# SECTION B: LOCAL GOVERNANCE

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The official name of the governing board of the junior college district shall be the board of trustees. *Education Code 130.082(b)*

The board of trustees shall constitute a body corporate and shall have the exclusive power to manage and govern the college district. *Education Code 1.001(a), 130.082(d), .084; Texas Ass’n of Steel Importers, Inc. v. Tex. Highway Comm’n, 372 S.W.2d 525 (Tex. 1963)*

All authority not vested by Education Code Chapter 130 or by other laws of the state in the Coordinating Board or in the Texas Education Agency is reserved and retained locally in each of the respective public junior college districts or the governing board of such junior colleges as provided in the laws applicable. *Education Code 130.002*
It is the policy of this state that the governing boards of institutions of higher education, including college districts, being composed of lay members, shall exercise the traditional and time-honored role for such boards as their role has evolved in the United States and shall constitute the keystone of the governance structure. In this regard, each governing board:

1. Is expected to preserve institutional independence and to defend its right to manage its own affairs through its chosen administrators and employees.
2. Shall enhance the public image of each institution under its governance.
3. Shall interpret the community to the campus and interpret the campus to the community.
4. Shall nurture each institution under its governance to the end that each institution achieves its full potential within its role and mission.
5. Shall insist on clarity of focus and mission of each institution under its governance.

*Education Code 51.352(a)*

**EXTENT OF STATE AND LOCAL CONTROL**

All authority not vested by Education Code Chapter 130 or by other laws of the state in the Coordinating Board or in the Texas Education Agency shall be reserved and retained locally in each of the respective public junior college districts or the governing board of such junior colleges as provided in the laws applicable. *Education Code 130.002*

**POWERS AND DUTIES**

State statute assigns specific powers and duties to a college district board of trustees. Examples of these powers and duties are described below.

**GOVERNANCE**

The governing board of an institution of higher education shall provide the policy direction for each institution of higher education under its management and control. Said board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with this section. *Education Code 51.352(b), 130.082(d)*

The governing board of a junior college district shall be governed in the establishment, management, and control of a public junior college in the district by the general law governing the establishment,
management, and control of independent school districts insofar as the general law is applicable. *Education Code 130.084(a)*

**ESTABLISH GOALS**

Each governing board shall establish, for each institution under its control and management, goals consistent with the role and mission of the institution. *Education Code 51.352(d)* [See AD and AE]

**TAXES AND BONDS**

The governing board of each junior college district, annually shall cause the taxable property in its district to be assessed for ad valorem taxation and the ad valorem taxes in the district to be collected, in accordance with any one of the methods set forth in Education Code 130.121, and any method adopted shall remain in effect until changed by the board.

The governing board of each junior college district and each regional college district for and on behalf of its junior college division, shall be authorized to issue negotiable coupon bonds for the construction and equipment of school buildings and the purchase of the necessary sites therefor, and levy and pledge annual ad valorem taxes sufficient to pay the principal of and interest on said bonds as the same come due, and to levy annual ad valorem taxes for the further maintenance of its public junior college or junior colleges.

*Education Code 130.121(a), .122(a)* [See CAD and CAI]

**TUITION AND FEES**

The governing board of a junior college district may set and collect with respect to a public junior college in the district any amount of tuition, rentals, rates, charges, or fees the board considers necessary for the efficient operation of the college district, except that a tuition rate set under this provision must satisfy the requirements of Education Code 54.051(n). The governing board may set a different tuition rate for each program, course, or course level offered by the college, including a program, course, or course level to which a provision of Section 54.051 applies, as the governing board considers appropriate to reflect course costs or to promote efficiency or another rational purpose. *Education Code 130.084(b)* [See FD]

**MANAGEMENT OF COLLEGE DISTRICT FUNDS**

Each member of a governing board has the legal responsibilities of a fiduciary in the management of funds under the control of institutions subject to the board’s control and management. *Education Code 51.352(e)*

**ANNUAL BUDGET**

The governing board of each institution shall approve an itemized current operating budget on or before September 1 of each year. *19 TAC 13.42* [See CC]

**ANNUAL AUDIT**

The board must have the accounts of the college district audited in accordance with the approved financial reporting system. *Education Code 61.065* [See CDC]
<p>| ENDOWMENT FUND | The board of trustees of a public junior college may establish an endowment fund outside the state treasury in a depository selected by the board of trustees. <em>Education Code 130.007</em> |
| DEPOSITORY | The governing board of each institution may select one or more depositories as places of deposit for the funds enumerated in Education Code 51.002. <em>Education Code 51.003</em> [See CB] |
| ELECTIONS | Each election shall be called by resolution or order of the board. <em>Education Code 130.082(f), .122(b)</em> |
| EMINENT DOMAIN | A board may, by the exercise of the right of eminent domain, acquire the fee simple title to real property on which to construct school buildings or for any other public use necessary for the district. <em>Education Code 11.155, 130.084; Atty. Gen. Op. M-700 (1970)</em> [See CFG] |
| APPOINT AND EVALUATE CHIEF EXECUTIVE OFFICER | Each governing board shall appoint the president or other chief executive officer of each institution under the board’s control and management and evaluate the chief executive officer of each component institution and assist the officer in the achievement of performance goals. <em>Education Code 51.352(d), 130.082(d)</em> [See BF series] |
| EMPLOYMENT OF PERSONNEL | The board shall be authorized to appoint or employ such agents, employees, and officials as deemed necessary or advisable to carry out any power, duty, or function of said board; and to employ a dean or other administrative officer, and upon the president’s recommendation to employ faculty and other employees of the College District. <em>Education Code 130.082(d)</em> [See BF series] |
| RENTALS, RATES, AND CHARGES | Each board shall be authorized to fix and collect rentals, rates, charges, and/or fees, including student union fees, from students and others for the occupancy, use, and/or availability of all or any of its property, buildings, structures, activities, operations, or facilities, of any nature, in such amounts and in such manner as may be determined by such board. <em>Education Code 130.123(c)</em> |
| REAL PROPERTY | The governing body of a governmental agency may execute, perform, and make payments under a contract under the Public Property Finance Act for the use or purchase or other acquisition of real property or an improvement to real property. <em>Local Gov’t Code 271.004</em> [See CFG] |
| PERSONAL PROPERTY | The governing body of a governmental agency may execute, perform, and make payments under a contract with any person for the use or the purchase or other acquisition of any personal property, or the financing thereof. <em>Local Gov’t Code 271.005</em> [See CFH] |</p>
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<td>Each governing board shall ensure that its formal position on matters of importance to the institutions under its governance is made clear to the Coordinating Board when such matters are under consideration by the Coordinating Board. <em>Education Code 51.352(d)</em></td>
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<td>Each governing board shall set campus admission standards consistent with the role and mission of the institution and considering admission standards of similar institutions nationwide having a similar role and mission, as determined by the Coordinating Board. <em>Education Code 51.352(d)</em> [See FB]</td>
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ELIGIBILITY

To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, including a college district board member, a person must:

1. Be a United States citizen.

2. Be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable.

3. Have not been determined by a final judgment of a court exercising probate jurisdiction to be:
   a. Totally mentally incapacitated — a person determined to be totally mentally incapacitated by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person's mental capacity has been completely restored by a final judgment of a court exercising probate jurisdiction; or
   b. Partially mentally incapacitated without the right to vote — a person determined to be partially mentally incapacitated without the right to vote by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person’s guardianship has been modified to include the right to vote or the person’s mental capacity has been completely restored by a subsequent final judgment of a court exercising probate jurisdiction.

4. Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities.

5. Have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
   a. For an independent candidate, the date of the regular filing deadline for a candidate’s application for a place on the ballot.
   b. For a write-in candidate, the date of the election at which the candidate's name is written in.
   c. For an appointee to an office, the date the appointment is made.

*Tex. Const. Art. XVI, Sec. 14; Election Code 1.020, 141.001(a); Education Code 130.082(d), (g); Att’y Gen. Op. GA-555 (2007)*
QUALIFIED VOTER Each member of the board shall be a resident, qualified voter. *Education Code 130.082(d)*

“Qualified voter” means a person who:

1. Is 18 years of age or older;
2. Is a United States citizen;
3. Has not been determined by a final judgment of a court exercising probate jurisdiction to be:
   a. Totally mentally incapacitated — a person determined to be totally mentally incapacitated by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person’s mental capacity has been completely restored by a final judgment of a court exercising probate jurisdiction; or
   b. Partially mentally incapacitated without the right to vote — a person determined to be partially mentally incapacitated without the right to vote by a court exercising probate jurisdiction is not subject to a voting disability or candidacy disqualification under this code if, subsequent to that determination, the person’s guardianship has been modified to include the right to vote or the person’s mental capacity has been completely restored by a subsequent final judgment of a court exercising probate jurisdiction;
4. Has not been finally convicted of a felony or, if so convicted, has:
   a. Fully discharged the person’s sentence, including any term of incarceration, parole, or supervision or completed a period of probation ordered by any court; or
   b. Been pardoned or otherwise released from the resulting disability to vote.

A person is not considered to have been finally convicted of an offense for which the criminal proceedings are deferred without an adjudication of guilt.

5. Is a resident of this state; and
6. Is a registered voter.

*Election Code 1.020, 11.002*
### SINGLE-MEMBER DISTRICTS

A candidate for trustee representing a single-member district must be a resident of the trustee district the candidate seeks to represent. A trustee vacates the office if the trustee ceases to reside in the trustee district the trustee represents. *Education Code 130.0822(h)*

### "RESIDENCE" DEFINED

“Residence” means domicile, that is, one’s home and fixed place of habitation to which one intends to return after any temporary absence.

A person does not lose the person’s residence by leaving the person’s home to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home. Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by the Election Code.

*Election Code 1.015(a)–(d)*

**Note:** The issue of whether a candidate has satisfied residency requirements should be judicially determined. *State v. Fischer*, 769 S.W.2d 619 (Tex. App.—Corpus Christi 1989, writ dism’d w.o.j)

### OFFICIAL OATHS

Each member of the board shall take the proper oath of office before taking up the duties of office. *Education Code 130.082(d)*
This introductory page outlines the contents of the elections policy. See the following sections for statutory provisions on:

SECTION I  Elections Generally  pages 2–5
1. Election dates
2. Methods of election, membership, and terms
3. Boundary change notice
4. Election records
5. Voting rights hotline
6. Election documents

SECTION II  Conducting an Election  pages 6–15
1. Election services
2. Election order and notices
3. Filing information
4. Election of unopposed candidate
5. Ballot
6. Election judges and clerks
7. Polling places
8. Bilingual materials
9. Voting systems
10. Early voting
11. Conducting elections

SECTION III  Post-Election Procedures  pages 16–18
1. Determination of results
2. Canvass returns
3. Certificate of election
4. Officer’s statement
5. Oath of office
SECTION I: ELECTIONS GENERALLY

GENERAL ELECTION DATES
Each general or special election in this state, including each election of members of a college district board of trustees, shall be on one of the following dates:

1. The second Saturday in May in an odd-numbered year.
2. The second Saturday in May in an even-numbered year, for an election held by a political subdivision other than a county.
3. The first Tuesday after the first Monday in November.

Election Code 41.001

JOINT ELECTIONS ADMINISTRATOR
A political subdivision, including a college district, may seek to create the position of joint elections administrator under Election Code Chapter 31, Subchapter F. Election Code 31.152

MEMBERSHIP
The number of members or trustees of the governing board shall be either seven or nine, in accordance with the laws applicable to the junior college district on the effective date of the Education Code or on the date of the creation of a new district or a new board.

Education Code 130.082

INCREASE IN MEMBERSHIP
Any seven-member board may be increased to nine, and the two additional members shall be appointed by resolution or order of the board for terms of office as prescribed in Education Code 130.082(e).

Education Code 130.082(d)

TERMS
The basic term of office of a member of the board shall be six years. Education Code 130.082(e)

METHODS OF ELECTION
Election of board members shall be by at-large positions, except as otherwise provided. Education Code 130.082(f), (h)

AT-LARGE POSITIONS
One-third of the members of the board shall be elected at large in the college district at regular elections in accordance with Education Code 130.082(e)–(g), provided that with a seven-member board two members shall be elected in two consecutive even-numbered years and three members shall be elected in the following even-numbered year. Education Code 130.082(e)–(g)

SINGLE-MEMBER DISTRICTS GENERALLY
The board of trustees of a junior college district may order that all or a majority of the trustees of the district be elected from single-member trustee districts. The order must be entered not later than the 120th day before the day of the first election of trustees from single-member trustee districts. Education Code 130.0822(a)–(b)
If the board orders that trustees shall be elected from single-member trustee districts, the board shall divide the junior college district into the appropriate number of trustee districts, based on the number of members of the board that are to be elected from single-member districts, and shall number each trustee district.

The trustee districts must be compact and contiguous and must be as nearly as practicable of equal population according to the last preceding federal census. Trustee districts must be drawn not later than the 90th day before the day of the first election of trustees from single-member districts.

The board may provide for trustees holding office on the date of the initial election of trustees from single-member districts to serve the remainder of their terms and to represent a trustee district for that term without having residency in that trustee district.

Unless the board has made provision for trustees to complete their term, as described above, residents of each trustee district are entitled to elect one trustee to the board. A candidate for trustee must be a resident of the trustee district the candidate seeks to represent. The trustee vacates the office if the trustee ceases to reside in the trustee district the trustee represents.

Education Code 130.0822(d)–(h)

Not later than the 90th day before the day of the first regular junior college trustee election at which trustees may officially recognize and act on the last preceding federal census, the board shall redivide the district into the appropriate number of trustee districts if the census data indicates that the population of the most populous district exceeds the population of the least populous district by more than ten percent. Redivision of the district shall be in the manner provided for the initial division of the district.

After each redistricting, all positions on the board shall be filled unless the board of trustees determines that trustees shall be elected from the new trustee districts as provided by Education Code 130.0826. The trustees then elected shall draw lots for staggered terms as provided by Education Code 130.082.

Education Code 130.0822(j)–(k)

The board of trustees of any junior college district that elects some or all of its members from single-member districts and in which the trustees serve staggered terms may provide for the trustees in office at the first election after the junior college district is redistricted to serve for the remainder of their terms in accordance with Education Code 130.0826.
If the board of trustees provides for the trustees in office to serve for the remainder of their terms in accordance with Education Code 130.0826, the trustee districts established by the redistricting plan shall be filled as the staggered terms of trustees in office expire. When the board of trustees adopts a redistricting plan, the board shall determine from which new trustee district the position of each trustee in office will be filled as it becomes vacant.

Education Code 130.0826 does not authorize a trustee of a junior college district to continue in office after a redistricting plan takes effect if the member no longer resides in the district from which the board member was elected.

*Education Code 130.0826*

**APPLICABILITY**

This method of election does not apply to a junior college district to which Education Code 130.081, 130.083, 130.0821, or 130.088 applies, or to a junior college district required by other law to elect trustees from single-member districts. This method of election does not apply to the election of trustees in any district in which the election of trustees is governed by a court order so long as that order remains in effect. *Education Code 130.0822(l)*

**SINGLE-MEMBER DISTRICTS IN CERTAIN COUNTIES**

The members of the governing board of a countywide community college district that contains a city with a population of more than 384,500 residents shall be elected from single-member districts in accordance with Education Code 130.0821. *Education Code 130.0821(a)*

**ELECTION BY POSITION**

The governing board of a junior college that elects a governing board of seven members, with four members elected from respective commissioner precincts and three members elected at large, may order that the board members elected at large be elected instead by position. The order must be entered not later than the 120th day before the first election of a trustee by position. The board may provide for trustees holding office on the date of the initial election of board members by position to serve the remainder of their terms and to represent a position for that term. *Education Code 130.0823*

The board of trustees of a district with a population greater than one million may require that an application filed by a person desiring election to a numbered position on the board be accompanied by a filing fee not to exceed $200 or, instead of the filing fee, a petition signed by a number of registered voters of the district not to exceed 200 as determined by the board. *Education Code 130.044(g)*
A political subdivision, including a college district, that changes its boundaries or the boundaries of districts used to elect members to the governing body of the political subdivision shall not later than the 30th day after the date the change is adopted:

1. Notify the voter registrar of the county in which the area subject to the boundary change is located of the adopted boundary change; and

2. Provide the voter registrar with a map of an adopted boundary change in a format that is compatible with the mapping format used by the registrar’s office.

**Election Code 42.0615**

The secretary of state shall adopt rules providing for publicizing voters’ rights as prescribed by Election Code 62.0115. The rules must require that a notice of those rights be publicized by being posted by an election officer in a prominent location at each polling place, on the Internet website of the secretary of state, through material published by the secretary of state, or in another manner designed to give voters notice of their rights.

The secretary of state shall prescribe the form and content of the notice. A notice informing voters of the secretary of state’s toll-free telephone number to allow a person to report an existing or potential abuse of voting rights and the purpose for the number shall be included in the notice of voters’ rights.

**Election Code 31.0055, 62.0115**

Unless otherwise provided by the Election Code, when the Election Code provides for delivery, submission, or filing of an application, notice, report, or other document or paper with an authority having administrative responsibility under the Election Code, a delivery, submission, or filing with an employee of the authority at the authority’s usual place for conducting official business constitutes filing with the authority. The authority to whom a delivery, submission, or filing is required by the Election Code to be made may accept the document or paper at a place other than the authority’s usual place for conducting official business.

A delivery, submission, or filing of a document or paper under the Election Code may be made by personal delivery, mail, telephonic facsimile machine, or any other method of transmission.

**Election Code 1.007**
SECTION II: CONDUCTING AN ELECTION

ELECTION SERVICES
If requested to do so by a political subdivision, including a college district, a county elections administrator shall enter into a contract to furnish the election services requested, as set forth at Election Code Chapter 31, Subchapter D. A county elections administrator is not required to enter into a contract to furnish election services for an election held on the second Saturday in May in an even-numbered year. Election Code 31.093(a), 41.001(d)

ELECTION ORDER
The governing body of a political subdivision, including a college district board of trustees, shall order the election. For an election to be held on:

1. The date of the general election for state and county officers (the November uniform election date of even-numbered years), the election shall be ordered not later than the 78th day before election day; and

2. A uniform election date other than the date of the general election for state and county officers, the election shall be ordered not later than the 71st day before election day.

Election Code 3.004, .005(c)

Each election order must state the date of the election; the offices or measures to be voted on; the location of the main early voting polling place; the date that early voting will begin if the early voting period is to begin later than the prescribed date; the dates and hours that early voting will be conducted; the dates and hours that early voting on Saturday and Sunday is ordered to be conducted; and the early voting clerk’s official mailing address, except for an election in which a county clerk or city secretary is the early voting clerk under Election Code 83.002 or 83.005. The authority ordering an election shall preserve the order, proclamation, or other document ordering the election, in an election involving a federal office, for at least 22 months after election day in accordance with federal law or, in an election not involving a federal office, for at least six months after election day. Election Code 3.006, .008, 66.058(a), 83.010, 85.004, .007

FAILURE TO ORDER AN ELECTION
Failure to order a general election does not affect the validity of the election. Election Code 3.007

ELECTION NOTICE CONTENTS
The notice of a general or special election must state:

1. The nature and date of the election;

2. The location of each polling place;

3. The hours the polls will be open;
4. For early voting:
   a. The location of the main early voting polling place, as determined under Election Code 85.002;
   b. The date that early voting will begin if under Education Code 85.001(d) the early voting period is to begin later than the prescribed date;
   c. The regular dates and hours that early voting will be conducted;
   d. The dates and hours that voting on Saturday and Sunday is ordered to be conducted; and
   e. The early voting clerk’s official mailing address.

5. The numbers of the positions to be filled;

6. The candidates for each position; and

7. Any other matters deemed necessary or advisable.

_Note: The notice of a special election must also state each office to be filled or the proposition stating each measure to be voted on._

_Election Code 4.004(a), 83.010, 85.004, .007; Education Code 130.082(f)_

Notice of the election shall be given by publishing the notice at least once, not earlier than the 30th day or later than the tenth day before election day in a newspaper published in the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice or in a newspaper of general circulation in the territory if none is published in the jurisdiction of the authority responsible for giving the notice.

If notice of an election is given by publication, the authority responsible for giving the notice shall retain a copy of the published notice that contains the name of the newspaper and the date of publication. The records shall be preserved by the authority to whom they are distributed for at least six months after election day.

_Election Code 4.003(a)(1), .005(a), 66.058(a); Education Code 130.082(f)_

In addition to the notice described above, not later than the 21st day before election day, the authority responsible for giving notice of the election shall post a copy of the notice, which must include the location of each polling place, on the bulletin board used for posting notices of the meetings of the governing body of the politi-
cal subdivision that the authority serves. The notice must remain posted continuously through election day. The notice must include the location of each polling place. The person posting the notice shall make a record at the time of posting stating the date and place of posting. The person shall sign the record and deliver it to the authority responsible for giving the election notice
   after the last posting is made. Election Code 4.003(b), .005(b)

NOTICE TO COUNTY CLERK AND VOTER REGISTRAR

The governing body of a political subdivision, other than a county, that orders an election shall also deliver notice of the election to the county clerk and voter registrar of each county in which the political subdivision is located not later than the 60th day before election day. Election Code 4.008(a)

NOTICE TO ELECTION JUDGE

Not later than the 15th day before election day or the seventh day after the date the election is ordered, whichever is later, the authority responsible for giving notice of the election shall deliver to the presiding judge of each election precinct in which the election is to be held in the authority’s jurisdiction a written notice of:

1. The nature and date of the election;
2. The location of the polling place for the precinct served by the judge;
3. The hours that the polls will be open;
4. The judge’s duty to hold the election in the precinct specified by the notice; and
5. The maximum number of clerks that the judge may appoint for the election.

Election Code 4.007

FAILURE TO GIVE NOTICE OF ELECTION

Failure to give notice of a general election does not affect the validity of the election. Election Code 4.006

FILING INFORMATION

The authority with whom an application for a place on the ballot must be filed shall post notice of the dates of the filing period in a public place in a building in which the authority has an office not later than the 30th day before the last day on which a candidate may file the application. This requirement does not apply to an office filled at the general election for state and county officers (the November uniform election date of even-numbered years). Election Code 141.040

NOTICE TO CANDIDATES

An application for a place on the ballot may not be filed earlier than the 30th day before the date of the filing deadline. Any resident, qualified elector of a junior college district may have his or her...
name placed as a candidate on the official ballot for any position to be filled at each regular election by filing a written application, signed by the candidate, with the secretary of the board not later than 5:00 p.m. of:

1. The 78th day before election day, if the election is to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years); or

2. The 71st day before election day, if the election is to be held on any other uniform election date.

_Education Code 130.082(g); Election Code 144.005_

SPECIAL ELECTION

An application for a place on a special election ballot may not be filed before the election is ordered.

An application must be filed not later than:

1. 5:00 p.m. of the 62nd day before election day if election day is on or after the 70th day after the election is ordered; or

2. 5:00 p.m. of the 45th day before election day if election day is on or after the 57th day and before the 70th day after the date the election is ordered.

**EXCEPTION**

For a special election to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years), the day of the filing deadline is the 75th day before election day.

_Election Code 201.054(a), (d), (f)_

**WRITE-IN CANDIDACY**

In a general or special election for members of the governing body of a junior college district, a write-in vote may not be counted for a person unless the person has filed a declaration of write-in candidacy with the secretary of the board of trustees in the manner provided for write-in candidates in the general election for state and county officers. A declaration of write-in candidacy must be filed not later than 5:00 p.m. of:

1. The 74th day before election day, if the election is to be held on the date of the general election for state and county officers (the November uniform election date of even-numbered years); or

2. The 71st day before election day, if the election is to be held on any other uniform election date.

_Education Code 130.0825(b); Election Code 146.054_
APPLICATION

The application must state the number of the position for which the person is a candidate or the name of the incumbent member of the board holding the position for which the person desires to run. The application shall include all statutorily required information, including that found at Election Code 141.031 and 141.039, such as an oath and a statement that the candidate is aware of the nepotism law. [See BBBB] The candidate shall be eligible to run for only one position at each election. Education Code 130.082(g); Election Code 31.0021, 141.031, .039

ELECTION OF UNOPPOSED CANDIDATE

The board may declare each unopposed candidate elected if each candidate for an office that is to appear on the ballot is unopposed.

For purposes of determining whether all offices on a ballot are unopposed, a special election of a political subdivision, including a college district, is considered to be a separate election with a separate ballot from:

1. A general election for officers of the political subdivision held at the same time as the special election; or
2. Another special election of the political subdivision held at the same time as the special election.

Election Code 2.051(a)

SINGLE-MEMBER DISTRICTS

In the case of an election in which any members of the political subdivision's governing body are elected from territorial units such as single-member districts, the unopposed candidate procedures apply to the election in a particular territorial unit if each candidate for an office that is to appear on the ballot in that territorial unit is unopposed and no at-large proposition or opposed at-large race is to appear on the ballot. Election Code 2.051(b)

PROCEDURE FOR CANCELING ELECTION

The authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted. The certification shall be delivered to the governing body of the political subdivision as soon as possible after the filing deadlines for placement on the ballot and list of write-in candidates.

On receipt of the certification, the governing body of the political subdivision by order or ordinance may declare each unopposed candidate elected to the office. If the board makes such a declaration, the election is not held.

If no election is to be held on election day by the political subdivision, a copy of the order shall be posted on election day at each polling place used or that would have been used in the election.
The ballots used at the separate election held at the same time as an election that would have been held if the candidates were not declared elected under this section shall include the offices and names of the candidates declared elected under this section listed separately after the measures or contested races in the separate election, under the heading "Unopposed Candidates Declared Elected." The candidates shall be grouped in the same relative order prescribed for the ballot generally. No votes are cast in connection with the unopposed candidates.

_Election Code 2.052, .053(a)–(c)_

**BALLOT**

The ballot shall be printed in the form required by law. _Election Code 52.061–.064, .069, .093–.094_

**BALLOT POSITION**

The location on the ballot of the names of the candidates for each position shall be chosen by lot by the board. The candidate shall be eligible to run for only one position in each election. _Education Code 130.082(g)_

**ELECTION JUDGES AND CLERKS**

The board shall appoint election judges and set the maximum number of election clerks. The judges and clerks shall be selected and serve in accordance with Election Code Chapter 32. _Election Code Chapter 32_

The nepotism prohibitions [see DBE] do not apply to appointment of an election clerk under Election Code 32.031 who is not related in the first degree by consanguinity or affinity to an elected official of the authority that appoints the election judges for that election. _Gov't Code 573.061(8)_

**POLLING PLACES**

The governing body of each political subdivision authorized to hold elections, other than a county, shall designate the location of the polling place for each of its election precincts. Each polling place shall be accessible to and usable by the elderly and persons with physical disabilities. _Election Code 43.004, .034_

If a political subdivision, including a college district, holds an election on the November uniform election date and is required to use the regular county election precincts, the political subdivision shall designate as the polling places for the election the regular county polling places in the county election precincts that contain territory from the political subdivision. _Election Code 42.002(a)(5), .0621, 43.004(b)_

**POLLING PLACE FOR EARLY VOTING**

The following provision applies to an election held by a political subdivision, other than a county, on the November uniform election date in which the political subdivision:
1. Is not holding a joint election with a county in accordance with Election Code Chapter 271; and

2. Has not executed a contract with a county elections officer under which the political subdivision and the county share early voting polling places for the election.

The political subdivision shall designate as an early voting polling place for the election any early voting polling place, other than a polling place established under Election Code 85.062(e) (temporary branch polling place), established by the county and located in the political subdivision.

A shared polling place established under this section that is designated as a main early voting polling place by any political subdivision must be open for voting for all political subdivisions the polling place serves for at least the days and hours required of a main early voting polling place under Election Code 85.002 for the political subdivision making the designation.

_Election Code 85.010_

POSTING SIGNS PROHIBITED

An election officer commits an offense if the officer knowingly posts at a polling place, including the area within 100 feet of an outside door through which a voter may enter the building in which the polling place is located, a sign, card, poster, or other similar material that is not authorized or required by law; or is in a form or contains information that is not authorized or required by law.

A person other than an election officer commits an offense if the person posts a sign, card, poster, or similar material at a polling place, including the 100-foot area described above.

_Election Code 62.013(a)–(b)_

ELECTIONEERING

A person commits an offense if, during the voting period and within 100 feet of an outside door through which a voter may enter the building in which a polling place is located, the person loiters or electioneers for or against any candidate, measure, or political party.

“Electioneering” includes the posting, use, or distribution of political signs or literature.

“Voting period” means the period beginning when the polls open for voting and ending when the polls close or the last voter has voted, whichever is later.

“Early voting period” is described at Election Code 85.001.
The entity that owns or controls a public building being used as a polling place or early voting polling place may not, at any time during the voting period or early voting periods, as applicable, prohibit electioneering on the building’s premises outside of the area described above, but may enact reasonable regulations concerning the time, place, and manner of electioneering.

_Election Code 61.003, 85.036_

**USE OF CERTAIN DEVICES PROHIBITED**

A person may not use a wireless communication device within 100 feet of a voting station. A person may not use any mechanical or electronic means of recording images or sound within 100 feet of a voting station.

**EXCEPTION**

The prohibitions do not apply to:

1. An election officer in conducting the officer’s official duties;

2. The use of election equipment necessary for the conduct of the election; or

3. A person who is employed at the location in which a polling place is located while the person is acting in the course of the person’s employment.

_Election Code 61.014_

**BILINGUAL MATERIALS SPANISH**

Bilingual election materials shall be used in each election precinct situated wholly or partly in a county in which five percent or more of the inhabitants are persons of Spanish origin or descent according to the most recent federal decennial census that may be officially recognized or acted upon by the state or political subdivisions.

An election precinct may be exempted from the bilingual requirement if official census information or other information indicates that persons of Spanish origin or descent comprise less than five percent of the precinct’s inhabitants. To exempt an election precinct from the bilingual requirement, the presiding officer of the governing body of the political subdivision responsible for the expenses of an election, with the approval of the governing body, must file with the authority responsible for procuring the election supplies for the political subdivision’s elections the documentation described at Election Code 272.003. An exemption is effective on the 30th day after the date the certification and other required materials are filed. A precinct exempted under this section remains exempt until the precinct becomes subject to Election Code 272.002 as a result of a subsequent federal decennial census; or the effective date of a change in the precinct’s boundary.

_Election Code 272.002, .003(a)–(c), (e)_
If the director of the census determines under 42 U.S.C. 1973aa-1a that a political subdivision must provide election materials in a language other than English or Spanish, the political subdivision shall provide election materials in that language in the same manner in which the political subdivision would be required to provide materials in Spanish, to the extent applicable. *Election Code 272.011(a); 42 U.S.C. 1973aa-1a*

A voting system shall be selected and utilized in accordance with *Election Code Title 8.* *Election Code Title 8*

A voting system may not be used in an election if the system uses mechanical voting machines or a punch-card ballot or similar form of tabulating card. *Election Code 122.001(d)*

Each polling place must provide at least one voting station that complies with Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. 794) and its subsequent amendments, Title II of the federal Americans with Disabilities Act (42 U.S.C. 12131 et seq.) and its subsequent amendments and the requirements for accessibility under 42 U.S.C. 15481(a)(3) and its subsequent amendments, and provides a practical and effective means for voters with physical disabilities to cast a secret ballot. *Election Code 61.012(a)*

Upon providing the notice detailed in Election Code 61.013(d), for an election other than an election of a political subdivision that is held jointly with another election in which a federal office appears on the ballot, a political subdivision, including a college district, is not required to meet the requirements for accessibility under Election Code 61.012(a)(1)(C) if the political subdivision is located in a county:

1. With a population of less than 2,000;

2. With a population of 2,000 or more but less than 5,000, and the political subdivision provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) on election day;

3. With a population of 5,000 or more but less than 10,000, and the political subdivision provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) on election day and during the period for early voting by personal appearance;

4. With a population of 10,000 or more but less than 20,000, and the political subdivision:
Northeast Texas Community College
225500

BOARD MEMBERS
ELECTIONS

BBB
(LEGAL)

a. Makes a showing in the manner provided by Election Code 61.103(c) that compliance with Section 61.012(a)(1)(C) constitutes an undue burden on the political subdivision;

b. Provides at least one voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) on election day and during the period for early voting by personal appearance; and

c. Provides a mobile voting station that meets the requirements for accessibility under 42 U.S.C. 15481(a)(3) that during the period for early voting by personal appearance is deployed at least once at each polling place used for early voting by personal appearance.

For purposes of the above requirement, a political subdivision located in more than one county may choose:

a. To be considered located in the county that contains the greatest number of registered voters of the political subdivision; or

b. For each portion of the political subdivision located in a different county, to be considered a separate political subdivision.

_Election Code 61.013(a), (e)_

MULTIPLE VOTING SYSTEMS PERMITTED

A political subdivision may use more than one type of voting system in a single polling place in order to provide a person with physical disabilities with a method of casting a secret ballot. _1 TAC 81.55_ [See GL]

VOTING SYSTEM MALFUNCTION

If no private vendor supports the political subdivision’s voting system, the political subdivision must give notice to the secretary of state within 24 hours of a malfunction of the political subdivision’s voting system software or equipment in an election. The notice may be verbal or in writing. _1 TAC 81.64(a)_

EARLY VOTING

A board shall provide for early voting in board elections by personal appearance at an early voting polling place and by mail in accordance with Election Code Title 7. _Election Code 81.001_

CONDUCTING ELECTIONS

Elections shall be conducted in accordance with Election Code Title 6. _Election Code Title 6_
SECTION III: POST-ELECTION PROCEDURES

DETERMINATION OF RESULTS

MAJORITY
A candidate receiving a majority of the votes cast for all candidates for a board member position shall be declared elected. *Education Code 130.082(g)*; *Atty. Gen. Op. M-1101 (1972)*

RUNOFF ELECTIONS
If no candidate receives such a majority, then the two candidates receiving the highest number of votes shall run against each other for the position. The runoff election for all positions shall be held not earlier than the 20th day or later than the 45th day after the date the final canvass of the main election is completed. *Education Code 130.082(g)*; *Election Code Chapter 2, Subchapter B*

WRITE-IN VOTING
Election Code Chapter 146, Subchapter B applies to write-in voting in an election for members of the governing body except to the extent of a conflict with this section. In a general or special election for members of the governing body of a junior college district, a write-in vote may not be counted for a person unless the person has filed a declaration of write-in candidacy with the secretary of the board of trustees in the manner provided for write-in candidates in the general election for state and county officers. *Education Code 130.0825(a), (c)*

CANVASS RETURNS
Except as provided below, each local canvassing authority shall convene to conduct the local canvass at the time set by the canvassing authority’s presiding officer not earlier than the eighth day or later than the 11th day after election day. *Election Code 67.003(a)*

EARLY VOTING CANVASS—NOVEMBER ELECTION
For an election held on the date of the general election for state and county officers (November of even-numbered years), the time for the canvass of early voting results may be set not later than the 14th day after election day. *Election Code 65.051(a-1), 67.003(c)*

MAY ELECTION
For an election held on the uniform election date in May, the local canvass must occur not later than the 11th day after election day and not earlier than the later of:

1. The third day after election day;
2. The date on which the early voting ballot board has verified and counted all provisional ballots, if a provisional ballot has been cast in the election; or
3. The date on which all timely received ballots cast from addresses outside of the United States are counted, if a ballot to be voted by mail in the election was provided to a person outside of the United States.
Two members of the authority constitute a quorum for purposes of canvassing an election.

_Election Code 67.003(b), .004(a)_

After the completion of a canvass, the presiding officer of the local canvassing authority shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by that authority’s canvass. A certificate of election must contain:

1. The candidate’s name;
2. The office to which the candidate is elected;
3. A statement of election to an unexpired term, if applicable;
4. The date of the election;
5. The signature of the officer preparing the certificate; and
6. Any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.

The authority preparing a certificate of election shall promptly deliver it to the person for whom it is prepared, subject to the submission of a recount petition.

The submission of a recount petition delays the issuance of a certificate of election and qualification for the office involved in the recount pending completion of the recount. A candidate may not qualify for an office involved in a recount before completion of the recount. The recount petition does not affect a candidate who has received a certificate of election and qualified for an office before the submission of a recount petition.

A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

The presiding officer of the canvassing authority shall prepare a report of the precinct results as contained in the election register. The presiding officer shall deliver the report to the secretary of state as required by Election Code 67.017.

_Election Code 67.016–.017, 212.0331_

A certificate of election shall be issued to each unopposed candidate in the same manner and at the same time as provided for a candidate elected at the election. The candidate must qualify for the office in the same manner as provided for a candidate elected at the election. _Election Code 2.053(e)_
OFFICER'S STATEMENT

All elected and appointed officers, before taking the oath or affirmation of office and entering upon the duties of office, shall subscribe to the required officer’s statement. All other officers shall retain the signed statement with the official records of the office. *Tex. Const. Art. XVI, Sec. 1(b)* [See BBB(EXHIBIT)]

OATH OF OFFICE

All elected and appointed officers, before they enter upon the duties of their offices, shall take the oath or affirmation of office. *Tex. Const. Art. XVI, Sec. 1(a); Education Code 130.082(d)* [See BBB(EXHIBIT)]

An oath made in this state may be administered and a certificate of the fact given by the individuals listed at Government Code 602.002, including:

1. A judge, retired judge, or clerk of a municipal court.
2. A judge, retired judge, senior judge, clerk, or commissioner of a court of record.
3. A notary public.
4. A justice of the peace or clerk of a justice court.
5. An associate judge, magistrate, master, referee, or criminal law hearing officer.
6. The secretary of state or a former secretary of state.
7. The speaker of the house of representatives or a former speaker of the house of representatives.
8. The lieutenant governor or a former lieutenant governor.
9. The governor or a former governor.
10. A legislator or retired legislator.
11. The attorney general or a former attorney general.

*Gov’t Code 602.002*
Board members shall serve terms of six years, with elections held biennially. The election of Board members shall be by positions in accordance with the following schedule:

- **POSITIONS FOUR AND SEVEN**: 2012, 2018, 2024, and so on.
- **POSITIONS TWO, THREE, AND SIX**: 2014, 2020, 2026, and so on.
- **POSITIONS ONE AND FIVE**: 2016, 2022, 2028, and so on.
OFFICER’S STATEMENT

I, ___________________________, do solemnly swear (or affirm), that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.

Tex. Const. Art. XVI, Sec. 1(b)

OATH OF OFFICE

“I, _____________________________, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of board trustee for the _________ Junior/Community College District of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this state, so help me God.”

Tex. Const. Art. XVI, Sec. 1(a)

Note: For other election information, including election forms, calendars, and other election resources, see the Secretary of State Elections Division website at http://www.sos.state.tx.us/elections/laws/other.shtml.
Candidates for membership on the board of trustees shall file the designation of a campaign treasurer and all required financial statements with the secretary of the board in accordance with applicable law and directives from the Texas Ethics Commission. 

_Election Code Title 15_

In accordance with Election Code 252.0131, the governing body of a political subdivision, including a college district board of trustees, by ordinance or order may adopt a process by which the secretary of the political subdivision may terminate the campaign treasurer appointment of an inactive candidate or political committee that is required to file a campaign treasurer appointment with the secretary.

A candidate or political committee is inactive if the candidate or committee:

1. Has never filed or has ceased to file reports under Election Code Chapter 254;
2. In the case of a candidate, has not been elected to an office for which a candidate is required to file a campaign treasurer appointment with the authority who is seeking to terminate the candidate’s campaign treasurer appointment; and
3. Has not filed a final report under Election Code 254.065 or 254.125, or a dissolution report under Election Code 254.126 or 254.159.

Before the secretary of a political subdivision may terminate a campaign treasurer appointment, the governing body of the political subdivision must consider the proposed termination in a regularly scheduled open meeting.

The termination of a campaign treasurer appointment under this section takes effect on the 30th day after the date of the meeting at which the governing body votes to terminate the appointment. Following that meeting, the secretary of the political subdivision shall promptly notify the affected candidate or political committee that the appointment has been terminated. The notice must state the effective date of the termination.

_Election Code 252.0131(a)–(b), (d)
POLITICAL ADVERTISING

An officer or employee of a political subdivision, including a college district, may not knowingly spend or authorize the spending of public funds for political advertising. The prohibition does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate the passage or defeat of such measure.

An officer or employee of a political subdivision may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:

1. The officer or employee knows is false; and
2. Is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

It is an affirmative defense to prosecution for an offense under this section or the imposition of a civil penalty for conduct under this section that an officer or employee of a political subdivision reasonably relied on a court order or an interpretation of this section in a written opinion issued by a court of record, the attorney general, or the Ethics Commission.

On written request of the governing body of a political subdivision that has ordered an election on a measure, the Ethics Commission shall prepare an advance written advisory opinion as to whether a particular communication relating to a measure does or does not comply with this section.

_Election Code 255.003_

NEWSLETTERS

A newsletter of a public officer of a political subdivision is not political advertising if:

1. It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
2. It includes no more than eight personally phrased references, such as the public officer's name, "I," "me," "the city council member," on a page that is 8 1/2" x 11" or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 1/2" x 11"; and
3. When viewed as a whole and in the proper context:
   a. Is informational rather than self promotional;
   b. Does not advocate passage or defeat of a measure; and
c. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

1 TAC 26.2

NEPOTISM

A candidate shall not take any affirmative action to influence an employee or another officer of the governmental body to which the candidate seeks election, if the office the candidate seeks is one office of a multimember governmental body, regarding the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of another individual related to the candidate within a degree described by Government Code 573.002. [See DBE(EXHIBIT)] The prohibition does not apply to a candidate’s actions taken regarding a bona fide class or category of employees or prospective employees. Gov't Code 573.042
RESIGNATION
To be effective, a public officer’s resignation or an officer-elect’s declination must be in writing and signed by the officer or officer-elect and delivered to the appropriate authority, the college district board of trustees, for acting on the resignation or declination. The resignation or declination may be delivered to the presiding officer of the body or to its clerk or secretary. The authority may not refuse to accept a resignation. Election Code 201.001(a)–(b), .002

EFFECTIVE DATE
If an officer submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the appropriate authority or on the eighth day after the date of its receipt by the authority, whichever is earlier. Election Code 201.023

HOLDOVER DOCTRINE
All public officers shall continue to perform the duties of their offices until their successors shall be duly qualified, i.e., sworn in. Until the vacancy created by a public officer’s resignation is filled by a successor, the public officer continues to serve and have the duties and powers of office and continues to be subject to the nepotism provision. A holdover public officer may not vote on the appointment of the officer’s successor. Tex. Const. Art. XVI, Sec. 17; Atty. Gen. Ops. JM-636 (1987), DM-2 (1991), O-6259 (1945) [See DBE]

RESIDENCY
A person elected to serve as a board member must remain a resident of the college district throughout the term of office. A board member who ceases to reside in the college district vacates his or her office. Tex. Const. Art. XVI, Sec. 14; Whitmarsh v. Buckley, 324 S.W.2d 298 (Tex. Civ. App. — Houston 1959, no writ)

SINGLE-MEMBER DISTRICTS
A trustee other than a trustee allowed to complete the remainder of the trustee’s term after the initial election from single-member districts vacates the office if the trustee ceases to reside in the trustee district the trustee represents. Education Code 130.0822(g)–(h)

RESIDENCE DEFINED
“Residence” means domicile, that is, one’s home and fixed place of habitation to which one intends to return after any temporary absence. A person does not lose the person’s residence by leaving the person’s home to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home. Residence shall be determined in accordance with the common-law rules, as enunciated by the courts of this state, except as otherwise provided by the Election Code. Election Code 1.015(a)–(d)
The issue of whether a candidate has satisfied residency requirements should be judicially determined. *State v. Fischer*, 769 S.W.2d 619 (Tex. App.—Corpus Christi 1989, writ dism’d w.o.j).

### INVOLUNTARY REMOVAL FROM OFFICE

#### QUO WARRANTO

If grounds for the remedy exist, the attorney general or the county or district attorney of the proper county may petition the district court of the proper county or a district judge if the court is in vacation for leave to file an information in the nature of quo warranto. The attorney general or county or district attorney may file the petition on his or her own motion or at the request of an individual relator. An action in the nature of quo warranto is available if:

1. A person usurps, intrudes into, or unlawfully holds or executes a public office; or

2. A public officer does an act or allows an act that by law causes forfeiture of office.

*Civ. Prac. and Rem. Code 66.001–.002*

### REMOVAL BY PETITION AND TRIAL

Any resident of this state who has lived for at least six months in the county in which the petition is to be filed and who is not currently under indictment in the county may file a petition to remove a public officer from office. A proceeding for removal is begun by filing a written petition for removal in a district court of the county in which the officer resides. *Local Gov’t Code 87.015*

### REASONS FOR REMOVAL

An officer may be removed for:

1. Incompetency. “Incompetency” means:
   a. Gross ignorance of official duties;
   b. Gross carelessness in the discharge of those duties; or
   c. Unfitness or inability to promptly and properly discharge official duties because of a serious physical or mental defect that did not exist at the time of the officer’s election.

2. Official misconduct. “Official misconduct” means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law.

3. Intoxication on or off duty caused by drinking an alcoholic beverage. Intoxication is not grounds for removal if it appears...
at the trial that the intoxication was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician practicing in this state.

4. The conviction of a board member by a jury for any felony or for misdemeanor official misconduct. The conviction of a public officer by a petit jury for any felony or for a misdemeanor involving official misconduct operates as an immediate removal from office of that officer.

5. Nonattendance of board meetings if the member is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year, not counting an absence for which the member is excused by a majority vote of the board.

*Tex. Const. Art. V, Sec. 24; Local Gov’t Code 87.011(2)–(3), .013, .031; Education Code 130.0845*

**REMOVAL FOR PURCHASING VIOLATIONS**

A board member who is convicted of a purchasing offense under Education Code 44.032 [see CF(LEGAL), IMPERMISSIBLE PRACTICES] is considered to have committed official misconduct and is subject to removal under Local Government Code Chapter 87. *Education Code 44.032*

**FILLING A VACANCY**

Any vacancy occurring on the board through death, resignation, or otherwise, shall be filled by a special election ordered by the board or by appointment by resolution or order of the board. *Education Code 130.082(d)*

**SPECIAL ELECTION**

A special election to fill a board vacancy is conducted in the same manner as the district's general election except as provided by the applicable provisions of the Election Code. *Education Code 130.082(d)* [See BBB]

If a vacancy in office is to be filled by special election, the election shall be ordered as soon as practicable after the vacancy occurs. A special election to fill a vacancy shall be held on the first authorized uniform election date occurring on or after the 45th day after the date the election is ordered. For a vacancy to be filled by a special election to be held on the date of the general election for state and county officers (November of even-numbered years), the election shall be ordered not later than the 78th day before election day. *Election Code 41.002, 201.051–.052*

In all elections to fill vacancies of office in this state, it shall be to fill the unexpired term only. *Tex. Const. Art. XVI, Sec. 27*

**APPOINTMENT**

An appointment to the governing body of a local government shall be made as required by the law applicable to that local government.
and may be made with the intent to ensure that the governing body is representative of the constituency served by the governing body. A local government that chooses to implement this provision shall adopt procedures for the implementation. *Local Gov’t Code 180.005(b)–(c)*

To be eligible to be appointed to a public elective office, a person must meet the qualifications set forth at Election Code 141.001(a) and Education Code 130.082(d). *Election Code 141.001(a); Education Code 130.082(d)* [See BBA]

The person appointed to fill the unexpired term shall serve until the next regular election of members to the board, at which time the position shall be filled by election for a term appropriately shortened to conform with what regularly would have been the length of the term for that position. *Tex. Const. Art. XVI, Sec. 27; Education Code 130.082(d)*

**SINGLE-MEMBER DISTRICTS**

Except as provided in Education Code 130.0822(l), in single-member districts, any vacancy on the board shall be filled by appointment made by the remaining members of the board. The appointed person serves for the unexpired term. *Tex. Const. Art. XVI, Sec. 27; Education Code 130.0822(d); (l)*

**TEMPORARY REPLACEMENT OF BOARD MEMBER ON MILITARY ACTIVE DUTY**

An elected or appointed officer of the state or of any political subdivision, including a member of the college district board of trustees, who enters active duty in the armed forces of the United States as a result of being called to duty, drafted, or activated does not vacate the office held, but the appropriate authority may appoint a replacement to serve as a temporary active officer as provided by Texas Constitution Article XVI, Section 72 if the elected or appointed board member will be on active duty for longer than 30 days.

The officer who is temporarily replaced may recommend to the appropriate appointing authority the name of a person to temporarily fill the office. The appropriate authority shall appoint the temporary acting officer to begin service on the date specified in writing by the officer being temporarily replaced as the date the officer will enter active military service.

A temporary acting officer has all the powers, privileges, and duties of the office. A temporary acting officer shall perform the duties of office for the shorter period of:

1. The term of the active military service of the officer who is temporarily replaced; or
2. The term of office of the officer who is temporarily replaced.
“Armed Forces of the United States” means the U.S. Army, the U.S. Navy, the U.S. Air Force, the U.S. Marine Corps, the U.S. Coast Guard, any reserve or auxiliary component of any of those services, or the National Guard.

*Tex. Const. Art. XVI, Sec. 72*
The Coordinating Board by rule shall establish a training program for members of the governing boards of institutions of higher education. Each member of a governing board of an institution of higher education, including a college district, shall attend, during the member's first two years of service as a member of a governing board of an institution of higher education, at least one training program. A member of a governing board who is required to attend a training program may attend additional training programs under this section.  

Education Code 61.084(a); 19 TAC 1.9(a)

The training program must include a seminar held annually in Austin to be conducted by the staff of the Coordinating Board. The staff of the Coordinating Board may obtain assistance from representatives of the office of the attorney general, the office of the comptroller of public accounts, the office of the state auditor, and the Texas Ethics Commission, and from other training personnel the Coordinating Board deems necessary.  

Education Code 61.084(b)

The content of the instruction at the training program shall focus on the official role and duties of the board members and shall provide training in the areas of budgeting, policy development, and governance.

Topics covered by the training program may include:

1. Auditing procedures and recent audits of institutions of higher education;
2. The enabling legislation that creates institutions of higher education;
3. The role of the governing board at institutions of higher education and the relationship between the governing board and the institution's administration, faculty and staff, and students;
4. The mission statements of institutions of higher education;
5. Disciplinary and investigative authority of the governing board;
6. The requirements of the open meetings law, Government Code Chapter 551, and the open records law, Government Code Chapter 552;
7. The requirements of conflict of interest laws and other laws relating to public officials;
8. Any applicable ethics policies adopted by institutions of higher education or the Texas Ethics Commission; and
9. Any other topic relating to higher education the board considers important.

*Education Code 61.084(d)*

In addition to the content of the instruction at a training program required under Education Code 61.084(d), above, topics covered by the training program for board members must include information about best practices in campus financial management, financial ratio analysis, and case studies using financial indicators. *Education Code 61.084(e)*

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<tr>
<th>TRAINING ALTERNATIVES</th>
<th>ELECTRONIC OPTION</th>
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<td></td>
<td>The Coordinating Board shall provide an equivalent training program by electronic means in the event a member of a governing board is unable to attend the required training program. Completion of the training program by electronic means is deemed to satisfy the training requirements. <em>Education Code 61.084(g)</em></td>
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<th>HARDSHIP EXCEPTION</th>
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<td>The Coordinating Board by rule may prescribe an alternative training program for members of governing boards for whom attendance at a seminar held in Austin would be a hardship. The alternative training program need not be in the form of a seminar but must include substantially the same information included in the seminar held in Austin. <em>Education Code 61.084(b); 19 TAC 1.9(b)</em></td>
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<th>FEE</th>
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<td>A registration fee shall be paid by seminar participants in an amount adequate to cover the costs incurred by the Coordinating Board and other state agencies in providing the program. Such amount shall be determined prior to each seminar. A participant shall pay from private funds the required fee and the participant’s costs of travel, including transportation, lodging, and meals. Neither the required fee nor a participant’s travel costs shall be reimbursed from appropriated funds, other than grants and donations of private funds available for that purpose. <em>Education Code 61.084(c); 19 TAC 1.9(c)</em></td>
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<th>REPORTING</th>
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<td>The minutes of the last regular meeting held by a governing board of a public junior college district during a calendar year must reflect whether each member of the governing board has completed any training required to be completed by the member under Education Code 61.1084 as of the meeting date. <em>Education Code 61.084(f)</em></td>
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<tr>
<th>OPEN MEETINGS ACT TRAINING</th>
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<td>Each elected or appointed public official who is a member of a governmental body subject to Government Code Chapter 551 shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body and its members under Chapter 551 not later than the 90th day after the date the member takes the oath of office.</td>
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</table>
The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve any other acceptable course of training offered by a governmental body or other entity.

The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training. A governmental body shall maintain and make available for public inspection the record of its members’ completion of the training. The failure of one or more members of a governmental body to complete the required training does not affect the validity of an action taken by the governmental body.

_Gov’t Code 551.005(a)–(c), (f)_

**PUBLIC INFORMATION ACT TRAINING**

This section applies to an elected or appointed public official who is a member of a multimember governmental body. Each public official shall complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body with which the official serves and its officers and employees under Government Code Chapter 552 not later than the 90th day after the date the public official takes the oath of office.

The attorney general shall ensure that the training is made available. The office of the attorney general may provide the training and may also approve other acceptable sources of training offered by a governmental body or other entity.

A public official may designate a public information coordinator to satisfy the training requirement for the public official if the public information coordinator is primarily responsible for administering the responsibilities of the public official or governmental body under Chapter 552. [See GAB regarding public information coordinator training]

The office of the attorney general or other entity providing the training shall provide a certificate of course completion to persons who complete the training. A governmental body shall maintain and make available for public inspection the record of its public officials’ or, if applicable, the public information coordinator’s completion of the training.

_Gov’t Code 552.012(a)–(e)_
The College President or designee shall fulfill the responsibilities of the public information coordinator and shall receive, on behalf of Board members, the training specified by Government Code 552.012.

The College President shall work with the Board to address the training needs of the Board members, which shall include a training program for orientation of new members and continuing education for current members.
Because the board is a body corporate, members can perform no valid act except as a body at meetings properly convened and conducted. *Toyah ISD v. Pecos-Barstow Indep. Sch. Dist.*, 466 S.W.2d 377 (Tex. App.—San Antonio, 1971, no writ); *Buchele v. Woods*, 528 S.W.2d 95 (Tex. App. — Tyler, 1975, no writ)

An individual board member has an inherent right of access to records maintained by the college district when the board member requests the records in his or her official capacity. *Atty. Gen. Op. JM-119* (1983)

When there are competing confidentiality or security concerns, it may be proper for a board to establish reasonable procedures to preserve confidentiality, but the college district may not absolutely prohibit an individual board member from viewing records involving college district business that are otherwise properly available to the board as a governmental body. *Atty. Gen. Op. GA-138* (2004)

An educational agency or institution may disclose personally identifiable information from an education record of a student without the written consent of the student required by 34 C.F.R. 99.30 if the disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to have legitimate educational interests. 34 C.F.R. 99.30, .31(a) [See FJ]

An officer, including a board member, or employee of a local government commits a criminal offense if the officer or employee knowingly or intentionally violates Local Government Code Title 6, Subtitle C or rules under it by destroying or alienating a local government record in contravention of Subtitle C or by intentionally failing to deliver records to a successor in office as provided by Local Government Code 201.006(a). *Local Gov’t Code 202.008*

A person commits an offense if the person:

1. Knowingly makes a false entry in, or false alteration of, a governmental record;
2. Makes, presents, or uses any record, document, or thing with knowledge of its falsity and with intent that it be taken as a genuine governmental record;
3. Intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a governmental record;
4. Possesses, sells, or offers to sell a governmental record or a blank governmental record form with intent that it be used unlawfully;
5. Makes, presents, or uses a governmental record with knowledge of its falsity; or

6. Possesses, sells, or offers to sell a governmental record or a blank governmental record form with knowledge that it was obtained unlawfully.

It is an affirmative defense to prosecution for possession under paragraph 6 that the possession occurred in the actual discharge of official duties as a public servant. It is a defense to prosecution under paragraph 1, 2, or 5 that the false entry or false information could have no effect on the government's purpose for requiring the governmental record.

Penal Code 37.10(a), (e)–(f)

A person commits an offense if the person willfully destroys, mutilates, removes without permission as provided by Government Code Chapter 552 (Public Information Act), or alters public information. Gov't Code 552.351(a)

DISTRIBUTION OF CONFIDENTIAL INFORMATION

A person commits an offense if the person distributes information considered confidential under the terms of Chapter 552. Gov't Code 552.352(a)

FIDUCIARY

Each member of a governing board has the legal responsibilities of a fiduciary in the management of funds under the control of institutions subject to the board's control and management. Education Code 51.352(e)

PROTECTIONS FOR ACTING ON A LEGISLATIVE MEASURE

To protect the independence of state and local officers acting in a legislative capacity, a state or local officer, whether elected or appointed, including a member of the governing body of a school district or other political subdivision of this state, may not be subject to disciplinary action or a sanction, penalty, disability, or liability for:

1. An action permitted by law that the officer takes in the officer's official capacity regarding a legislative measure;

2. Proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure;

3. The effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or

4. A breach of duty, in connection with the member's practice of or employment in a licensed or regulated profession or occupation, to disclose to any person information, or to obtain a waiver or consent from any person, regarding the officer's ac-
tions relating to a legislative measure; or the substance, effects, or potential effects of a legislative measure.

*Gov't Code 572.059*
<table>
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<tr>
<th>BOARD AUTHORITY</th>
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<td>The Board has final authority to determine and interpret the policies that govern the College District and, within the limits imposed by other legal authorities, has complete and full control of the College District.</td>
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<th>TRANSACTING BUSINESS</th>
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<td>Official Board action shall be taken only in meetings that comply with the Open Meetings Act. The affirmative vote of a majority of all Board members shall be required to transact business. [See BD] Each action of the Board supported by the majority is binding on the whole Board.</td>
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<tr>
<th>INDIVIDUAL AUTHORITY FOR COMMITTING THE BOARD</th>
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<td>Board members as individuals shall not exercise authority over the College District, its property, or its employees. Except for appropriate duties and functions of the Board President, an individual member may act on behalf of the Board only with the express authorization of the Board. Without such authorization, no individual member may commit the Board on any issue. [See BCAB]</td>
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<tr>
<th>INDIVIDUAL ACCESS TO INFORMATION</th>
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<td>An individual Board member, acting in his or her official capacity, shall have the right to seek information pertaining to College District fiscal affairs, business transactions, governance, and personnel matters, including information that properly may be withheld from members of the general public in accordance with the Public Information Chapter of the Government Code. [See GAA]</td>
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<th>LIMITATIONS</th>
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<td>Individual members shall not have access to confidential student records unless the member is acting in his or her official capacity and has a legitimate educational interest in the records in accordance with policies FJ(LEGAL) and (LOCAL).</td>
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<tr>
<th>REQUESTS FOR RECORDS</th>
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<tr>
<td>Individual members shall seek access to records or request copies of records from the College President or other designated custodian of records. When a custodian of records other than the College President provides access to records or copies of records to individual Board members, the provider shall inform the College President of the records provided.</td>
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<tr>
<th>REQUESTS FOR REPORTS</th>
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<tr>
<td>Directives to the College President or other College District staff regarding the preparation of reports that will, in the opinion of the College President, require excessive staff time or expense shall be authorized by action of the Board.</td>
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<tr>
<th>CONFIDENTIALITY</th>
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<tr>
<td>At the time Board members are provided access to confidential records or to reports compiled from such records, the College President or other College District employee shall advise them of their responsibility to comply with confidentiality requirements.</td>
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<tr>
<th>REFERRING COMPLAINTS</th>
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<tr>
<td>If employees, students, or citizens bring a concern or complaint to an individual Board member, he or she shall refer them to the College President.</td>
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DATE ISSUED: 10/6/2011

LDU 2011.04
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College President or designee, who shall proceed according to appropriate Board policy. [See DGBA, FLD, and GB]

When the concern or complaint directly pertains to the Board’s own actions or policy, for which there is no administrative remedy, the Board member may request that the issue be placed on the agenda.

Except as authorized by these policies or specific Board action, no employee or agent shall have the authority to bind the College District contractually.
It shall be lawful for a local public official to serve as a member of the board of directors of private, nonprofit corporations when such officials receive no compensation or other remuneration from the nonprofit corporation or other nonprofit entity. *Local Gov't Code 171.009; Att'y Gen. Op. DM-256(1993)*

“Local public official” means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), county, municipality, precinct, central appraisal district, transit authority or district, or other local governmental entity who exercises responsibilities beyond those that are advisory in nature. *Local Gov't Code 171.001(1)*
STATEMENT OF ETHICS

As a member of the Board, I will strive to improve community college education, and to that end I shall adhere to the following ethical standards:

1. Attend all regularly scheduled Board meetings insofar as possible, and become informed concerning issues to be considered at those meetings.

2. Bring about desired changes through legal and ethical procedures, upholding and enforcing all applicable statutes, regulations, and court decisions pertaining to community colleges.

3. Work with other Board members to establish effective Board policies and to delegate authority for the administration of the College District to the Chief Executive Officer.

4. Work with other Board members to establish effective policies and practices prohibiting unlawful discrimination, including conduct that constitutes sexual harassment.

5. Recognize that I should endeavor to make policy decisions only after full discussion at publicly held Board meetings.

6. Render all decisions based on the available facts and my independent judgment, and refuse to surrender that judgment to individuals or special interest groups.

7. Encourage the free expression of opinion by all Board members, and seek systematic communications between the Board and students, staff, and all elements of the community.

8. Communicate to other Board members and the Chief Executive Officer expressions of public reaction to Board policies and college programs.

9. Inform myself about current educational issues by individual study and through participation in programs providing needed information, such as those sponsored by the Texas Association of Community Colleges, the American Association of Community Colleges, and the Association of Community College Trustees.

10. Support the employment of those persons best qualified to serve as college staff, and insist on a regular and impartial evaluation of all staff.

11. Avoid being placed in a position of conflict of interest, and refrain from using my Board position for personal or partisan gain.
12. Take no private action that will compromise the Board or administration, and respect the confidentiality of information that is privileged under applicable law.

13. Remember always that my first and greatest concern must be the educational welfare of the students attending the college.

REFERENCE: derived from National School Boards Association
If a local public official, such as a member of a college district board of trustees, has a substantial interest in a business entity or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

1. In the case of a substantial interest in a business entity, the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public; or

2. In the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.

The affidavit must be filed with the official record keeper of the governmental entity.

Local Gov't Code 171.004

A person has a substantial interest in a business entity if:

1. The person owns:
   a. Ten percent or more of the voting stock or shares of the business entity, or
   b. Either ten percent or more or $15,000 or more of the fair market value of the business entity; or

2. Funds received by the person from the business entity exceed ten percent of the person's gross income for the previous year.

A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of $2,500 or more.

A local public official is considered to have a substantial interest if a person related to the official in the first degree by consanguinity or affinity, as determined under Government Code Chapter 573 [see DBE], has a substantial interest as defined above.

Local Gov't Code 171.002

"Local public official" means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district), central appraisal district, or other local governmental entity, including a college district, who exer-
cises responsibilities beyond those that are advisory in nature. Local Gov't Code 171.001(1)

“BUSINESS ENTITY” “Business entity” means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law. Local Gov't Code 171.001(2)

A public entity, such as a city, school district, or state institution of higher education, that's purpose is not to produce financial benefits for private persons is not a business entity. Atty. Gen. Op. GA-826 (2010), GA-31 (2003), DM-267 (1993), JM-852 (1988)

MAJORITY CONFLICT If a local public official is required to file and does file an affidavit, the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and do file affidavits of similar interests on the same official action. Local Gov't Code 171.004(c)

SEPARATE VOTE ON BUDGET The governing body of a governmental entity shall take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a member of the governing body has a substantial interest. The affected member may not participate in that separate vote. The member may vote on a final budget if the member has complied with Local Government Code Chapter 171, described herein, and the matter in which the member is concerned has been resolved. Local Gov't Code 171.005

VIOLATIONS A local public official commits an offense if the official knowingly:

1. Violates Local Government Code 171.004, above;
2. Acts as surety for a business entity that has work, business, or a contract with the governmental entity; or
3. Acts as surety on any official bond required of an officer of the governmental entity.

Local Gov't Code 171.003(a)

VOIDABLE ACTIONS The finding by a court of a violation under Chapter 171 does not render an action of the governmental body voidable unless the measure that was the subject of an action involving a conflict of interest would not have passed the governing body without the vote of the person who violated the chapter. Local Gov't Code 171.006
A local government officer shall file a conflicts disclosure statement with respect to a person who enters or seeks to enter into a contract with a local governmental entity or who is an agent of that person in the person's business with a local governmental entity if the person enters into a contract with the local governmental entity or the local governmental entity is considering entering into a contract with the person; and the person:

1. Has an employment or other business relationship with the local government officer or a family member of the officer that results in the officer or family member receiving taxable income, other than investment income, that exceeds $2,500 during the 12-month period preceding the date that the officer becomes aware that a contract has been executed or the local governmental entity is considering entering into a contract with the person; or

2. Has given to the local government officer or a family member of the officer one or more gifts that have an aggregate value of more than $250 in the 12-month period preceding the date the officer becomes aware that a contract has been executed; or the local governmental entity is considering entering into a contract with the vendor.

A local government officer is not required to file a conflicts disclosure statement in relation to a gift accepted by the officer or a family member of the officer if the gift is:

1. Given by a family member of the person accepting the gift;

2. A political contribution as defined by Election Code Title 15; or

3. Food, lodging, transportation, or entertainment accepted as a guest.

A local government officer shall file the conflicts disclosure statement with the records administrator of the local governmental entity not later than 5:00 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement.

The Texas Ethics Commission shall adopt the conflicts disclosure statement for local government officers.

Local Gov't Code 176.002(a), .003(a)–(b), .004

VIOLATIONS

A local government officer commits an offense if the officer knowingly violates this law. It is an exception to the application of the penalty that the person filed the required conflicts disclosure statement not later than the seventh business day after the date
the person received notice from the local governmental entity of the alleged violation. *Local Gov’t Code 176.003(c)–(d)*

**DEFINITIONS**

**“LOCAL GOVERNMENT OFFICER”**

“Local government officer” means a member of the governing body of a local governmental entity, a director, superintendent, administrator, president, or other person designated as the executive officer of the local governmental entity; or an employee of a local governmental entity with respect to whom the local governmental entity has, in accordance with Local Government Code 176.005, extended the requirements of Local Government Code 176.003 and 176.004. *Local Gov’t Code 176.001(4)*

**“FAMILY MEMBER”**

“Family member” means a person related to another person within the first degree by consanguinity or affinity, as described by Government Code Chapter 573, Subchapter B except that the term does not include a person who is considered to be related to another person by affinity only as described by Government Code 573.024(b). *Local Gov’t Code 176.001(2)*

**“RECORDS ADMINISTRATOR”**

“Records administrator” means the director, county clerk, municipal secretary, superintendent, or other person responsible for maintaining the records of the local governmental entity or another person designated by the local governmental entity to maintain statements and questionnaires filed under Local Government Code Chapter 176 and perform related functions. *Local Gov’t Code 176.001(5)* [See CIA]

**“INVESTMENT INCOME”**

“Investment income” means dividends, capital gains, or interest income generated from:

1. A personal or business:
   a. Checking or savings account;
   b. Share draft or share account; or
   c. Other similar account;
2. A personal or business investment; or
3. A personal or business loan.

*Local Gov’t Code 176.001(2-b)*

**INTERNET POSTING REQUIREMENT**

A local governmental entity that maintains an Internet website shall provide access to the statements and questionnaires required to be filed under Chapter 176 on that website. *Local Gov’t Code 176.009*
A public servant who has a legal or equitable interest in property that is to be acquired with public funds shall file an affidavit within ten days before the date on which the property is to be acquired by purchase or condemnation. The affidavit must:

1. State the name of the public servant;
2. State the public servant’s office, public title, or job designation;
3. Fully describe the property;
4. Fully describe the nature, type, and amount of interest in the property, including the percentage of ownership interest;
5. State the date when the person acquired an interest in the property;
6. Include a verification as follows: "I swear that the information in this affidavit is personally known by me to be correct and contains the information required by Section 553.002, Government Code" [see BBFA(EXHIBIT)]; and
7. Contain an acknowledgment of the same type required for recording a deed in the deed records of the county.

The affidavit must be filed with the county clerk of the county in which the public servant resides and the county clerk of each county in which the property is located.

Gov’t Code 553.002

A person commits an offense if the person violates Government Code 553.002, above and the person has actual notice of the acquisition or intended acquisition of the legal or equitable interest in the property. A person who violates Section 553.002 by not filing the affidavit required by that section is presumed to have the intent to commit an offense. Gov’t Code 553.003(a)–(b)

“Public servant” means a person who is elected, appointed, employed, or designated, even if not yet qualified for or having assumed the duties of office, as:

1. A candidate for nomination or election to public office; or
2. An officer of government.

Gov’t Code 553.001(2)
See the following pages for forms that may be used for compliance with disclosure requirements.

Exhibit A: Affidavit Disclosing Substantial Interest in a Business Entity or Real Property, as defined in Local Government Code 171.002 — 2 pages

Exhibit B: Affidavit Disclosing Interest in Property under Government Code, Chapter 553, Subchapter A — 1 page

ADDITIONAL DISCLOSURE: The conflicts disclosure statement required of members of the board and the chief executive officer by Local Government Code 176.003—.004 is available on the Texas Ethics Commission website at http://www.ethics.state.tx.us/forms/CIS.pdf. See DBD(LOCAL) to determine if the board has extended this filing requirement to other employees.
EXHIBIT A

AFFIDAVIT DISCLOSING SUBSTANTIAL INTEREST
IN A BUSINESS ENTITY OR REAL PROPERTY

STATE OF TEXAS
COUNTY OF _____________________

I, ________________________________ (name), as a local public official of the ________________________________ College District, make this affidavit and on my oath state the following:

1. I, or a person(s) related to me in the first degree, have a substantial interest as defined in Local Government Code 171.002 in:
   - a business entity, as defined in Local Government Code 171.001, that would experience a special economic effect distinguishable from its effect on the public by a vote or decision of the board.
   - or
   - real property for which it is reasonably foreseeable that the board's action or my action will have a special economic effect on the value of the property distinguishable from its effect on the public.

2. The business entity or real property is:
   ____________________________________________________________
   (name/address of business or description of property)

   _______________ (“I” or name of relative and relationship) (have)(has) a substantial interest in this business entity or real property as follows: (check all that apply)
   - Ownership of ten percent or more of the voting stock or shares of the business entity.
   - Ownership of ten percent or more of the fair market value of the business entity.
   - Ownership of $15,000 or more of the fair market value of the business entity.
   - Funds received from the business entity exceed ten percent of ________ (my, her, his) gross income for the previous year.
   - Real property is involved and _________ (I, she, he) (have)(has) an equitable or legal ownership with a fair market value of at least $2,500.

3. The statements in this affidavit are based on my personal knowledge and are true and correct.

4. Upon the filing of this affidavit with the board's official record keeper, I affirm that I shall abstain from participation in any decision involving this business entity or real property, unless permitted according to Local Government Code 171.004(c).
AFFIDAVIT DISCLOSING INTEREST IN PROPERTY

STATE OF TEXAS
COUNTY OF __________________________

I, ___________________________________, (name of affiant), (check one of the following:)

☐ as an officer of, or

☐ as a board candidate for,

__________________________________ College District make this affidavit and on
my oath state the following:

1. I have a legal or equitable interest in property to be acquired with public funds, either by
   purchase or condemnation. The property is fully described as follows:
   ________________________________________________________________

2. The nature, type, and amount of interest, including percentage of ownership, I have in
   the property is:
   ________________________________________________________________

3. I acquired my interest in the property on __________________ (date).

4. The information stated in this affidavit is personally known by me to be correct and con-
   tains the information required by Government Code 553.002.

Signature of affiant ______________________________________

Office or public title ______________________________________

Date ______________________________________

Note: This affidavit must be filed with the county clerk(s) of the county or counties in which
the property is located and of the county in which the public servant or candidate resides
within ten days before the date on which the property is to be acquired by purchase or con-
demnation.
“Public servant” means a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed his or her duties:

1. An officer, employee, or agent of government; or
2. A candidate for nomination or election to public office.

_Penal Code 1.07(a)(41)_

**Bribery**

A person commits an offense if the person intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:

1. Any benefit as consideration for the recipient’s decision, opinion, recommendation, vote, or other exercise of discretion as a public servant;
2. Any benefit as consideration for the recipient’s decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
3. Any benefit as consideration for a violation of a duty imposed by law on a public servant;
4. Any benefit that is a political contribution as defined by Election Code Title 15 or that is an expenditure made and reported in accordance with Government Code Chapter 305, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld but for the benefit.

_Penal Code 36.02(a)_

“Benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.  
_Penal Code 36.01(3)_

**Illegal Gifts**

A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of government commits an offense if the public servant solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.  
_Penal Code 36.08(d)_

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under Penal Code 36.08 may
donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes.  

Penal Code 36.08(i)

EXCEPTIONS

Penal Code 36.08 does not apply to:

1. A fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which the public servant gives legitimate consideration in a capacity other than as a public servant;

2. A gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient;

3. A benefit to a public servant required to file a statement under Government Code Chapter 572 or a report under Election Code Title 15 that is derived from a function in honor or appreciation of the recipient if:
   a. The benefit and the source of any benefit in excess of $50 is reported in the statement; and
   b. The benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;

4. A political contribution as defined by Election Code Title 15;

5. An item with a value of less than $50, excluding cash or a negotiable instrument as described by Business and Commerce Code 3.104;

6. An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;

7. Transportation and lodging expenses or meals in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory;

8. Complimentary legal advice or legal services relating to a will, power of attorney, advance directive, or other estate planning document rendered to a public servant who is a first responder; and through a program or clinic that is operated by a local bar association or the State Bar of Texas and approved by the
head of the agency employing the public servant, if the public servant is employed by an agency; or

9. Food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

*Penal Code 36.07(b), .10(a)–(b)*

**HONORARIA AND EXPENSES**

A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for the public servant’s official position or duties. This restriction does not prohibit a public servant from accepting transportation and lodging expenses in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory, or from accepting meals in connection with such an event. *Penal Code 36.07(a)–(b)*

**ABUSE OF OFFICE**

A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, the public servant intentionally or knowingly violates a law relating to the public servant’s office or misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant’s custody or possession by virtue of the public servant’s office or employment. *Penal Code 39.02(a)*

“Law relating to a public servant’s office” means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly imposes a duty on the public servant or governs the conduct of the public servant. *Penal Code 39.01(1)*

“Misuse” means to deal with property contrary to:

1. An agreement under which the public servant holds the property;

2. An oath of office of a public servant;

3. A law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or

4. A limited purpose for which the property is delivered or received.

*Penal Code 39.01(2)*
A public servant commits an offense if, in reliance on information to which he has access by virtue of the public servant’s office and that has not been made public, the public servant:

1. Acquires or aids another to acquire a pecuniary interest in any property, transaction, or enterprise that may be affected by the information;

2. Speculates or aids another to speculate on the basis of the information; or

3. As a public servant, including as a principal of a school, coerces another into suppressing or failing to report that information to a law enforcement agency.

A public servant commits an offense if with intent to obtain a benefit or with intent to harm or defraud another, the public servant discloses or uses information for a nongovernmental purpose that the public servant has access to by means of his office or employment and has not been made public.

"Information that has not been made public" means any information to which the public does not generally have access, and that is prohibited from disclosure under Government Code Chapter 552.

Penal Code 39.06(a)–(b), (d)

A public servant acting under color of his office or employment commits an offense if the public servant:

1. Intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;

2. Intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful; or

3. Intentionally subjects another to sexual harassment.

For purposes of this section, a public servant acts under color of the public servant’s office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purport ed capacity.

"Sexual harassment" means unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature, submission to which is made a term or condition of a person’s exercise or enjoyment of any right, privilege, power, or immunity, either explicitly or implicitly.

Penal Code 39.03(a)–(c)
NEPOTISM

A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

1. The individual is related to the public official within the third degree by consanguinity or within the second degree by affinity; or

2. The public official holds the appointment or confirmation authority as a member of a local board and the individual is related to another member of the board within the third degree by consanguinity or within the second degree by affinity.


The nepotism law governs the hiring of an individual, whether the individual is hired as an employee or an independent contractor. Atty. Gen. Op. DM-76 (1992)

A public official may not approve an account or draw or authorize the drawing of a warrant or order to pay the compensation of an ineligible individual if the official knows the individual is ineligible. Gov't Code 573.083


DEFINITIONS

"PUBLIC OFFICIAL"

"Public official" means:

1. An officer of this state or of a district, county, municipality, precinct, school district, or other political subdivision of this state; or

2. An officer or member of a board of this state or of a district, county, municipality, college district, or other political subdivision of this state.

Gov't Code 573.001(3)

"CONSANGUINITY"

Two individuals are related to each other by consanguinity if:

1. One is a descendant of the other; or

2. They share a common ancestor.

An adopted child is considered to be a child of the adoptive parent for this purpose.

Gov't Code 573.022
“AFFINITY”

Two individuals are related to each other by affinity if:

1. They are married to each other; or
2. The spouse of one of the individuals is related by consanguinity to the other individual.

The ending of a marriage by divorce or the death of a spouse ends relationships by affinity created by that marriage unless a child of that marriage is living, in which case the marriage is considered to continue as long as a child of that marriage lives.

Gov’t Code 573.024(a)–(b)

A public junior college may not employ or contract with an individual who was a member of the board of trustees of the junior college before the first anniversary of the date the individual ceased to be a member of the board of trustees. Education Code 130.089

One person may not occupy two legally incompatible offices. Offices are legally incompatible when the faithful and independent exercise of one would necessarily interfere with the faithful and independent exercise of the other. A person may not serve in one branch of government while exercising any powers properly attached to either of the other branches of government. Tex. Const. Art. II, Sec. 1; Turner v. Trinity Indep. Sch. Dist., 700 S.W.2d 1 (Tex. App.—Houston (14th Dist.) 1983); Atty. Gen. Op. GA-786 (2010)

The term “public official” means a person acting for or on behalf of the United States, or any department, agency, or branch thereof, in any official function, under or by authority of any such department, agency, or branch of government.

The term “person who has been selected to be a public official” means any person who has been nominated or appointed to be a public official, or has been officially informed that such person will be so nominated or appointed.

18 U.S.C. 201(a)(1)–(2); Dixon v. U.S., 465 U.S. 482, 499 (1984) (holding that employees of a private organization that administered federal housing grants for city were “public officials” because they had some degree of official responsibility for carrying out a federal program or policy); U.S. v. Franco, 632 F.3d 880 (5th Cir. 2011)

A public official or person selected to be a public official commits an offense if the public official or person selected to be a public official, directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity, in return for:

1. Being influenced in the performance of any official act;
2. Being influenced to commit or aid in committing, or to collude in, or allow, any fraud, or make opportunity for the commission of any fraud, on the United States; or

3. Being induced to do or omit to do any act in violation of the official duty of such official or person.

18 U.S.C. 201(b)(2)

The term “agent” means a person authorized to act on behalf of another person or a government and, in the case of an organization or government, includes a servant or employee, and a partner, director, officer, manager, and representative.

The term “government agency” means a subdivision of the executive, legislative, judicial, or other branch of government, including a department, independent establishment, commission, administration, authority, board, and bureau, and a corporation or other legal entity established, and subject to control, by a government or governments for the execution of a governmental or intergovernmental program.

If an organization, government, or agency receives, in any one year period, benefits in excess of $10,000 under a federal program involving a grant, contract, subsidy, loan, guarantee, insurance, or other form of federal assistance, an agent of an organization, or of a state or local government, commits an offense if the agent:

1. Embezzles, steals, obtains by fraud, or otherwise without authority knowingly converts to the use of any person other than the rightful owner or intentionally misapplies, property that:

   a. Is valued at $5,000 or more, and

   b. Is owned by, or is under the care, custody, or control of the organization, government, or agency; or

2. Corruptly solicits or demands for the benefit of any person, or accepts or agrees to accept, anything of value from any person, intending to be influenced or rewarded in connection with any business, transaction, or series of transactions of the district involving anything of value of $5,000 or more.

This provision does not apply to bona fide salary, wages, fees, or other compensation paid, or expenses paid or reimbursed, in the usual course of business.

18 U.S.C. 666
MEMBERS’ EXPENSES  Members of a board shall not receive any remuneration or emolument of office, but they shall be entitled to reimbursement for their actual expenses incurred in performing their duties, to the extent authorized and permitted by the board. *Education Code 130.082(d)*

TRAVEL SERVICES  An officer of a public junior college who is engaged in official business may participate in the comptroller’s contract for travel services. *Gov’t Code 2171.055(f); 34 TAC 20.301(b)(2)(E)*
HEALTH INSURANCE CONTRIBUTIONS

The College District shall contribute to a Board member’s health benefits only as permitted by law under Texas Insurance Code 1551.109.

EXPENSE REIMBURSEMENT

Board members shall be reimbursed for reasonable expenses incurred in carrying out Board business at the Board’s request and for reasonable expenses incurred while attending meetings and conventions as official representatives of the Board.

Reimbursement shall be made by one of the following methods, as determined by the Board:

1. Reimbursement for use of personal car at the mileage rate currently approved by the Board, or the actual cost of commercial transportation, plus parking and taxi fares and expenses for lodging, meals, and other incidental expenses. Board members shall file a statement and, to the extent feasible, attach receipts documenting actual expenses for which reimbursement is requested.

2. A set amount approved in advance for reasonable expenditures to be incurred on a particular trip. This amount shall include travel, lodging, meals, and any other reasonably predictable expenditures. Board members shall file a statement, with receipts, accounting for amounts actually expended. Any excess shall be refunded to the College District.
Board members may attend regional, state, or national conventions, conferences, and workshops. Reimbursement for reasonable travel expenses for attendance at such conventions, conferences, and workshops shall be made by the College District when attendance is authorized and deemed by the Board to be necessary or desirable in carrying out the educational functions of the College District.
Note: For employee, student, and community use of college district technology resources, see CR.

ONLINE MESSAGE BOARD

A communication or exchange of information between members of a governmental body, including a college district board of trustees, about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of Government Code Chapter 551 (Texas Open Meetings Act) if:

1. The communication is in writing;
2. The writing is posted to an online message board or similar Internet application that is viewable and searchable by the public; and
3. The communication is displayed in real time and displayed on the online message board or similar Internet application for no less than 30 days after the communication is first posted.

A governmental body may have no more than one online message board or similar Internet application to be used for the purposes described above. The online message board or similar Internet application must be owned or controlled by the governmental body, prominently displayed on the governmental body's primary Internet web page, and no more than one click away from the governmental body's primary Internet web page.

Gov't Code 551.006(a)–(b)

AUTHORIZED USERS

The online message board or similar Internet application described above may only be used by members of the governmental body or staff members of the governmental body who have received specific authorization from a member of the governmental body. In the event that a staff member posts a communication to the online message board or similar Internet application, the name and title of the staff member must be posted along with the communication.

Gov't Code 551.006(c)

RETENTION OF COMMUNICATIONS

If a governmental body removes from the online message board or similar Internet application a communication that has been posted for at least 30 days, the governmental body shall maintain the posting for a period of six years. This communication is public information and must be disclosed in accordance with Government Code Chapter 552 (Texas Public Information Act). Gov't Code 551.006(d)
RESTRICTIONS ON USE

The governmental body may not vote or take any action that is required to be taken at a meeting under Government Code Chapter 551 of the governmental body by posting a communication to the online message board or similar Internet application. In no event shall a communication or posting to the online message board or similar Internet application be construed to be an action of the governmental body. *Gov't Code 551.006(e)*

ELECTRONIC RECORDS RETENTION

Electronic communications that are local governmental records must be preserved in accordance with the Texas Local Government Records Act, Local Government Code Title 6, Subtitle C, and the college district’s records retention schedule. [See CIA]

“Local government record” means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information-recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by a local government or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business. The term does not include:

1. Extra identical copies of documents created only for convenience of reference or research by officers or employees of the local government.

2. Notes, journals, diaries, and similar documents created by an officer or employee of the local government for personal convenience.

3. Blank forms.

4. Stocks of publications.

5. Library and museum materials acquired solely for the purposes of reference or display.

6. Copies of documents in any media furnished to members of the public to which they are entitled under Government Code Chapter 552 (Public Information Act) or other state law.

*Local Gov't Code 201.003(8)*
For purposes of this policy, “technology resources” means electronic communication systems and electronic equipment.

Access to the College District’s technology resources, including the Internet, shall be made available to Board members primarily for official duties and in accordance with administrative regulations.

Limited personal use of the College District’s technology resources shall be permitted if the use:

1. Imposes no tangible cost on the College District; and
2. Does not unduly burden the College District’s technology resources.

A Board member shall be required to acknowledge receipt and understanding of the user agreement governing use of the College District’s technology resources and shall agree in writing to allow monitoring of his or her use. Noncompliance may result in suspension of access or termination of privileges. Violations of law may result in criminal prosecution.

Electronic mail transmissions and other use of the College District’s technology resources by a Board member shall not be considered private. The College President or designee shall be authorized to monitor the College District’s technology resources at any time to ensure appropriate use.

The College District shall not be liable for a Board member’s inappropriate use of technology resources, violations of copyright restrictions or other laws, mistakes or negligence, or costs incurred. The College District shall not be responsible for ensuring the availability of the College District’s technology resources or the accuracy, appropriateness, or usability of any information found on the Internet.

A Board member shall retain electronic records, whether created or maintained using the College District’s technology resources or using personal technology resources, in accordance with the College District’s record management program. [See BBE, CIA]
ELECTION OF OFFICERS

Officers of the board shall be elected at the first regular meeting of the board following the regular election of members of the board in even-numbered years, or at any time thereafter in order to fill a vacancy.

PRESIDENT

The board shall elect one of its members as president of the board.

SECRETARY

The board shall elect a secretary of the board who may or may not be a member of the board.

OTHER OFFICERS

The board shall be authorized to elect any other officers as deemed necessary or advisable.

*Education Code 130.082(d)*
The Board shall elect a Chairperson, Vice Chairperson, and Secretary. The Chairperson shall be considered the Board President as that position is listed in statute, rule, or policy.
Officers shall be elected by majority vote of the members present and voting.

Board officers shall serve for a term of two years or until a successor is elected. Officers may succeed themselves in office. Each officer shall perform any legal duties of the office and other duties as required by the Board.

A vacancy among officers of the Board, other than the Chairperson, shall be filled by majority action of the Board. A vacancy in the Chairperson position shall be filled in accordance with BCAC(LOCAL).
The president shall preside at meetings of the board and perform such other duties and functions as are prescribed by the board.

The president of the board shall have a vote the same as the other members.

*Education Code 130.082(d)*
The Board shall elect a Vice Chairperson, also referred to as Vice President in policy, who shall act in the capacity and perform the duties of the Chairperson in the event of the absence or incapacity of the Chairperson. The Vice Chairperson shall automatically become Chairperson if a vacancy in that position occurs, and the Board shall elect a new Vice Chairperson.
The secretary of the board shall be the official custodian of the minutes, books, records, and seal of said board, and shall perform such other duties and functions as are prescribed by the board. 

*Education Code 130.082(d)*
A committee that includes one or more members of the college district board of trustees and has supervision or control over public business or public policy is subject to the Open Meetings Act (OMA), Government Code Chapter 551, when it meets to discuss that public business or policy.

A committee that includes less than a quorum of board members is not subject to the OMA if it serves a purely advisory function, with no power to supervise or control public business. However, should the committee actually function as something more than a merely advisory body with the result that it in fact supervises or controls public business or policy, it must comply with the OMA to avoid depriving the public of access to the board’s actual decision-making process.

The Board shall retain an attorney or attorneys, as necessary, to serve as the College District’s legal counsel and representatives in matters requiring legal services. Services to be performed and reasonable compensation to be paid by the Board shall be set forth in a written contract between the Board and the attorney or attorneys.

In accordance with the written contract, individual Board members shall channel legal inquiries through the College President or Board designee, as appropriate, when advice or information from the College District’s legal counsel is sought.

Staff requests for legal advice from the College District’s legal counsel shall be submitted through the College President or designee.

A report of legal advice received shall be presented to the Board when deemed appropriate by the administration or upon request of the Board.
For vocation education purposes, the College District may establish a local advisory council to provide advice on current job needs and on the relevancy of courses being offered by the College District in meeting those needs. The local advisory council may be composed of members of the general public, especially of representatives of business, industry, and labor, and shall have an appropriate representation of both sexes and of the racial and ethnic minorities found in the program areas that it serves. Local advisory councils may be established for program areas, schools, communities, or regions, whichever the College District determines best to meet the needs of the College District. The College District may also form a local advisory council composed of representatives from several craft committees, or representatives of several school councils, having the requisite representation described above.
"Meeting" means a deliberation among a quorum of a governmental body, including a college district board of trustees, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered, or during which the governmental body takes formal action. "Meeting" also means a gathering:

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

Gov't Code 551.001(3)–(4)

"Deliberation" means a verbal exchange during a meeting between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body or any public business.

Gov't Code 551.001(2)

"Quorum" means a majority of a governmental body.

Gov't Code 311.013(b), 551.001(6)

"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" 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(7)

The term "meeting" does not include the gathering of a quorum of a governmental body, including a college district board of trustees, at a social function unrelated to the public business that is conducted by the body, or the attendance by a quorum of the governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken.
and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, or press conference. Gov’t Code 551.001(4)

LEGISLATIVE COMMITTEE OR AGENCY MEETING
The attendance by a quorum of a governmental body at a meeting of a committee or agency of the legislature is not considered to be a meeting of that governmental body if the deliberations at the meeting by the members of that governmental body consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency. Gov’t Code 551.0035(b)

ONLINE MESSAGE BOARD
A communication or exchange of information between members of a governmental body about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of Government Code Chapter 551 if the communication is in writing and the writing is posted to an online message board or similar Internet application in accordance with Government Code 551.006. Gov’t Code 551.006(a) [See BBI(LEGAL)]

OPEN TO PUBLIC
Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by Government Code Chapter 551. Gov’t Code 551.002 [See BD and BDA]

EXCLUSION OF A WITNESS
A governmental body that is investigating a matter may exclude a witness from a hearing during the examination of another witness in an investigation. Gov’t Code 551.084

RECORDING BY ATTENDEES
A person in attendance may record all or any part of an open meeting of a governmental body by means of a recorder, video camera, or any other means of aural or visual reproduction. A governmental body 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. A rule adopted under this section may not prevent or unreasonably impair a person from exercising the right to record. Gov’t Code 551.023

MINUTES
A governmental body shall prepare and keep minutes or make a recording of each open meeting of the body. The minutes must state the subject of each deliberation and indicate each vote, order, decision, or other action taken.

The minutes and recordings of an open meeting are public records and shall be available for public inspection and copying on request to the governmental body’s chief administrative officer or the officer’s designee.

Gov’t Code 551.021–.022
The governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body. 

_Gov't Code 551.041_

Government Code 551.041 does not require a governmental body that recesses an open meeting to the following regular business day to post notice of the continued meeting if the action is taken in good faith and not to circumvent Chapter 551. If an open meeting is continued to the following regular business day and, on that following day, the board continues the meeting to another day, the governmental body must give the required written notice of the meeting continued to that other day. _Gov't Code 551.0411(a)_

If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which the required 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. _Gov't Code 551.042_

The notice of a meeting of a governmental body must 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. The notice must be posted in a place readily accessible to the public at all times 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 the Open Meetings Act (OMA) specifically requires or allows a governmental body to post notice of a meeting on the Internet, the governmental body 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.

The governmental body must still comply with any duty to physically post the notice at a particular location. If the governmental body makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the notice physically posted on the location prescribed by the OMA must be readily accessible to the general public during normal business hours.

_Gov't Code 551.043(b)_

This section applies only to a governmental body that maintains an Internet website or for which an Internet website is maintained. In
addition to the other place at which notice is required to be posted, the governing body of a junior college or junior college district, including a college or district that has changed its name in accordance with Education Code Chapter 130 must also concurrently post notice of a meeting on the Internet website of the governmental body.

The governing body of a junior college district, including a district that has changed its name in accordance with Chapter 130, 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 post the agenda for the meeting on the Internet website of the governmental body.

The validity of a posted notice of a meeting or an agenda by a governmental body 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 governmental body.

Gov't Code 551.056

The governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year, for any regularly scheduled meeting of the governing board for which notice is required under Government Code Chapter 551, shall post as early as practicable in advance of the meeting on the Internet website of the district any written agenda and related supplemental written materials provided by the district to the board members for the members' use during the meeting. This requirement does not apply to written materials that the general counsel or other appropriate attorney for the district certifies are confidential or may be withheld from public disclosure under Government Code Chapter 552 (Texas Public Information Act).

Gov't Code 551.1282

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 top administrators are of particular public interest, and notice of those subjects must be worded with such clarity that the public will understand what the board proposes to discuss or ac-
The terms “employee briefing” or “staff briefing” do not give adequate notice of the subject matter to be presented to the board by employees or staff members. *Atty. Gen. Op. JC-169 (2000)*

The subject of a report or update by college 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)*

In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added as an item to the agenda for a meeting for which the required notice has been posted is sufficient if it is posted for at least two hours before the meeting is convened.

An emergency or urgent public necessity exists only if immediate action is required of a governmental body because of an imminent threat to public health and safety or a reasonably unforeseeable situation. The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice.

The sudden relocation of a large number of residents from the area of a declared disaster to a governmental body’s jurisdiction is considered a reasonably unforeseeable situation for a reasonable period immediately following the relocation. Notice of an emergency meeting or supplemental notice of an emergency item added to the agenda of a meeting to address such a situation must be given to members of the news media as provided by Government Code 551.047 not later than one hour before the meeting.

*Gov’t Code 551.045*

A governmental body that is prevented from convening an open meeting that was otherwise properly posted under Section 551.041 because of a catastrophe may convene the meeting in a convenient location within 72 hours pursuant to Government Code 551.045 if the action is taken in good faith and not to circumvent the OMA. If the governmental body is unable to convene the open meeting within those 72 hours, the governmental body may subsequently convene the meeting only if the governmental body gives the required written notice of the meeting.

“Catastrophe” means a condition or occurrence that interferes physically with the ability of the governmental body 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 school district shall provide special notice of each meeting to any news meeting that has requested special notice and agreed to reimburse the district for the cost of providing the special notice. The notice shall be by telephone, facsimile transmission, or electronic mail. Gov’t Code 551.052; Att’y Gen. Op. JM-346 (1985) (a college district board of trustees is considered a school district board of trustees for the purposes of the OMA)

EMERGENCY MEETING OR EMERGENCY ITEM

The presiding officer of a governmental body, or the member of a governmental body who calls an emergency meeting of the governmental body or adds an emergency item to the agenda of a meeting of the governmental body, shall notify the news media of the emergency meeting or emergency item. The presiding officer or member is required to notify only those members of the news media that have previously filed at the headquarters of the governmental body a request containing all pertinent information for the special notice and agreed to reimburse the governmental body for the cost of providing the special notice. The presiding officer or member shall give the notice by telephone, facsimile transmission, or electronic mail any news media who have previously requested special notice of all meetings. Gov’t Code 551.047

DISASTER

Notwithstanding any other law, a quorum is not required for the governing body of a local governmental entity to act if:

1. The entity’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 governing body are unable to be present at a meeting of the governing body as a result of the disaster.

Gov’t Code 418.1102
<table>
<thead>
<tr>
<th>Topic</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>MEETING BY TELEPHONE CONFERENCE CALL SPECIAL MEETING</td>
<td>The OMA does not prohibit the governing board of an institution of higher education from holding a meeting by telephone conference call. A meeting held by telephone conference call authorized by this section may be held only if the meeting is a special called meeting and immediate action is required, and the convening at one location of a quorum of the board is difficult or impossible. <em>Gov't Code 551.121(b)–(c)</em></td>
</tr>
<tr>
<td>PUBLIC ACCESS</td>
<td>Each part of the telephone conference call meeting that is required to be open to the public shall be audible at the location specified in the notice of the meeting as the location of the meeting. <em>Gov't Code 551.121(f)</em></td>
</tr>
<tr>
<td>NOTICE</td>
<td>The telephone conference call meeting is subject to the notice requirements applicable to other meetings. The notice of a telephone conference call meeting of a governing board must specify as the location of the meeting the location where meetings of the governmental board are usually held. <em>Gov't Code 551.121(d)–(e)</em></td>
</tr>
<tr>
<td>RECORDING</td>
<td>Each part of the telephone conference call meeting that is required to be open to the public shall be recorded. The recording shall be made available to the public. <em>Gov't Code 551.121(f)</em></td>
</tr>
<tr>
<td>QUORUM AT ONE LOCATION</td>
<td>The OMA does not prohibit the governing board of a junior college district from holding an open or closed meeting by telephone conference call. A meeting held by telephone conference call authorized by this section may be held only if a quorum of the governing board is physically present at the location where meetings of the board are usually held. <em>Gov't Code 551.121(a)–(b)</em></td>
</tr>
<tr>
<td>PUBLIC ACCESS</td>
<td>Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location where the quorum is present. 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 before the party speaks. <em>Gov't Code 551.122(d)–(e)</em></td>
</tr>
<tr>
<td>NOTICE</td>
<td>The telephone conference call meeting is subject to the notice requirements applicable to other meetings. <em>Gov't Code 551.122(c)</em></td>
</tr>
<tr>
<td>RECORDING</td>
<td>Each part of the telephone conference call meeting that is required to be open to the public shall be recorded. The recording shall be made available to the public. <em>Gov't Code 551.122(d)</em></td>
</tr>
<tr>
<td>ATTENDANCE</td>
<td>A member of a governing board of a junior college district who participates in a board meeting by telephone conference call but is not</td>
</tr>
</tbody>
</table>
physically present at the location of the meeting is considered to be absent from the meeting for purposes of Education Code 130.0845. Gov't Code 551.122(g)

A member or employee of a governmental body, including a college district board of trustees, may participate remotely in a meeting of the governmental body by means of a videoconference call if the video and audio feed of the member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions of this section. A member of a governmental body who participates in the meeting as provided shall be counted as present at the meeting for all purposes.

A meeting of a governmental body may be held by videoconference call only if:

1. The governmental body makes available to the public at least one suitable physical space located in or within a reasonable distance of the geographic jurisdiction, if any, of the governmental body that is equipped with videoconference equipment that provides an audio and video display, as well as a camera and microphone by which a member of the public can provide testimony or otherwise actively participate in the meeting;

2. The member of the governmental body presiding over the meeting is present at that physical space; and

3. Any member of the public present at that physical space is provided the opportunity to participate in the meeting by means of a videoconference call in the same manner as a person who is physically present at a meeting of the governmental body that is not conducted by videoconference call.

The location where the member of the governmental body presiding over the meeting is physically present shall be open to the public during the open portions of the meeting.

Gov't Code 551.127(a-1)-(a-2), (c), (e)

A meeting held by videoconference call is subject to the notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section. Gov't Code 551.127(d)

The notice of a meeting to be held by videoconference call must specify as a location of the meeting the location where the member of the governmental body presiding over the meeting will be physically present and specify the intent to have the member of the governmental body presiding over the meeting present at that location.

Gov't Code 551.127(e)
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 under Government Code 551.127(e), above. 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. Gov’t Code 551.127(f)

The physical location specified under Section 551.127(e), and each remote location from which a member of the governmental body participates, shall have two-way audio and video communication with each member who is participating by videoconference call 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 Section 551.127(e) and at any other location of the meeting that is open to the public. Gov’t Code 551.127(h)

The Department of Information Resources by rule shall specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards. Gov’t Code 551.127(i)

The audio and video signals perceptible by members of the public at each location of the meeting described by Government Code 551.127(h) 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(j); 1 TAC 209.30-.31

The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public. Gov’t Code 551.127(g)

Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call. Gov’t Code 551.127(k)

A governmental body may broadcast an open meeting over the Internet. A governmental body that broadcasts a meeting over the Internet shall establish an Internet site and provide access to the broadcast from that site. The governmental body shall provide on the Internet site the same notice of the meeting that the govern-
mental body is required to post under Government Code Chapter 551, Subchapter C. The notice on the Internet must be posted within the time required for posting notice under Chapter 551, Subchapter C.  *Gov't Code 551.128(b)–(c)*

**LARGE COLLEGE DISTRICTS**

The governing board of a junior college district with a total student enrollment of more than 20,000 in any semester of the preceding academic year, for any regularly scheduled meeting of the governing board for which notice is required under Government Code Chapter 551, shall:

1. Broadcast the meeting, other than any portions of the meeting closed to the public as authorized by law, over the Internet in the manner prescribed by Government Code 551.128; and

2. Record the broadcast and make that recording publicly available in an online archive located on the district's Internet website.

The governing board of the junior college district is not required to comply with the requirements of this section if that compliance is not possible because of an act of God, force majeure, or a similar cause not reasonably within the governing board's control.

*Gov't Code 551.1282(a)–(b), (d)*

**ATTORNEY CONSULTATION**

A governmental body 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 governmental body or a private consultation with its attorney in a closed meeting of the governmental body.  [See BDA]

Each part of a public consultation by a governmental body with its attorney in an open meeting of the governmental body must be audible to the public at the location specified in the notice of the meeting as the location of the meeting.

*Gov't Code 551.129(a)–(b)*

**PASSING RESOLUTIONS OR ORDERS**

The board shall act and proceed by and through resolutions or orders adopted or passed by the board and the affirmative vote of a majority of all members of the board shall be required to adopt or pass a resolution or order, and the board shall adopt such rules, regulations, and bylaws as it deems advisable, not inconsistent with Education Code 130.082.  *Education Code 130.082(d)*

**HEARING-IMPAIRED PERSONS**

In a proceeding before the governing body of a political subdivision in which the legal rights, duties, or privileges of a party are to be determined by the governing body after an adjudicative hearing, the governing body shall supply for a party who is deaf or hearing impaired...
impaired an interpreter who has qualifications approved by the Texas Department of Assistive and Rehabilitative Services.

“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
<table>
<thead>
<tr>
<th>MEETING PLACE AND TIME</th>
<th>The notice for a Board meeting shall reflect the date, time, and location of the meeting.</th>
</tr>
</thead>
<tbody>
<tr>
<td>REGULAR MEETINGS</td>
<td>Regular meetings of the Board shall be held, with the notice of the date and time posted on the College District’s website and in the College District’s administration office.</td>
</tr>
<tr>
<td>SPECIAL OR EMERGENCY MEETINGS</td>
<td>The Board President shall call a special meeting at the Board President’s discretion or on request by three members of the Board.</td>
</tr>
<tr>
<td></td>
<td>The Board President shall call an emergency meeting when it is determined by the Board President or three members of the Board that an emergency or urgent public necessity, as defined by law, warrants the meeting.</td>
</tr>
<tr>
<td>AGENDA</td>
<td>A Board member may request that a subject be included on the agenda for a meeting. The deadline for submitting items for inclusion on the agenda is the sixth calendar day before regular meetings and the sixth calendar day before special meetings.</td>
</tr>
<tr>
<td>SUBMISSION OF TOPICS</td>
<td>The College President shall compile for review by the Board President all topics timely submitted by Board members, topics requested by the Board, and topics suggested by the College President.</td>
</tr>
<tr>
<td>PREPARATION</td>
<td>The Board President and the College President shall confer regarding the proposed topics, and the Board President shall determine the topics for the official meeting agenda. The Board President shall ensure that any topic the Board or individual Board members have requested be addressed are either on the meeting agenda or scheduled for deliberation at an appropriate time in the near future. The Board President shall not refuse to assign a topic requested by a Board member to an agenda and, once assigned, shall not have the authority to remove the topic from the agenda without that Board member’s specific authorization.</td>
</tr>
<tr>
<td>CONSENT AGENDA</td>
<td>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.</td>
</tr>
<tr>
<td>NOTICE TO MEMBERS</td>
<td>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 two hours prior to the time of an emergency meeting.</td>
</tr>
</tbody>
</table>
CLOSED MEETING

Notice of all meetings shall provide for the possibility of a closed meeting during an open meeting, as provided by law. The Board may conduct a closed meeting when the agenda subject is one that may properly be discussed in closed meeting. [See BDA]

ORDER OF BUSINESS

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 the presiding officer upon recommendation of the College President.

RULES OF ORDER

The Board shall observe the parliamentary procedures as found in Robert’s Rules of Order, Newly Revised, 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.

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 College President 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.
A governmental body, including a college district board of trustees, 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 in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with Government Code Chapter 551. Gov't Code 551.071 [See BD for permissible methods of communication for attorney consultations]

A governmental body 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 position of the governmental body in negotiations with a third person. Gov't Code 551.072

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

Chapter 551 does not require a governmental body 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. This exception does not apply 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 the governmental body discusses an independent contractor who is not a college district employee, such as an engineering, architectural, or consultant firm, or when the governmental body discusses a class or group of employees, not a particular employee. Atty. Gen. Op. MW-129 (1980), Atty. Gen. Op. H-496 (1975)

A school board is not required to conduct an open meeting to deliberate in a case in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in the need for a hearing. The exception does not apply if an open hearing is requested in writing by the employee against whom the complaint or charge is brought. Gov't Code 551.082; Atty Gen. Op. JM-346 (1985) [a college district board of trustees is considered a school district board of trustees for the purposes of the Open Meetings Act (OMA)]
A school board is not required to conduct an open meeting to deliberate in a case involving discipline of a public school child. The exception does not apply if an open hearing is requested in writing by a parent or guardian of the child. *Gov't Code 551.082; Att'y Gen. Op. JM-346 (1985) [a college district board of trustees is considered a school district board of trustees for purposes of the OMA]*

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 the school board that the directory information should not be released without prior consent. "Directory information" has the meaning assigned by the federal Family Educational Rights and Privacy Act of 1974, 20 U.S.C. 1232g. [See FJ]

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; Att'y Gen. Op. JM-346 (1985) [a college district board of trustees is considered a school district board of trustees for the purposes of the OMA]*

A governmental body 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*

Chapter 551 does not require a governmental body 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 governmental body is not required to conduct an open meeting to deliberate a test item or information related to a test item if the governmental body believes that the test item may be included in a test the governmental body administers to individuals who seek to obtain or renew a license or certificate that is necessary to engage in an activity. *Gov't Code 551.088*

A governmental body is not required to conduct an open meeting to deliberate information that is confidential under Government Code 418.175–418.182, relating to Homeland Security. The governmental body must make a tape recording of the proceedings of a closed meeting to deliberate the information. *Gov't Code 418.183(f)*

If a closed meeting is allowed, the governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by Government Code Chapter 551 [see BD] and during which the presiding officer publicly announces that a closed meeting will be held and identifies the section or sections of Chapter 551 under which the closed meeting is held. *Gov't Code 551.101*

A final action, decision, or vote on a matter deliberated in a closed meeting under Government Code Chapter 551 may only be made in an open meeting that is held in compliance with the notice provisions of Chapter 551. *Gov't Code 551.102* [See BD]

A governmental body shall either keep a certified agenda or make a recording of the proceedings of each closed meeting, except for private consultation permitted under Government Code 551.071. [See ATTORNEY CONSULTATION, above]

The presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. 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 recording of the proceedings must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time.

*Gov't Code 551.103*

Closed meetings may not be recorded by an individual trustee against the wishes of a majority of the governmental body. *Zamora v. Edgewood ISD*, 592 S.W.2d 649 (Tex. App.—San Antonio 1979, writ ref’d n.r.e.)
| PRESERVATION | A governmental body shall preserve the certified agenda or recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the governmental body shall preserve the certified agenda or recording while the action is pending.  
Gov’t Code 551.104(a) |
|---|---|
| PUBLIC ACCESS | The certified agenda or recording of a closed meeting is available for public inspection and copying only under a court order issued under Government Code 551.104(b)(3).  
Gov’t Code 551.104(c) |
| PROHIBITIONS | A member of a governmental body commits an offense if the member participates in a closed meeting of the governmental body knowing that a certified agenda of the closed meeting is not being kept or that a recording of the closed meeting is not being made.  
Gov’t Code 551.145(a) |
| CLOSED MEETING WITHOUT CERTIFIED AGENDA OR RECORDING | An individual, corporation, or partnership that without lawful authority knowingly discloses to a member of the public the certified agenda or recording of a meeting that was lawfully closed to the public under this Government Code Chapter 551 commits an offense and is liable to a person injured or damaged by the disclosure.  
Gov’t Code 551.146(a) |
| DISCLOSURE OF CERTIFIED AGENDA OR RECORDING | A member of a governmental body commits an offense if a closed meeting is not permitted under Chapter 551 and the member knowingly: |
| 1. Calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;  
Gov’t Code 551.144(a) | |
| 2. Closes or aids in closing the meeting to the public, if it is a regular meeting; or | |
| 3. Participates in the closed meeting, whether it is a regular, special, or called meeting. | |
| INVOLVEMENT IN ILLEGAL CLOSED MEETING | It is an affirmative defense to prosecution under Subsection 551.144(a) that the member of the governmental body acted in reasonable reliance on a court order or a written interpretation of Chapter 551 contained in an opinion of a court of record, the attorney general, or the attorney for the governmental body.  
Gov’t Code 551.144(c) |
A governmental entity, including a college district, shall take no action abridging the freedom of speech or the right of the people to petition the governing board of the entity for redress of grievances.

*U.S. Const. Amend. I, XIV*

The governing board may confine its meetings to specified subject matter and may hold nonpublic sessions to transact business. But when the governing 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 (1995); *City of Madison v. Wis. Emp. Rel. Comm’n*, 429 U.S. 167 (1976); *Pickering v. Bd. of Educ.*, 391 U.S. 563 (1968)

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

1. The governing 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 governing 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)

The 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*

As long as the requirements of the Open Meetings Act (OMA), Government Code Chapter 551, are satisfied and the right of citizens to apply to the board for redress of their grievances is not abridged, the board need not provide a public forum for every citizen wishing to express an opinion on a matter. Reasonable restraints on the number, length, and frequency of presentations are permissible. The board may limit the number of persons it will hear on a particular subject and the frequency with which they may appear, so long as the regulation does not abridge constitutionally guaranteed rights of freedom of speech and to petition, nor unfairly discriminate among views seeking expression. *Atty. Gen. Op. H-188 (1973)* [See BD regarding the Open Meetings Act and DGBA, FLD, and GB regarding grievance procedures]
The term “public comment” provides sufficient notice, under the OMA, of the subject matter of public comment sessions where the general public addresses the board about its concerns and where the board does not comment or deliberate except as authorized by Government Code 551.042. The term “public comment” is not adequate notice if, prior to the meeting, the board is aware, or reasonably should have been aware, of specific topics to be raised. 


RESPONSE TO COMPLAINTS

The governing board of a community college is not required to negotiate or even respond to complaints. However, the board must stop, look, and listen and must consider the petition, address, or remonstrance. 

Prof’l Ass’n. of Coll. Educators v. El Paso County Cnty District, 678 S.W.2d 94 (Tex. App.—El Paso 1984, writ ref’d n.r.e.)

DISRUPTION

A person commits an offense if, with intent to prevent or disrupt a lawful meeting, the person substantially obstructs or interferes with the ordinary conduct of the meeting by physical action or verbal utterance and thereby curtails the exercise of others’ First Amendment rights. 

Penal Code 42.05; Morehead v. State, 807 S.W.2d 577 (Tex. Crim. App. 1991)
LIMIT ON PARTICIPATION

Audience participation at a Board meeting is limited to the public comment portion of the meeting designated for that purpose. 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.

PUBLIC COMMENT

At regular meetings the Board shall allot a portion of the meeting to hear persons who desire to make comments to the Board. Persons who wish to participate in this portion of the meeting shall sign up with the presiding officer or designee before the meeting begins and shall indicate the topic about which they wish to speak.

No presentation shall exceed five minutes. Delegations of more than five persons shall appoint one person to present their views before the Board.

BOARD’S RESPONSE

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.

COMPLAINTS AND CONCERNS

The presiding officer or designee shall determine whether a person addressing the Board has attempted to solve a matter administratively through resolution channels established by policy. If not, the person shall be referred to the appropriate policy (see list below) to seek resolution:

Employee complaints: DGBA
Student complaints: FLD
Public complaints: GB

DISRUPTION

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 person 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 person removed from the meeting.
The board shall adopt such rules, regulations, and bylaws it deems advisable not inconsistent with Education Code 130.082. *Education Code 130.082(d)*
Within the context of current law, the College District shall be guided by Board-adopted written policies that are given appropriate distribution and are accessible to staff members, parents, students, and community residents.

Legally referenced policies contain provisions from federal and state statutes and regulations, case law, and other legal authority that together form the framework for local decision making and implementation. These policies are binding on the College District until the cited provisions are repealed, revised, or superseded by legislative, regulatory, or judicial action.

HARMONY WITH LAW

No policy or regulation, or any portion thereof, shall be operative if it is found to be in conflict with applicable law.

SEVERABILITY

If any portion of a policy or its application to any person or circumstance is found to be invalid, that invalidity shall not affect other provisions or applications of policy that can be given effect without the invalid provision or application. To this end the provisions of this policy manual are declared to be severable.

POLICY DEVELOPMENT

Policies and policy amendments may be initiated by the College President, Board members, College District personnel, students, or community citizens. However, proposed local policy changes shall only be recommended for the Board’s consideration when placed on a Board meeting agenda by the College President or a Board member.

ADOPTION

The Board shall have the sole right to adopt policies. Local policies may be adopted or amended by a majority of the Board at any regular or special meeting, provided that Board members have had advance written notice of the proposed change and that it has been placed on the agenda for such meeting.

Local policies become effective upon Board adoption or at a future date designated by the Board at the time of adoption.

OFFICIAL POLICY MANUAL

The Board shall designate one copy of the local policy manual as the official policy manual of the College District. The official copy shall be kept in the College President’s office, and the College President designee shall be responsible for its accuracy and integrity and shall maintain a historical record of the College District’s policy manual.

TASB LOCALIZED UPDATES

After Board review of legally referenced policies and adoption of local policies, the new material from TASB localized updates shall be incorporated into the official policy manual and into other localized policy manuals maintained by the College District. If discrepancies occur between different copies of the manual distributed.
throughout the College District, the version contained in the official policy manual shall be regarded as authoritative.

COLLEGE DISTRICT-INITIATED POLICY CHANGES

After the Board has adopted or amended any local policy revisions, additions, or deletions initiated by the College President or a Board member, the new material shall be incorporated in the official policy manual and into other localized policy manuals maintained by the College District. The version contained in the official manual shall be regarded as authoritative.
The name of an applicant for the position of chief executive officer of an institution of higher education, and other information that would tend to identify the applicant, is excepted from disclosure under the requirements of Government Code 552.021. *Gov’t Code 552.123* [See GAA]

The governing body of the institution must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which final action or vote is to be taken on the employment of the person. *Gov’t Code 552.123*

The board shall announce the name, background, and qualifications of any individual it selects and employs by use of an executive search committee. An “executive search committee” is a committee formed by an act of the board with the primary purpose of evaluating and assessing candidates and nominees for the position of chief executive officer of the college district. *Education Code 51.913*
The board shall be authorized to appoint or employ such agents, employees, and officials as deemed necessary or advisable to carry out any power, duty, or function of said board; and to employ a president, dean, or other administrative officer, and upon the president's recommendation to employ faculty and other employees of the junior college. *Education Code 130.082(d)*
A contract of employment with the college district creates a property interest in the position only for the period of time stated in the contract. Such a contract creates no property interest of any kind beyond the period of time stated in the contract. *Perry v. Sindermann*, 408 U.S. 593 (1972); *Board of Regents of State Colls. v. Roth*, 408 U.S. 564 (1972)

The governing board of an institution of higher education, including a college district, may enter into an employment contract with an administrator who is to be paid in whole or in part from appropriated funds only if, before the date the contract is executed, the governing board determines that the contract is in the best interest of the institution.

A contract entered into by the governing board under this section may not:

1. Provide for employment for more than three years;

2. Allow for severance or other payments on the termination of the contract to exceed an amount equal to the discounted net present cash value of the contract on termination at a market interest rate agreed upon in the contract;

3. Allow for development leave that is inconsistent with Education Code 51.105; or

4. Award tenure in any way that varies from the institution’s general policy on the award of tenure.

The institution of higher education may not pay a salary to a person who is reassigned from an administrative position to a faculty or other position at the institution that exceeds the salary of other persons with similar qualifications performing similar duties.

*Education Code 51.948(a)–(c)*

“Administrator” means a person who has significant administrative duties relating to the operation of the institution, including the operation of a department, college, program, or other subdivision of the institution. *Education Code 51.948(g)(1)*
The chief executive officer may be dismissed for good cause before the completion of the term fixed in the contract.

Before the chief executive officer is dismissed, the chief executive officer shall be given reasonable notice in writing of the proposed action and the grounds, set out in sufficient detail to fairly enable him or her to show any error that may exist.

If, upon written notification, the chief executive officer desires to be heard and contest the proposed action of the board, the chief executive officer shall give the board written notice. The hearing shall be set on a date that affords the chief executive officer reasonable time to prepare an adequate defense.

Cleveland Bd. of Educ. v. Loudermill, 470 U.S. 532 (1985); Ferguson v. Thomas, 430 F.2d 852 (5th Cir. 1970); Bexar Cty. Sheriff's Civ. Serv. v. Davis, 802 S.W.2d 659 (Tex. 1990)

The board may conduct the hearing in open session or in closed session unless the employee requests a public hearing, in which case the hearing shall be open to the public. Gov't Code 551.074

At the hearing before the board, the chief executive officer may employ counsel. The chief executive officer also has the right to hear the evidence upon which the charges are based, to cross-examine all adverse witnesses, and to present evidence of innocence or extenuating circumstances. Prior to dismissal, the board shall determine the existence of the good cause for termination. Such determination shall be based solely on the evidence presented in the hearing. Ferguson v. Thomas, 430 F.2d 852 (5th Cir. 1970)

The chief executive officer may be suspended with pay pending the outcome of the dismissal hearing. Moore v. Knowles, 482 F.2d 1069 (5th Cir. 1973)

The board of trustees may decide by vote or inaction not to offer the chief executive officer further employment with the college district beyond the term of the contract for any reason or no reason. Perry v. Sindermann, 408 U.S. 593 (1972); Board of Regents of State Colls. v. Roth, 408 U.S. 564 (1972)
RESIGNATION

The College President may resign at any time mutually agreeable with the Board.
The Board shall prepare a written evaluation of the College President at annual or more frequent intervals. The written evaluation instrument shall be based on the job description of the College President and performance goals and shall be adopted by the Board.

The Board shall furnish the College President with a copy of the completed evaluation and shall discuss the evaluation with the College President in a closed meeting in accordance with the Texas Open Meetings Act.

The Board shall strive to accomplish the following objectives in completing the evaluation of the College President:

1. Clarify the College President’s role, as seen by the Board.
2. Develop and sustain a harmonious working relationship between the Board and the College President.
3. Ensure excellence in the College District’s administrative leadership by establishing appropriate performance objectives and priorities for the College President.

The Board may at any time conduct and communicate oral evaluations to augment its written evaluations.
The Faculty Senate shall be composed of full-time professional personnel who are primarily engaged in student instruction. Membership, officers, functions, and operation of the Faculty Senate shall be governed through a constitution and bylaws adopted by the organization, which shall be approved by the Board.

The purpose of the Faculty Senate shall be to provide a professional forum for the discussion and clarification of faculty issues concerning teaching and learning, faculty development, academic policies and procedures, campus governance, faculty-sponsored events, and social activities. It shall seek to enhance the institutional climate in which there is shared understanding and commitment to the purpose of the College District, open and candid communication, and mutual trust and respect among all members of the College District community.

The scope of the Faculty Senate shall be limited to an advisory role; policy- and decision-making shall reside with the institution’s administrative offices.

Membership of the College President’s Cabinet shall include the College President, Executive Vice President for Instruction, Vice President for Administrative Services, Vice President for Student and Outreach Services, and Vice President for Advancement.

Membership on standing committees shall be determined by the College President. Standing committees include:

1. **Curriculum Committee**—This committee shall have as its purpose to review proposed new curricula and courses, proposed revisions of existing curricula and courses, and proposed class schedules, and to develop proposed academic calendars and make recommendations on academic policies, e.g., graduation requirements, core curriculum.

2. **Professional Development Committee**—This committee shall plan in-service training for faculty, administrators, and staff and shall research, identify, and disseminate professional development opportunities to the campus community.

3. **Strategic Plan and Review Committee (SPaRC)**—This committee shall review evidence of the College District’s progress toward the goals of the strategic plan and toward meeting the standards of the “Key Performance Indicators” to measure the institution’s health and progress. The committee shall make recommendations to the College President’s Cabinet regarding revisions to the strategic plan, which is presented to the Board annually for consideration.
<table>
<thead>
<tr>
<th>Committee</th>
<th>Description</th>
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<tr>
<td>SACSCOC STANDING COMMITTEE</td>
<td>4. Southern Association of Colleges and Schools Commission on Colleges (SACSCOC) Standing Committee—This committee shall be responsible for ensuring compliance with all policies and guidelines established by the SACSCOC.</td>
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<tr>
<td>PROGRAM REVIEW COMMITTEE</td>
<td>5. Program Review Committee—This internal review committee’s purpose shall be to ensure that academic and administrative programs are meeting the needs of both the students and the community.</td>
</tr>
<tr>
<td>AD HOC COMMITTEES</td>
<td>All other committees shall be deemed ad hoc and shall operate at the will of the College District administration.</td>
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The College President and administrative staff shall be responsible for developing and enforcing procedures for the operation of the College District. These procedures shall constitute the administrative regulations of the College District and shall consist of guidelines, handbooks, manuals, forms, and any other documents defining standard operating procedures.

The College President or designee shall ensure that administrative regulations are kept up to date and are consistent with Board policy. The College President or designee shall resolve any discrepancies among conflicting administrative regulations. In case of conflict between administrative regulations and policy, policy shall prevail.

Administrative regulations are subject to Board review but shall not be adopted by the Board.

All administrative regulations shall be made accessible to staff, students, and the public as required by law or Board policy.
The following is an index of periodic reports that are addressed in the legal reference material of the policy manual. The list is not all-inclusive. This list does not address responsive reports (those that are required in response to a specific incident), reports required under special circumstances, or reports required under administrative procedures of an agency.

A college district shall publish and/or distribute the following reports:

1. As soon as practicable after the end of each academic year, the college district shall prepare an annual performance report for that academic year, under Education Code 130.0035. [See AFA]

2. Not later than June 1 of each even-numbered year, the college district shall report customer service information to the Legislative Budget Board (LBB) and the governor's Office of Budget and Planning (OBP), under Government Code 2114.002. [See AFA]

3. Not later than November 1 of each year, the chief executive officer of each college district shall provide to the governing board of the college district a report for the preceding fall, spring, and summer semesters that examines the affordability and access of the institution, under Education Code 51.4031. [See AFA]

4. In the form and manner and at the times required by the Coordinating Board, the college district shall report to the Coordinating Board on the enrollment status of students of the college district, under Education Code 130.0036. [See AFA]

5. The college district shall follow applicable institutional and financial assistance information dissemination requirements found at 20 U.S.C. 1092. [See AFA]

6. The minutes of the last regular meeting held by the board during a calendar year must reflect whether each member of the board has completed any training required to be completed by the member as of the meeting date, under Education Code 61.084. [See BBD]

7. The college district shall report monthly to the retirement system set out in Government Code 825.404, in a form it prescribes, the employee salary and other information required under Government Code 825.406. [See CAB, CAM]
8. The investment officer shall prepare a report on the Public Funds Investment Act (PFIA) and deliver it to the board no later than the 180th day after the last day of each regular session of the legislature, under Government Code 2256.007. [See CAK]

9. Not less than quarterly and within a reasonable time after the end of the period, the investment officer shall prepare and submit to the board a written report of investment transactions for all funds covered by the PFIA under Education Code 51.0032 and Government Code 2256.023. [See CAK]

10. The college district shall submit its audited annual financial report to the Coordinating Board by January 1st of each year, under 19 Administrative Code 13.62. [See CDA]

11. Not later than November 20 of each year, a college district shall submit an annual financial report regarding the college district’s use of appropriated money during the preceding fiscal year to the government officials specified in Government Code 2101.011. [See CDA]

12. The board shall be responsible for the preparation of an annual financial statement under Local Government Code 140.005. [See CDA]

13. Three copies of the annual audit report for the fiscal year ending August 31 shall be filed with the Coordinating Board by January 1 following the close of the fiscal year for which the audit was made, an electronic copy shall be posted to the Coordinating Board’s collection server, and required copies shall be sent to other governmental agencies, under the publication Annual Financial Reporting Requirements for Texas Public Community and Junior Colleges. [See CDC]

14. Annually, a college district shall report to the State Energy Conservation Office (SECO) regarding the college district’s goal to reduce electric consumption, the college district’s efforts to meet the goal, and progress the college district has made, under Health and Safety Code 388.005. [See CH]

15. Not later than March 1 of each year, each college district police department shall submit a report containing information about traffic stops during the previous calendar year to the Texas Commission on Law Enforcement Officers and Standards and the governing body of each county or municipality served by the department, under Code of Criminal Procedure 2.134. [See CHA]
16. At least once every three years, a college district shall conduct a security audit of the college district’s facilities and report the results of the security audit to the Texas School Safety Center, under Education Code 37.108. [See CG]

17. No later than January 1 of each odd-numbered year, the college district shall submit a written report regarding the institution’s compliance with the online course information posting to certain state officials under Education Code 51.974 and 19 Administrative Code 4.225 to 4.228. [See EFA]

18. Each college district must review and evaluate its procedures for complying with field of study curricula at intervals specified by the Coordinating Board and shall report the results of that review to the Coordinating Board following the same timetable as the regular reports of core curriculum evaluations under 19 Administrative Code 4.32(f). [See EFAA]

19. Contact hours for career technical/workforce continuing education courses from public two-year colleges must be determined and reported in compliance with Coordinating Board policy as outlined in the Guidelines for Instructional Programs in Workforce Education as approved by the Coordinating Board, the Workforce Education Course Manual, and state law under 19 Administrative Code 9.113, 9.114, and 9.116. [See EFCB]

20. At the end of each semester, the college district shall report to the Coordinating Board certain information for undergraduate students under 19 Administrative Code 4.60. [See EI]

21. The college district shall report to the Coordinating Board the types and amounts of tuition and fees charged to students by semester during the previous academic year under 19 Administrative Code 13.143. [See FD]

22. A required annual report of the immunization status of students shall be submitted by the college district at such time and in such manner as is indicated in the instructions from the Texas Department of State Health Services. 25 TAC 97.71 [See FFAA]

23. Each year the college district shall prepare, publish, and distribute, through appropriate publications or mailings, to all current students and employees, and to any applicant for enrollment or employment upon request, an annual security report as required under 20 U.S.C. 1092(f). [See GAC]

24. The college district must report statistics for the three most recent calendar years concerning the occurrence on campus,
in or on noncampus buildings or property, and on public property of certain crimes that are reported to local police agencies or to a campus security authority under 34 CFR 668.46. [See GAC]

25. The college district shall, in a manner that is timely and will aid in the prevention of similar crimes, report to the campus community on crimes that are considered by the college district to represent a threat to students and employees. [See GAC]

26. Under guidelines established by the Coordinating Board and the State Board of Education pursuant to Education Code 51.403, the college district shall report student performance during the first year enrolled after graduation from high school to the high school or college district last attended. [See GH]