agenda**

When the agenda is prepared, the Board President shall determine items, if any, that qualify to be placed on the consent agenda. A consent agenda shall include items of a routine and/or recurring nature grouped together under one action item. For each item listed as part of a consent agenda, the Board shall be furnished with background material. All such items shall be acted upon by one vote without separate discussion, unless a Board member requests that an item be withdrawn for individual consideration. The remaining items shall be adopted under a single motion and vote.

**Minutes**

Board action shall be carefully recorded by the Board Secretary or clerk; when approved, these minutes shall serve as the legal record of official Board actions. The written minutes of all meetings shall be approved by vote of the Board and signed by the Board President and the Board Secretary.

The official minutes of the Board shall be retained on file in the office of the Superintendent and shall be available for examination during regular office hours.

**Discussions and Limitation**

Discussions shall be addressed to the Board President and then the entire membership. Discussion shall be directed solely to the business currently under deliberation, and the Board President shall halt discussion that does not apply to the business before the Board.

The Board President shall also halt discussion if the Board has agreed to a time limitation for discussion of an item, and that time limit has expired. Aside from these limitations, the Board President shall not interfere with debate so long as members wish to address themselves to an item under consideration.

## BEC(LEGAL) - BOARD MEETINGS: CLOSED MEETINGS

### Exceptions for Closed Meetings

A board may conduct a closed meeting for the purposes described in the following provisions.

#### Attorney Consultation

A board may conduct a private consultation with its 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. Gov't Code 551.071 [See BE for permissible methods of communication for attorney consultations]

#### Real Property

A 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. Gov't Code 551.072

#### Prospective Gift

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

#### Personnel Matters

A board is not required 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. However, a 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. Gov't 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 a board 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 board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against a district employee by another employee and the complaint or charge directly results in the need for a hearing. However, a 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. Gov't Code 551.082

#### Student Discipline

A board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school child. However, a 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. Gov't Code 551.082

#### Personally Identifiable Student Information

A 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 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 a district that the directory information should not be released without prior consent. [See FL]

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

Medical or Psychiatric  
Records

A board 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

A board is not required 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

A 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

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

Emergency Management

A 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, a board must make a tape recording of the proceedings of a closed meeting held to deliberate the information. Gov't Code 418.183(f)

Economic Development  
Negotiations

A board is not required to conduct an open meeting:

1. 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 a district and with which the board is conducting economic development negotiations; or
2. To deliberate the offer of a financial or other incentive to such a business prospect.

Gov't Code 551.087

**Procedures for Closed  
Meetings**

If a closed meeting is allowed, a 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 [see BE] and the presiding officer 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. Gov't 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

**Certified Agenda or Recording**

A board shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for private consultation with a district'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 presiding officer at the beginning and end of the closed meeting indicating the date and time. A presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. If a recording is made, it must include announcements by the presiding officer at the beginning and end of the meeting indicating the date and time. Gov't 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. Gov't Code 551.001(7)

Closed meetings may not be recorded by an individual trustee against the wishes of a majority of a board. Zamora v. Edgewood Indep. Sch. Dist., 592 S.W.2d 649 (Tex. App. —San Antonio, 1979, writ ref'd n.r.e.)

**Preservation**

A 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. Gov't 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. Gov't 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. Gov't 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. Gov't 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. Gov't Code 551.144(a)

**Affirmative Defense**

It is an affirmative defense to prosecution under Subsection 551.144(a) that a 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. Gov't Code 551.144(c)

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**Note:** For restrictions on attendance by student trustees at closed meetings, see AIC.

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## BED(LEGAL) - BOARD MEETINGS: PUBLIC PARTICIPATION

### United States Constitution

A district shall take no action abridging the freedom of speech or the right of the people to petition the board for redress of grievances. U.S. Const. Amend. I, XIV

A board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. When the board sits in public meetings to conduct public business and hear the views of citizens, it may not discriminate between speakers on the basis of the content of their speech or the message it conveys. Rosenberger v. Rector & Visitors of Univ. of Virginia, 515 U.S. 819, 828 (1995); City of Madison v. Wis. Emp. Rel. Comm'n, 429 U.S. 167, 176 (1976); Pickering v. Bd. of Educ., 391 U.S. 563, 568 (1968)

A board may create a limited public forum for the purpose of hearing comments from the public so long as:

1. The board does not discriminate against speech on the basis of viewpoint;
2. Any restrictions are reasonable in light of the purpose served by the forum; and
3. The board provides alternative paths for expressing categories of protected speech that are excluded from the forum.

Fairchild v. Liberty Indep. Sch. Dist., 597 F.3d 747 (5th Cir. 2010)

### Texas Constitution

Citizens shall have the right, in a peaceable manner, to assemble together for their common good and to apply to those invested with the powers of government for redress of grievances or other purposes, by petition, address, or remonstrance. Tex. Const. Art. I, Sec. 27

### Public Comment

A board shall allow each member of the public who desires to address the board regarding an item on an agenda for an open meeting of the board to address the board regarding the item at the meeting before or during the board's consideration of the item.

### Time Limits

A board may adopt reasonable rules regarding the public's right to address the board under these provisions, including rules that limit the total amount of time that a member of the public may address the board on a given item.

### Additional Time for Translation

If a board does not use simultaneous translation equipment in a manner that allows the board to hear the translated public testimony simultaneously, a rule adopted that limits the amount of time that a member of the public may address the board must provide that a member of the public who addresses the board through a translator must be given at least twice the amount of time as a member of the public who does not require the assistance of a translator in order to ensure that non-English speakers receive the same opportunity to address the board.

### Public Criticism

A board may not prohibit public criticism of the board, including criticism of any act, omission, policy, procedure, program, or service. This does not apply to public criticism that is otherwise prohibited by law.

Gov't Code 551.007

### Disruption

It is a criminal offense for a person, with intent to prevent or disrupt a lawful meeting, to substantially obstruct or interfere with the ordinary conduct of a meeting by physical action or verbal utterance and thereby curtail the exercise of others' First Amendment rights. Penal Code 42.05; Morehead v. State, 807 S.W. 2d 577 (Tex. Cr. App. 1991)

DEPARTMENT OF HEALTH SERVICES - HEALTH CARE

Page 1 of 1

The following information is provided for your information. It is not intended to be a substitute for professional advice. If you have any questions, please contact your provider or the Department of Health Services. The information is current as of the date of this update.

The Department of Health Services is committed to providing high-quality, patient-centered care. We are continuously working to improve our services and ensure that we meet the needs of our patients. We encourage you to provide feedback on our services so that we can continue to improve.

We are currently reviewing our policies and procedures to ensure they are up-to-date and reflect the latest best practices. We will be implementing changes to our policies and procedures in the near future. We will provide you with more information as we develop these changes.

We are also working to improve our communication with our patients. We will be implementing changes to our website and our patient portal to make it easier for you to access our services and information. We will provide you with more information as we develop these changes.

We are committed to providing you with the highest quality of care. We will continue to work hard to ensure that we meet your needs and provide you with the best possible experience. We will provide you with more information as we develop these changes.

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# BED(LOCAL) - BOARD MEETINGS: PUBLIC PARTICIPATION

|                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|--------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Limit on Participation</b>  | Audience participation at a Board meeting is limited to the portion of the meeting designated to receive public comment in accordance with this policy. At all other times during a Board meeting, the audience shall not enter into discussion or debate on matters being considered by the Board, unless requested by the presiding officer.                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Public Comment</b>          | At regular Board meetings, the Board shall permit public comment, regardless of whether the topic is an item on the open session portion of the agenda posted with notice of the meeting.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| Regular Meetings               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| Special Meetings               | At all other Board meetings, public comment shall be limited to items on the open session portion of the agenda posted with notice of the meeting.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Procedures</b>              | Individuals who wish to participate during the portion of the meeting designated for public comment shall sign up with the presiding officer or designee before the meeting begins as specified in the Board's procedures on public comment and shall indicate the open session agenda item or topic on which they wish to address the Board.<br><br>Public comment on an item on the open session portion of the agenda posted with notice of the meeting shall occur at the beginning of the meeting and/or prior to the Board's deliberation or decision regarding the item.<br><br>Except as permitted by this policy and the Board's procedures on public comment, an individual's comments to the Board shall not exceed three minutes per meeting. |
| <b>Meeting Management</b>      | When necessary for effective meeting management or to accommodate large numbers of individuals wishing to address the Board, the presiding officer may make adjustments to public comment procedures, including adjusting when public comment will occur during the meeting, reordering agenda items, deferring public comment on nonagenda items, continuing agenda items to a later meeting, providing expanded opportunity for public comment, or establishing an overall time limit for public comment and adjusting the time allotted to each speaker. However, no individual shall be given less than one minute to make comments.                                                                                                                  |
| <b>Board's Response</b>        | Specific factual information or recitation of existing policy may be furnished in response to inquiries, but the Board shall not deliberate or decide regarding any subject that is not included on the agenda posted with notice of the meeting.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Complaints and Concerns</b> | The presiding officer or designee shall determine whether an individual addressing the Board has attempted to solve a matter administratively through resolution channels established by policy. If not, the individual shall be referred to the appropriate policy to seek resolution: <ul style="list-style-type: none"><li>• Employee complaints: DGBA</li><li>• Student or parent complaints: FNG</li><li>• Public complaints: GF</li></ul>                                                                                                                                                                                                                                                                                                           |
| <b>Disruption</b>              | The Board shall not tolerate disruption of the meeting by members of the audience. If, after at least one warning from the presiding officer, any individual continues to disrupt the meeting by his or her words or actions, the presiding officer may request assistance from law enforcement officials to have the individual removed from the meeting.                                                                                                                                                                                                                                                                                                                                                                                                |

REPT. GOAL: GOVERNMENTAL SERVICES - PUBLIC SAFETY

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