

TEXAS WORKFORCE COMMISSION LETTER

ID/No: WD 10-07

Date: February 2, 2007

Keyword: Administration

To: Local Workforce Development Board Executive Directors
Commission Executive Staff
Integrated Service Area Managers



From: Laurence M. Jones, Director, Workforce Development Division

Subject: **Adoption of Local Workforce Development Board Policies in Open Meetings**

PURPOSE:

To provide Local Workforce Development Boards (Boards) with guidance and information on the adoption of Board policies in open meetings.

REFERENCE:

Texas Government Code, Chapter 551

Texas Workforce Commission Local Workforce Development Boards Rules: 40
TAC §801.51(f)

WD Letter 48-01, issued January 9, 2002, and entitled "Effect of House Bill 936
on Roles and Responsibilities of Local Workforce Development Boards"

WD Letter 80-05, issued December 29, 2005, and entitled "Senate Bill 286: Open
Meetings and Public Information Training Requirements for Elected and
Appointed Public Officials"

Open Meetings Handbook, Office of the Attorney General, 2006

<http://www.oag.state.tx.us/newspubs/publications.shtml>

FLEXIBILITY RATINGS:

No Local Flexibility (NLF): This rating indicates that Boards must comply with the federal and state laws, rules, policies, and required procedures set forth in this WD Letter and have no local flexibility in determining whether and/or how to comply. Federal and state laws, rules, policies, and required procedures with a "No Local Flexibility" rating are indicated by the acronym, **NLF**, in the margin to the right of the applicable paragraph. Additionally, all information with a "No Local Flexibility" rating is indicated by "must" or "shall."

Failure to comply with the federal and state laws, rules, policies, and required procedures with a "No Local Flexibility" rating may result in corrective action, up to and including sanction and penalty.

Local Flexibility (LF): This rating indicates that Boards have local flexibility in determining whether and/or how to implement guidance or recommended practices set forth in this WD Letter.

All guidance or recommended practices with a “Local Flexibility” rating are indicated by the acronym, **LF**, located in the margin to the right of the applicable paragraph. Additionally, guidance or recommended practices with a “Local Flexibility” rating are indicated by “may” or “recommend.”

Boards are not subject to corrective action for failure to comply with guidance or recommended practices with a “Local Flexibility” rating.

BACKGROUND:

Texas Workforce Commission (Commission) rule §801.51(f) instructs Boards to comply with the requirements of the Open Meetings Act (Texas Government Code, Chapter 551), which was enacted to make governmental decision-making accessible to the public.

This WD Letter provides Boards with guidance on:

- the directives that are subject to the Open Meetings Act; and
- the procedures for adopting such policies in an open meeting.

PROCEDURES:

Boards must ensure that all directives that impact the rights, benefits, and privileges of employers, individuals, other customers, or organizations are voted on and adopted as Board policy in an open meeting. **NLF**

Boards must be aware that policy making involves developing and adopting directives as local guidelines that implement, interpret, or prescribe laws, regulations, and state policies. **NLF**

Boards must be aware that policy making occurs when the Board chooses to make changes to long-standing administrative procedures in a manner that is significant enough to impact the rights, property, or privileges of individuals or groups of individuals. **NLF**

In accordance with the Open Meetings Act, Boards must adopt policies in a meeting open to the public by: **NLF**

- posting appropriate notice in accordance with Texas Government Code, Chapter 551, Subchapter C;
- ensuring that all public business or public policy over which the Board has supervision or control is discussed, considered, or acted upon during a properly posted and convened open meeting; and
- preparing and retaining minutes or tape recordings of each open meeting of the Board.

Additionally, Boards must ensure that the minutes or tape recordings: **NLF**

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

Boards must be aware that a meeting is subject to the Open Meetings Act if it is “a deliberation...during which public business or public policy over which the **NLF**

governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action.”

Boards also must be aware that the following directives do not require Board approval in an open, public meeting:

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- Those that are related to the internal management of the Board or its staff and that do not impact outside entities
- Those that are related to the operation of various Texas Workforce Center services

Example: The Commission requires Boards to adopt a local policy establishing the number of weekly job contacts that Choices participants must make. This policy must be voted on and adopted in an open meeting because it impacts the rights, benefits, and privileges of the participants. How, when, and where the participants turn the job contacts in and the associated procedures will not need to be voted on and adopted in an open meeting because these actions are related to the operation of the Board’s adopted policy.

Boards must be aware that public business and public policy are broad terms. Consequently, Boards must determine—on a case-by-case basis—whether policy is subject to the Open Meetings Act.

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Because the Open Meetings Act provides civil remedies and criminal penalties for violations of its provisions, it is recommended that Boards seek independent legal counsel if they have questions.

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ACTIONS REQUIRED:

Boards must ensure that appropriate staff is apprised of and complies with the requirements in this WD Letter.

INQUIRIES:

Direct inquiries regarding this WD Letter to the assigned contract manager for your local workforce development area.

Rescissions: None	Expiration: Continuing
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