



Frequently Asked Questions about House Bill 2840 Public Comment and Testimony at Board Meetings

The Texas Open Meetings Act (OMA) traditionally has not required a governmental body, including a community college board of trustees, to allow public comment at board meetings. Effective September 1, 2019, House Bill 2840 amends the OMA to require public comment at open board meetings and to modify how a board may manage a public comment period. Tex. Gov't Code § 551.007.

Specifically, HB 2840:

- Requires a board to allow public comment on agenda items at all open meetings;
- Requires a board to allow every person who wishes to address the board on an agenda item to do so during or before the board's consideration of the item;
- Permits a board to establish reasonable rules for public comment, including rules that limit the total time a member of the public may address the board on a given item;
- Prohibits a board from restricting public criticism of the board, including criticism of any act, omission, policy, procedure, program, or service; and
- if a board assigns time limits to speakers but does not use translation equipment in a manner that allows the body to hear translated public testimony simultaneously, requires the board to provide those using a translator at least twice the amount of time as is provided a speaker who does not require translation assistance.

Tex. Gov't Code § 551.007.

Q: *Is a community college board of trustees required to allow public comment at board meetings?*

A: Yes. HB 2840 requires a community college board of trustees to allow each member of the public who wants to comment on an item on the agenda of an open meeting to address the board before or during consideration of the item. This requirement applies to every open meeting, including the open meeting portion of a regular meeting, a special meeting, or a board workshop. A board may continue, but is not required, to receive public comments concerning subject matters not posted on an agenda. Tex. Gov't Code § 551.007(b).

Q: *The board does not vote or take any action at work sessions. Will public comment still be required for work sessions?*

A: Yes. A board must allow each member of the public who desires to address the board regarding an item on an agenda for any open meeting of the board, as defined by the OMA, to address the board regarding the item at the meeting. Tex. Gov't Code § 551.007(b).

Q: *May the board limit the amount of time a member of the public may speak?*

A: Yes. HB 2840 permits a board to adopt reasonable rules governing how the public may comment, including rules that limit the total amount of time a member of the public may comment on an agenda item. Citizens may still be required to sign up at or before the meeting to address the board. However, no member of the public who wishes to speak about an agenda item and who has followed reasonable sign-up rules should be turned away due to an overall cap on the number of speakers or total time for public comment. If your board finds that it is overwhelmed by the number of citizens wishing to address the board, the board should seek legal advice before refusing to allow a citizen to address the board prior to consideration of a given agenda item. Tex. Gov't Code § 551.007(c).

Q: *May a board require a group of citizens appoint a spokesperson to speak on their behalf?*

A: No. A community college board of trustees may no longer require the designation of a spokesperson to reduce the number of speakers. HB 2840 requires the board to allow each member of the public who desires to address the board on an agenda item to do so. Tex. Gov't Code § 551.007(b).

Q: *What does HB 2840 require if the board of trustees does not use simultaneous translation equipment?*

A: If a board of trustees assigns time limits to speakers but does not use translation equipment in a manner that allows the board to hear translated public testimony simultaneously, the board must provide those using a translator at least twice the amount of time to comment as is provided a speaker who does not require translation assistance. Tex. Gov't Code § 551.007(d).

Q: *May a board prohibit public criticism of the board or the college?*

A: No. HB 2840 specifically disallows a governmental body, including a community college board of trustees, from prohibiting public criticism of the governmental body, including criticism of any act, omission, policy, procedure, program or service, that is not otherwise prohibited by law. Tex. Gov't Code § 551.007(e).

Q: *May a board prohibit public criticism of an individual?*

A: Maybe. HB 2840 will not apply to public criticism that is otherwise prohibited by law. Tex. Gov't Code § 551.007(e). A college should consult its local counsel when developing procedures prohibiting certain public comments, including the consideration of whether prohibitions are reasonable, viewpoint-neutral, and avoid interfering with a person's rights under other law.

Q: *Will colleges need to update their Policy BDB(LOCAL) prior to receiving TASB's Update 37?*

A: No. A new law on its effective date automatically takes legal precedence over any conflicting local policies or regulations. Therefore, the legal requirements in HB 2840 will be effective and controlling on September 1, 2019, with or without the adoption of a new local policy. The board must ensure that any open board meetings held on or after September 1 comply with HB 2840 and should adjust its meeting practices to reflect the bill's requirements.

Q: *Where can I get more information regarding HB 2840?*

A: The [Texas Legislature Online](https://www.texaslegislature.com/) website offers a publicly available copy of the [enrolled text](#) of HB 2840. TASB-recommended revisions to BDB(LOCAL) will incorporate the changes as required by HB 2840 at Update 37.

If you have questions about implementing your local policies in compliance with HB 2840 or have questions about other legal issues, community college representatives may contact Community College Services 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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