



Texas Governor Suspends Certain Provisions of Open Meetings Act Due to Coronavirus (COVID-19)¹

On March 16, 2020, Governor Greg Abbott granted a request from Attorney General Ken Paxton to temporarily suspend a limited number of open meeting laws to the extent necessary to allow telephonic or videoconference meetings and to avoid congregate settings in physical locations in response to the Coronavirus (COVID-19) disaster. Several of the suspended laws may offer flexibility for telephone or videoconference meetings conducted by Texas community college boards. The order is effective immediately and will remain in effect until terminated by the Governor or until the March 13, 2020, disaster declaration is lifted or expires.

College boards were already permitted to conduct remote meetings by teleconference and videoconference, in accordance with applicable law. See TASB Community College Service's guidance on [Remote Participation in Board Meetings](#).

Now, however, statutory requirements to permit the public to attend and offer public testimony from a physical location, even during remote meetings, have been suspended, if the community college offers alternatives. In addition, several laws requiring the physical presence of a quorum have also been suspended.

According to the statement on the [Governor's Website](#), if public officials are not holding a telephonic or videoconference meeting, all open meeting requirements apply.

The following suspended provisions of the Texas Open Meetings Act (OMA) are of greatest interest to Texas community college boards. A full list of the [suspended laws](#) and the [original letter](#) from the Governor's office is available on the [Office of the Attorney General's Website](#).

Notice of Meetings

- **Normally colleges post at central office and online.** Normally a community college must post notice of board meetings on a bulletin board at a place convenient to the public in the central administrative office of the college. Tex. Gov't Code § 551.051. In addition, the college must concurrently post notice of board meetings on the college's Internet website. Tex. Gov't Code § 551.056(b)(4). If notice of a board meeting is posted online continuously at least 72 hours before the meeting, the physical posting at central office need only be accessible during business hours. Tex. Gov't Code § 551.043.

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/texas-governor-suspends-certain-provisions-of-oma.pdf.

- **Now physical posting is not required for remote meetings.** During the period of suspension, Section 551.051 regarding posting at central office and the portion of Section 551.043 requiring a college to post in a physical location in addition to posting online have been suspended. According to the suspension order, meeting notices for telephonic and videoconference meetings may be posted online only. The posting must still be online continuously for 72 hours, unless the emergency notice exception allows one-hour notice.
- **Online posting requires a conference number or link for use by the public.** The suspension order specifically requires that an online notice must include a toll-free dial-in number or a free-of-charge videoconference link, along with an electronic copy of any agenda packet.

Public Comment

- **Requirement for public comment suspended for remote meetings.** Normally, Texas Government Code section 551.007(b) requires a community college to allow each member of the public who desires to address the board regarding an item on an agenda for an open meeting to address the board regarding the item at the meeting before or during the board's consideration of the item. The Governor's order suspends this provision.
- **Reasonable rules are allowed.** The Governor's order does not impact the other provisions of public comment under section 551.007, which allow reasonable rules by the board regarding public comment. To manage efficient and orderly meetings, colleges may continue to require timely sign-up by members of the public who wish to provide comment.
- **"Alternate methods" for comment are required.** The order requires, however, that community colleges offer alternative methods of communicating with college officials. For example, we might suggest a dedicated voicemail or email inbox. Consider having an administrator play or read the comments aloud to the board during the meeting. Some videoconference call software may also offer a "chat" function that allows the college to receive written comments submitted by the public.

Meetings by Teleconference

- **A board may meet by teleconference without a quorum in one location.** Normally, Texas Government Code section 551.122 authorizes meetings by teleconference only if a quorum of the board is physically present at the location where meetings are usually held. For now, section 551.122 is suspended. Note, Texas Government Code section 551.121(b)(1) also permits a community college board of trustees to meet by teleconference for special meetings where immediate action is required, and it is difficult or impossible to convene a quorum of the board at one location.

- **Notice, quorum, and audio recording still required.** A quorum is still required to conduct a meeting, even by teleconference. A meeting by teleconference still must be posted in accordance with the OMA. A meeting by teleconference must be audio recorded, and the recording must be available to the public.
- **The public must have access through a conference call or link.** The college does not have to open a physical location for the public, but the public must have dial-in or conference capability allowing for two-way communication. According to the suspension order, the dial-in number or videoconference link provided in the notice must make the meeting audible to members of the public and allow for their two-way communication. Other specifications about the quality of the audio have been suspended.

Meetings by Videoconference

- **A quorum does not have to gather in a single physical location.** Normally to conduct a meeting by videoconference pursuant to Texas Government Code section 551.127, a quorum of the community college board must be in a single physical location. That requirement, as well as the requirement to post the physical location of the quorum, has been suspended. Consequently, during the period of suspension, a college board may meet by videoconference with all members in separate locations. All members participating by videoconference are considered present.
- **Notice, quorum, and audio recording still required.** A quorum is still required to conduct a meeting, even by videoconference. Notice of a meeting by videoconference still must be posted in accordance with the unsuspended OMA provisions. A meeting by videoconference must be at least audio recorded, and the recording must still be available to the public.
- **The technical requirements have been alleviated.** All requirements regarding the quality of the video and audio, including the requirement that the videoconference comply with technological standards set by the Department of Information Resources (DIR), have been suspended.
- **The public must have access through a conference call or link.** The college does not have to open a physical location for the public, but the public must have dial-in or conference capability allowing for two-way communication. According to the suspension order, the dial-in number or videoconference link provided in the notice must make the meeting audible to members of the public and allow for their two-way communication. According to the statement on the [Governor's Website](#), officials who hold videoconference meetings are encouraged to provide for participation via telephone for members of the public without videoconferencing capability.

If you have questions about the suspension order, you may contact the Office of the Attorney General at 888.672.6787 or via email at TOMA@oag.texas.gov. If you have questions about teleconference and videoconference capabilities offered by the Texas Department of Information Resources, you may visit dir.texas.gov or call 512.475.4700.

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. As always, we encourage you to consider your options in consultation with your local counsel.

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

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