



Open Meetings Act Remote Participation in Board Meetings¹

The Texas Open Meetings Act (OMA) provides two options for remote participation in board meetings by individual board members—teleconferencing and videoconferencing—but each applies only in limited circumstances.

Meeting by Teleconference

Q. What does the OMA say about meeting participation by teleconference?

- A. **Special Meeting:** Texas Government Code section 551.121 authorizes a community college board of trustees to hold either an open or closed meeting by a teleconference call if: (1) the meeting is special called meeting and immediate action is required, and (2) it is difficult or impossible to convene a quorum of the board at one location. Tex. Gov't Code § 551.121(b)-(c).

Quorum at One Location: Texas Government Code section 551.122 authorizes a community college board of trustees to hold either an open or closed meeting by teleconference call only if a quorum of the board is physically present at the location where meetings are usually held. Tex. Gov't Code § 551.122(a)-(b).

Q. What notice is required to hold a meeting by teleconference?

- A. Teleconference call meetings are subject to the same OMA notice requirements as other meetings. Special meetings held under Texas Government Code section 551.121 also require that notice of a board meeting specify that the location of the teleconference call meeting is the location where meetings of the board are usually held. Tex. Gov't Code §§ 551.121(d), (e), .122(c).

Q. What public access requirements are there to hold a meeting by teleconference?

- A. **Special Meeting:** The law requires that each public portion of a special meeting held by teleconference call be, audible to the public at the specified location, broadcast over the internet, and recorded and made available to the public in an archive on the college's internet website. Tex. Gov't Code § 551.121(f).

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/oma-remote-participation-in-board-meetings.pdf.

Quorum at One Location: The law requires that each open portion of the meeting be audible to the public at the location where a quorum is present. In addition, the meeting location must provide two-way communication during the entire meeting and each party must be clearly identified before speaking. Each open portion of the meeting must also be recorded and made available to the public. Tex. Gov't Code § 555.122(d), (e).

Q. *Is a board member considered present for a teleconference meeting if they participate, but are not physically present at its location?*

A. Texas Government Code section 551.122 considers a board member absent for purposes of Texas Education Code section 130.045 if the member is not physically present at the meeting location. Tex. Gov't Code § 551.122(g). Note, special meetings held under Texas Government Code section 551.121 do not have the same requirement.

Meeting by Videoconference

Q. *Does the OMA permit a community college board to hold videoconference call meetings?*

A. Yes. A community college board may hold an open or closed meeting by videoconference call if a quorum of the board is physically present at one location, unless the college extends into three or more counties (see below). Tex. Gov't Code § 551.127(b). The law does not require the meeting to be a special called meeting or require immediate action.

Q. *Is a quorum required to be physically present at one location if a community college extends into three or more counties?*

A. No. A meeting by videoconference may be held if a college extends into three or more counties, and the presiding member is physically present at one location that is open to the public during open portions of the meeting. Tex. Gov't Code § 551.127(c).

Q. *What notice is required to hold a meeting by videoconference call?*

A. Videoconference call meetings are subject to the same OMA notice requirements as other meetings. Notice of a videoconference conference call must list as a location the place where a quorum of the board will be physically present and express the intent to have a quorum present at that location.

If a college extends into three or more counties, the notice must specify: (1) the meeting location as the location where the presiding member will be physically present, and (2) the intent to have the presiding member present at that location. This location must be open to the public during open portions of the meeting. Tex. Gov't Code § 551.127(e).

Q. *May a board member participate in a videoconference call remotely?*

A. Yes. A board member may participate remotely if their video and audio feed is broadcast live at the meeting and complies with Texas Government Code section 551.127(a-1).

Q. *Is a board member considered present for a videoconference meeting if they participate, but are not physically present at its location?*

A: Yes. Unlike teleconference calls, a member participating in a videoconference call remotely is counted as present. Tex. Gov't Code § 551.127(a-2).

Q. *What happens if there is a poor connection and we cannot see or hear the videoconference participant?*

A. The law requires that each public portion of the videoconference call meeting be visible and audible at the location specified as the meeting location. During the entire meeting, there must be two-way communication between each remote location of a participating board member and either (1) the location at which a quorum is physically located, or (2) for college's extending into three or more counties, the location at which the presiding board member is physically located. Each participant's face must be clearly visible while speaking and their voice must be audible to other participants and, during open session, to members of the public.

If the meeting is no longer visible or audible to the public, the meeting should not be continued. The college must recess the meeting until the problem is resolved, and if the problem is not resolved in six hours or less, the meeting must be adjourned.

A board member participating remotely will be considered absent from the portion of the meeting during which the video or audio communication is lost or disconnected. The board may continue the meeting if a quorum remains at the meeting location or participates in a meeting in accordance with section 551.127(c) of the Government Code. Tex. Gov't Code § 551.127(a-3), (f), (h).

Q. *What are the technology requirements for videoconferencing?*

A. The Texas Department of Information Resources (DIR) specifies minimum standards for audio and video signals at videoconference call meetings. The quality of the audio and video signals at each location must meet or exceed those standards. Generally, the law requires that the audio and video signals "must be of sufficient quality 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." Tex. Gov't Code § 551.127(i)-(j); 1 Tex. Admin. Code §§ 209.30-.31.

DIR recommends minimum technical and operational standards such as:

- Having at least one monitor at the primary meeting site for the audience to view remote meeting participants;
- Providing the audience and board members with full view of at least one monitor at each location;
- Ensuring audio signals from the remote video conference site are of similar quality and volume as the local audio at the primary meeting site; and
- Presenting all videoconference transmissions in color video.

DIR also suggests the following best practices for conducting videoconferences:

- Prior to each meeting, test videoconference connections that are between sites on different networks or sites not controlled by the governmental body;
- Prior to each meeting, check camera focus, audio, and camera range;
- Throughout the meeting, ensure that all speaking participants are within camera range;
- At the start of the meeting, introduce all board members at the primary and remote sites; and
- Make available at all sites any material to be presented.

For more detailed information about required and recommended videoconferencing standards, visit the DIR [Videoconferencing Guidelines](#).

Q. *Can the board use videoconference software or services like Skype or Google Hangouts?*

A. The DIR guidelines do not clearly specify whether software applications or videoconferencing tools like Skype or Google Hangouts meet the requirements of the OMA. However, DIR guidance is clear that videoconferencing equipment, connections, and software protocols must meet the required minimum standards.

Should the college want to use videoconferencing or other remote participation methods, TASB Community College Services recommends you to consult your local counsel prior to proceeding.

Internet Broadcast of Board Meetings

Q. Is a board meeting required to broadcast over the internet?

A. A community college with a total student enrollment of more than 20,000 in any semester of the preceding academic year must broadcast any open board meeting over the internet in accordance with Texas Government Code section 551.128. The college must record the broadcast and make the recording available to the public in an archive on the college's website. Tex. Gov't Code § 551.1282(a)-(b), (d).

Community colleges with a total student enrollment of less than 20,000 may broadcast their open meetings online, but there is no requirement to do so. The college must establish a website, and provide access to the broadcast from that site. Additionally, the college must follow the same notice and time requirements found in the Texas Government Code section 551, subchapter C when posting to the internet.

Q. Can the board remotely consult with professionals?

A. An attorney is the only specified professional with whom a board can consult remotely. Board members may consult with their attorneys via teleconference, videoconference, or online during open or closed meetings. If the consultation with an attorney takes place during an open meeting, each part of the consultation must be audible to the public at the location specified in the posted notice. Note, Texas Government Code section 551.129, does not apply to in-house attorneys who are employees of the community college. Tex. Gov't Code § 551.129 (a)-(b), (d). If the consultation with an attorney takes place during a closed meeting, an exception to the OMA, such as the attorney-consultation exception, must apply. Tex. Gov't Code § 551.071.

Q: What TASB Policies apply to remote participation in board meetings?

A: See TASB Policy BD(LEGAL) and (LOCAL) for more information.

Q: Where can I get more information on remote participation in board meetings?

A: If you have questions about these or other legal issues, college representatives may contact TASB 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.

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.