



# Open Meetings Act Basic Training

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# Today's Agenda

- Background
- Applicability of the Act
- Notice requirements
- How to conduct open meetings
- When closed sessions are permissible
- Conducting meetings by teleconference or videoconference
- Penalties and remedies

# Open Meetings Act: Background

## History

- Adopted in 1967
- Enhanced in 1970s in response to Sharpstown scandal

## Chapter 551 of Texas Government Code

Purpose: Allow the public to—

- Observe the business of government
- Know how and why every decision is made

# Open Meetings Act Handbook

Available on Texas Attorney General's website: [www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov)

- ✓ "Open Government"
- ✓ "Open Meetings Act"
- ✓ "Open Meetings Act Handbook"

# Open Meetings Act: Applicability

Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by the Act.

The Act generally applies whenever there is:

- a governmental body, and
- that body is meeting.

# Definition of Governmental Body and Quorum

- “Governmental Body” includes local workforce development boards.
  - For other types of Governmental Bodies, see the definition in Texas Gov’t Code § 551.001(3).
- “Quorum” means a majority of the governing body, unless otherwise defined by law.
  - Generally, the Act applies whenever a quorum of a governmental body meets.

# Definition of “Meeting”

The Act defines “meeting” in two ways.

A “meeting” requires a gathering of a quorum of the governmental body and either:

- Deliberation about the governmental body’s public business or formal action taken by the governmental body, or
- An opportunity provided by the governmental body for members to ask about, speak about, or listen to information relating to public business.

# Exceptions to Meeting Definition

A gathering of a quorum at a . . .

- Social function
- Convention or workshop
- Ceremonial event,
- Press conference, or
- Candidate forum or debate

. . . is **not** a meeting, provided:

- No formal action is taken, and
- Any discussion of public business is ***incidental*** to the authorized event.



# Notice: Content

Must give written notice of the:

- Date
- Hour
- Place
- Subjects to be considered at the meeting
- For deliberations on budget, must include:
  - Physical copy of proposed budget (unless available on Internet homepage)
  - Taxpayer impact statement (property taxes)

# Hypothetical Notice

Tejas Workforce Development Board Meeting

March 29, 2025

6:00 p.m.

Auditorium, Board Office

Executive Director's Report

Personnel Matters

Public Comment

# Deadlines for Posting Notice

- Workforce Development Boards must generally post notice 3 business days before a meeting.
- Governmental bodies with statewide jurisdiction (like TWC) must generally post notice 7 days prior to a meeting.
- In emergencies, notice must be posted 1 hour before the meeting.

# Locations for Posting Notice

Notice must be posted in a place readily accessible to the general public at all times during the required posting period.

Government Code §§ 551.048–551.056 provide detailed posting requirements for specific governmental bodies.

- TWC, as a state governmental body, is required to provide notice to the Secretary of State, which is then posted on the Internet.
- Local Workforce Development boards must post:
  - Physical notice on a bulletin board with convenient public access; and
  - Digital notice on the Board's website (if applicable).

# Emergency Meetings

The Act creates an exception to the normal posting requirements for emergencies.

The Act defines “emergency” as a situation when immediate Board action is required because of:

- An imminent threat to public health and safety; or
- A reasonably unforeseeable situation.
  - Fire
  - Hurricane
  - Power or transportation failure
  - Epidemic
  - Riot or other actual or threatened act of lawlessness or violence

# Posting Notice for Emergency Meetings

When calling an emergency meeting:

- Post the notice at least one hour before the meeting
- Provide notice to the media at least one hour before the meeting if they have previously requested to receive special notice in the event of an emergency
- Clearly identify the emergency or urgent public necessity in the notice

# Notice for Recesses

Reposting notice is not required when recessing if:

- The meeting resumes the following regular business day; and
- The recess is made in good faith and not to circumvent the Act.

# Consequences of Improper Notice

Actions taken without proper notice are voidable.

Improperly noticed actions may be ratified at a subsequent meeting where the subject matter has been properly noticed.



# Conducting Open Meetings

Quorum is required.

- If members leave, resulting in the loss of a quorum, the meeting should be recessed until a quorum is again present.

Meetings must be:

- Accessible to the public, and
- Accessible to individuals with disabilities.
- A meeting location within the boundaries of the governmental body's jurisdiction will likely satisfy this requirement.

# Rights of the Public in an Open Meeting

The public must be able to

- Attend
- Record by video, audio, or other means

At meetings of the governmental body of a political subdivision, the public has a right to comment publicly on agenda items.

# Public Comment for Political Subdivisions

A governmental body must allow members of the public to address the body regarding an item at the meeting before or during the body's consideration of the item.

May adopt reasonable rules, including rules limiting the amount of time a member of the public may address the body on a given item.

Additional time individuals requiring a translator unless simultaneous translation equipment is used.

# Broadcasting Open Meetings

All governmental bodies may broadcast their meetings over the Internet (certain governmental bodies are required to do so).

Some governmental bodies are required to record and post recordings of their open meetings on the Internet (§ 551.128).

# Record Keeping for Open Meetings

Governmental bodies must prepare and keep minutes or make a recording of each open meeting.

Minutes must:

- State the subject of each deliberation; and
- Indicate each vote, order, decision, or other action taken.

Minutes and recordings must be made available for public inspection and copying on request.

# Closed Meetings

A governmental body may meet in a closed meeting or executive session when expressly authorized to do so by statute.

- The Open Meetings Act contains more than 25 exceptions to the requirement that meetings be open.
- Statutes outside of the Act may also apply to specific entities to allow closed sessions in specific circumstances.

Authority for closed session must be explicit in statute (not implied).

# Attorney Consultations

A governmental body may not conduct a private consultation with its attorney except:

- When the governmental body seeks the advice of its attorney about pending or contemplated litigation or a settlement offer, or
- On a matter that requires the attorney to meet in a closed meeting to comply with the Texas Disciplinary Rules of Professional Conduct.



# Deliberation About Personnel Matters

A governmental body may meet in a closed meeting to:

- Deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or
- Hear a complaint or charge against an officer or employee.

This exception does not apply if the officer or employee who is the subject of the deliberation or hearing requests a public hearing.



# Deliberations About Real Property

A governmental body may conduct a closed meeting to deliberate the purchase, exchange, lease, or value of real property.

Exception applies only if deliberation in an open meeting would detrimentally affect the Board's position in negotiations with a third person.

# Deliberations About Cybersecurity

Closed session permitted to deliberate cybersecurity measure, policy, or contract solely intended to protect a critical infrastructure facility.

“Cybersecurity” includes measures to protect a computer network against unauthorized access.

“Critical Infrastructure Facility” includes (as it relates to TWC and local workforce boards) a communication infrastructure system and a cybersecurity system.

# Limitation On Closed Meetings

Closed meetings—only for deliberation.

Any vote or final action requires an open meeting.

# Procedures for Closed Meeting

- Post notice as usual.
- Do not begin until a quorum is present.
- First convene in an open meeting.
- Identify in the open meeting the legal provision authorizing the governmental body to meet in closed session.
- Keep a certified agenda or make a tape recording as required by law.

# Closed Meetings: Keep a Certified Agenda or Recording

The Act requires a governmental body to make and keep a certified agenda or recording of most closed meetings.

Certified agendas are required to indicate:

- The presiding officer announced the date and time at both the beginning and end of the meeting;
- A statement of the subject matter of each deliberation;
- A record of any further action taken; and
- Certification that the agenda is a true and correct record of the closed meeting.

# Maintaining a Certified Agenda or Recording

A certified agenda or recording of a closed meeting is confidential—not available to the public except by court order.

A person who knowingly and without lawful authority makes a certified agenda or recording public commits a Class B misdemeanor.

A certified agenda or recording must be preserved for at least 2 years.

# Who May Attend a Closed Meeting

Only members of the governmental body have a right to attend.

An employee may attend if the employee's presence is:

- Necessary to the closed meeting, and
- Would not defeat its legal basis.

No one whose presence would undermine the legal basis for the closed meeting may attend.



# Teleconferencing

A governmental body may hold a meeting by telephone conference if:

- An emergency or urgent public necessity exists; and
- Convening at one location is difficult or impossible.

Meeting is subject to the notice requirements applicable to other meetings.

Some specific governmental bodies are authorized to meet by telephone conference in other circumstances.

A governmental body may use a conference call to consult with some attorneys.



# Videoconferencing

Members of a governmental body may participate remotely in a meeting by videoconference call when certain requirements are met, including:

- The video and audio feed of the remote member's participation in the meeting must be broadcast live;
- The member of the governmental body presiding over the meeting must be present in a physical space that is open to the public; and
- Depending on the type of governmental body, a quorum may still need to be present in the meeting place.

# Online Message Boards

Members may deliberate about public business or policy on an online message board without violating the Act if certain requirements are met:

- No voting or formal action may be taken through the online message board;
- Posting and archiving requirements; and
- Certain technical requirements.

# Criminal Penalties

Knowingly violating the Act under the following circumstances can lead to criminal liability:

- Failing to keep a certified agenda or recording of a closed meeting;
- Unlawfully disclosing a certified agenda or recording of a closed meeting;
- Holding or participating in an illegally closed meeting; and
- Deliberating among a quorum through a series of communications.

# Deliberating Among a Quorum Through a Series of Communications

Tex. Gov't Code § 551.143: "A member of a governmental body commits an offense if the member **knowingly** engages in at least one communication among a series of communications that":

- Occur outside of a meeting;
- Concern an issue within the governmental body's jurisdiction;
- Individual communication does not include a quorum; and
- Series of communications does include a quorum.

**Knowingly** means the member knew at the time of the communication that the series of communications involved or would involve a quorum.

# Civil Remedies

The Act permits a court to void any action taken in violation of the Act.

Individuals may sue to prevent threatened actions in violation of the Act.

# Open Government Hotline

(877) OPEN TEX  
(877) 673-6839

[www.texasattorneygeneral.gov](http://www.texasattorneygeneral.gov)