



Open Meetings Act—Emergency Meetings¹

The Texas Open Meetings Act (OMA), Texas Government Code chapter 551, requires meetings of governmental bodies, including a community college board of trustees, to be open to the public except for expressly authorized executive sessions, referred to as closed meetings. The OMA also requires that the public be given notice of the time, place, and subject matter of meetings of governmental bodies. Tex. Gov’t Code §§ 551.001(3)(E), .002, .041.

The notice requirements for an emergency meeting under the OMA are different from other types of meetings. For additional information regarding the notice requirements for non-emergency meetings, please see [Open Meetings Act—Meeting Notice Requirements](#) on TASB College eLaw.

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Emergency Meeting Basics

1. What is an emergency meeting?

An emergency meeting is a meeting of a governmental body subject to the requirements of the OMA. An emergency meeting must be open to the public, unless a closed meeting is expressly authorized by law, and public notice is required. However, the notice requirements for an emergency meeting are different from the notice requirements for other types of meetings. Tex. Gov’t Code §§ 551.002, .041., .045.

¹ An electronic version of this document is available on [TASB College eLaw](https://tasb.org/services/community-college-services/resources/tasb-college-elaw/documents/cc-oma-emergency-meetings.pdf) at tasb.org/services/community-college-services/resources/tasb-college-elaw/documents/cc-oma-emergency-meetings.pdf.

2. What constitutes an emergency?

A board may hold an emergency meeting only if immediate action is required because of an imminent threat to public health and safety or a reasonably unforeseeable situation, such as:

- Fire, flood, earthquake, hurricane, tornado, or wind, rain, or snow storm;
- Power or transportation failure or interruption of communication facilities;
- Epidemic;
- Actual or threatened acts of lawlessness or violence, including a riot, civil disturbance, or enemy attack; or
- Sudden relocation of a large number of residents from a declared disaster area to the community college district's jurisdiction for a reasonable period immediately following the relocation.

Tex. Gov't Code § 551.045(b), (e).

General Notice Requirements

1. What must the emergency meeting notice include?

Notice of a community college board emergency meeting, or an emergency addition to an existing agenda, must include the date, hour, and location of the meeting as well as the items to be addressed and every matter to be discussed at the meeting. Tex. Gov't Code § 551.041.

Additionally, the notice must clearly identify the emergency or urgent public necessity justifying the short notice. Tex. Gov't Code § 551.045(a), (c). TASB Community College Services recommends that a board combine the notice and agenda for a meeting into a single document if it includes all items to be addressed at the meeting and all legally required information. For a sample combined notice and agenda for an emergency meeting, please see [Emergency Meeting Notice/Agenda Sample](#) on TASB College eLaw.

2. Where must the emergency meeting notice be posted?

A community college board must post notice of each meeting on a bulletin board at a place convenient to the public in the central administration office. While statewide institutions of higher education are required to post notices of their board meetings in additional locations under Texas Government Code section 551.055, the Texas Attorney General has held that this requirement does not apply to community colleges because they are considered school districts for purposes of the OMA. Tex. Gov't Code § 551.051; Tex. Att'y Gen. Op. No. LO-96-16 (1996).

3. When must the emergency meeting notice be posted?

Notice of an emergency meeting or an emergency addition to an existing agenda must be posted at least one hour before the meeting is convened. The notice of an emergency meeting or additional agenda item must clearly identify the emergency or urgent public necessity justifying the short notice. Tex. Gov't Code § 551.045(a), (c).

The notice requirements for a non-emergency meeting are different, however. Please see [Open Meetings Act—Meeting Notice Requirements](#) on TASB College eLaw for additional information regarding non-emergency meetings.

4. Must a community college board post the emergency meeting notice to its website?

A board of a community college that maintains a website must post meeting notices on the website. The validity of a notice posting under Texas Government Code section 551.056 made in good faith by the board will not be affected by the failure to comply due to a technical issue beyond the board's control. However, a posting created after a board is notified of an internet posting error may not be sufficient. Tex. Gov't Code § 551.056(b)(4), (d); *see, e.g., Terrell v. Pampa Indep. Sch. Dist.*, 345 S.W.3d 641 (Tex. App.—Amarillo 2011, pet. denied) (finding that a fact issue existed as to whether the failure to timely post a meeting notice online was due to a technical glitch or to the creation of the notice after the posting deadline).

The agendas for board meetings of certain community colleges, based on city or student population, must also be posted on the college's website. TASB Community College Services recommends that a board combine the notice and agenda for a meeting into a single document if it includes all items to be addressed at the meeting and all legally required information. For a sample combined notice and agenda, please see the [Emergency Meeting Notice/Agenda Sample](#) on TASB College eLaw. Additional information regarding agenda posting requirements is included below in this document.

5. Must a community college board post an emergency meeting agenda to its website?

In addition to the separate requirements to post a meeting notice to its website, including an emergency meeting, the board of a community college that contains all or part of a city with a population of at least 48,000 must post any emergency meeting agenda for the same one-hour period as the notice for an emergency meeting. The validity of an agenda posting under Texas Government Code section 551.056 made in good faith by the board will not be affected by the failure to comply due to a technical issue beyond the board's control. However, a posting

created after a board is notified of an internet posting error may not be sufficient. Tex. Gov't Code § 551.056(c)(4), (d); *see, e.g., Terrell v. Pampa Indep. Sch. Dist.*, 345 S.W.3d 641 (Tex. App.—Amarillo 2011, pet. denied) (finding that a fact issue existed as to whether the failure to timely post a meeting notice online was due to a technical glitch or to the creation of the notice after the posting deadline).

Additionally, as early as practicable, a board of a community college with a student enrollment of more than 20,000 during any semester of the prior academic year must also post on the college's website the agenda for any regularly scheduled board meeting and the related supplemental materials provided to board members for use at the meeting. The board is not required to post materials the college's attorney certifies as confidential or as permitted to be withheld under the Texas Public Information Act, nor is it required to comply if posting is impossible due an act of God or similar cause not reasonably within its control. Tex. Gov't Code § 551.1282.

TASB Community College Services recommends that a board combine the notice and agenda for a meeting into a single document if it includes all items to be addressed at the meeting and all legally required information. For a sample combined notice and agenda, please see [Emergency Meeting Notice/Agenda Sample](#) on TASB College eLaw.

Continued Meetings

1. May a community college board hold a meeting if a catastrophe prevented the original meeting?

If a catastrophe prevents an open meeting that was otherwise properly posted, the community college board may convene the meeting in a convenient location within 72 hours pursuant to Texas Government Code section 551.045. The postponement must be in good faith and not to circumvent the OMA. Tex. Gov't Code § 551.0411(b).

A catastrophe is a condition or occurrence that interferes physically with the ability of a board to conduct a meeting, including:

- Fire, flood, earthquake, hurricane, tornado, or a wind, rain, or snowstorm;
- Power or transportation failure or interruption of communication facilities;
- Epidemic; or
- Actual or threatened act of lawlessness or violence, including a riot, civil disturbance, or enemy attack.

Tex. Gov't Code § 551.0411(c).

Notice to News Media

1. Must a community college board provide notice of an emergency meeting to the news media?

Yes. The presiding officer, or the member of the community college board who calls an emergency meeting or adds an emergency agenda item under Texas Government Code section 551.045 must also provide notice to members of the news media that have previously filed a request and agreed to reimburse the board for the cost of special notice. The notice must be given to the media not later than one hour before the meeting by telephone, facsimile transmission, or electronic mail. Tex. Gov't Code § 551.047.

Specific Notice Content Requirements

1. Must an emergency meeting notice include the topics to be discussed in the meeting?

Yes. The public is entitled to notice of the subject matter of a meeting. A governmental body, including a college district board, must provide specific notice of the subjects it will address during a meeting. A notice that describes the subject matter too generally may violate the OMA. See *Cox Enters. v. Bd. of Trs. of Austin Indep. Sch. Dist.*, 706 S.W.2d 956 (Tex. 1986) (requiring the notice to specifically disclose the subjects of the meeting). When in doubt, a notice should include more rather than less detail.

When a community college board is going to discuss a matter in which the public may have a particular interest, such as the selection of top administrative personnel, it must list the agenda item with a higher degree of specificity than would otherwise be required. *Cox Enters. v. Bd. of Trs. of Austin Indep. Sch. Dist.*, 706 S.W.2d 956 (Tex. 1986).

The notice should also specify each topic to be reported by the community college administration at board meetings, such as a college president's report or staff briefing, even if the board will not discuss the issues reported. E.g., Tex. Att'y Gen. Op. Nos. GA-668 (2008) (requiring more details regarding "City Manager's Report", "Mayor's Update," and "Council and Other Reports"), JC-169 (2000) (requiring more details regarding the "employee briefing" and "staff briefing").

2. Must a community college board include public comment on an emergency meeting notice?

The OMA requires all open meetings to include time for public comment to allow any member of the public to address the community college board regarding any

item on the meeting agenda either before or during the board's consideration of the item. Tex. Gov't Code § 551.007.

A board may designate a public comment period for members of the public to address the board regarding items on the meeting agenda, provided that it occurs before the board considers the items. Additionally, a board may designate a public comment period for members of the public to address the board regarding matters that are not on the agenda. The term "public comment" generally provides sufficient notice of the subject matter of a public comment session. However, if a board designates separate public comment periods for agenda and non-agenda items, the meeting notice should separately identify those periods. Additionally, if a board has prior knowledge that a specific topic will be raised during public comment, the notice should specifically describe the topic. Tex. Att'y Gen. Op. No. JC-169 (2000).

3. May a community college board discuss items not listed on an emergency meeting notice?

No. A community college board cannot discuss items not listed on the posted notice. If a member of the public or a member of the board inquires about a topic not on the notice, the only lawful response is to: (1) respond with specific factual information or a recitation of existing policy, or (2) deliberate or decide to place the subject on the agenda for a subsequent meeting. Tex. Gov't Code § 551.042.

4. Should an emergency meeting notice specify which portions of the meeting are open and which are closed?

No. A notice need not indicate which topics will be discussed in open session and which will be discussed in closed session. *Rogers v. State Bd. of Optometry*, 619 S.W.2d 603 (Tex. Civ. App.—Eastland 1981, no writ).

A governmental body, including a community college board, gains flexibility by listing all topics to be discussed and including a statement on the notice that any closed meetings will be held in accordance with Texas Government Code chapter 551, subchapters D and E or Texas Government Code section 418.183(f). If, however, the notices posted for a board's meetings consistently distinguish between subjects for public deliberation and subjects for executive session deliberation, an abrupt departure from this practice may raise a question as to adequacy of the notice. Tex. Att'y Gen. Op. No. JC-57 (1999).

For a sample combined notice and agenda, please see the [Emergency Meeting Notice/Agenda Sample](#) on TASB College eLaw.

Teleconference Call Emergency Meetings

1. May a community college board hold an emergency meeting by telephone conference call?

A community college board meeting may be held by telephone conference call if the meeting is a specially called meeting, immediate action is required, and it is difficult or impossible to convene a quorum at one location. Tex. Gov't Code § 551.121(c).

This provision is reserved for extraordinary circumstances, not merely when attending a meeting on short notice would inconvenience the members. Similarly, if a quorum has convened at the meeting location, absent members cannot participate by conference call. Tex. Att'y Gen. Op. Nos. JC-194 (2000), JC-352 (2001).

2. What notice is required for a community college board's emergency meeting by telephone conference call?

The notice must comply with notice requirements applicable to other meetings, including those for emergency meetings. In addition, the notice must specify that the location of the meeting is the location where meetings of the governmental body are usually held. Tex. Gov't Code § 551.121(d)-(e).

3. What are the technological requirements for a community college board's emergency meeting by telephone conference call?

Any portion of an emergency meeting that is required to be open to the public must be audible to the public at the meeting location specified in the meeting notice. The open portions of the meeting must also be broadcast over the internet in the manner prescribed by Texas Government Code section 551.128 and be recorded and publicly available on the college's internet website. Tex. Gov't Code § 551.121(f).

TASB Policies on Requirements for Emergency Meetings

1. What TASB policies apply to requirements for community college board emergency meetings?

Policy BE(LEGAL) discusses requirements for community college board emergency meetings. Policies BEC(LEGAL) and BED(LEGAL) discuss requirements for community college board meetings generally.

2. Where can I get more information regarding the OMA?

Community college representatives may contact Community College Services to discuss these or other legal issues at 800.580.1488 or colleges@tasb.org.

For more information on community college law topics,
visit TASB Community College eLaw online at colleges.tasb.org/elaw.

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