



Open Meetings Act—Voting FAQs¹

Q: *What is a quorum?*

A: A quorum of a community college board is a majority of the total number of board members (e.g., four members of a seven-member board or five members of a nine-member board). A quorum is a majority of the *authorized* membership, not the *actual* membership at any given time. Tex. Gov't Code § 551.001(6); Tex. Att'y Gen. No. JM-1127 (1989).

Q: *How many votes does a community college board need to take action?*

A: Texas Education Code section 130.082(d) requires a community college board to act and proceed by and through resolutions or orders adopted or passed by the board. A majority of all members of the board must vote to adopt or pass a resolution or order. Tex. Educ. Code § 130.082(d).

Q: *How does a vacancy on our board affect the quorum?*

A: Vacancies on the board do not reduce the number of board members who must be present to reach a quorum. A quorum of a board remains at all times a majority of the authorized membership, despite vacancies on a board. Tex. Att'y Gen Op. No. MW-562 (1982).

Q: *How do abstentions affect the majority vote?*

A: Abstentions do not count as votes. Tex. Att'y Gen. Op. No. O-994 (1939).

Q: *May a vote take place in closed session?*

A: All voting must take place at an open meeting. No votes, whether by secret ballot or straw polls or in closed session, may be taken outside of the full view of the public. Tex. Gov't Code § 551.102; Tex. Att'y Gen. Op. No. H-1163 (1978).

¹ An electronic version of this document is available on TASB College eLaw at tasb.org/services/community-college-services/resources/tasb-college-elaw/documents/cc-oma-voting-faqs.pdf.

Q: *If a trustee cannot attend an important meeting, may the trustee vote by proxy?*

A: No. The Texas Open Meetings Act contemplates that board members will be present at meetings in order to participate. The attorney general explains that the purpose of requiring the board to act as a body at a meeting is “to afford each member of the body an opportunity to be present and to impart to his associates the benefit of his experience, counsel, and judgment, and to bring to bear upon them the weight of his argument on the matter to be decided by the board, in order that the decision may be the composite judgment of the body as a whole.” Tex. Att’y Gen. LO-94-028 at 2 (1994) (quoting *Webster v. Texas & Pac. Motor Transp. Co.*, 166 S.W.2d 75, 77 (Tex. 1942)). Board members, therefore, must be present at board meetings to vote.

Q: *When would a trustee abstain from voting?*

A: A trustee is required to abstain from voting and deliberation if the trustee has a substantial interest in the matter before the board or if the matter affects a relative employed under the continuous employment exception to the nepotism prohibition. See TASB Policies BBFA(LEGAL) and DBD(LEGAL). A trustee may abstain from voting to avoid an appearance of impropriety, even if not legally required to do so.

Q: *Can the board president vote, or does the president vote only in a tie?*

A: The board president has the same right to vote as any other trustee. Tex. Educ. Code § 130.082(d).

Q: *What TASB policies apply to voting?*

A: Policies BBFA(LEGAL), BD (LEGAL), and BDA(LEGAL) discuss voting as it applies to all members. TASB Policy BCAB(LEGAL) addresses the board president’s voting rights.

Q: *Where can I get more information regarding the OMA?*

A: 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.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is neither an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. It is important for the recipient to consult with the college’s own attorney in order to apply these legal principles to specific fact situations.

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