



Texas Association of School Boards

Legal Services

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Serving Texas Schools Since 1949

School Safety and Security Committees

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According to Texas Education Code section 37.109, which was amended substantially in 2019 by Senate Bill 11, each school district must establish a school safety and security committee. Updated policies related to the committee are included in TASB Policy Service's Update 114 to the Policy Reference Manual. By law, the committee must operate in accordance with guidelines from the Texas School Safety Center (TxSSC). The TxSSC guidelines do not yet reflect SB 11 changes.

Q: Who serves on a local school safety and security committee?

A: The committee, to the greatest extent practicable, must include at least:

- (1) one representative of an office of emergency management in the district's county or city;
- (2) one representative of the local police department or sheriff's office;
- (3) one representative of the district's police department, if applicable;
- (4) the school board president;
- (5) a school board member other than the president;
- (6) the superintendent;
- (7) one or more designees of the superintendent, one of whom must be a classroom teacher in the district;
- (8) if the district partners with an open-enrollment charter school (OECS) to provide instruction to students, a member of the OECS board or board's designee; and
- (9) two parents or guardians of students enrolled in the district.

Tex. Educ. Code § 37.109(a-1).

Q: *Who appoints the members of the committee?*

A: The statute does not indicate who in the district appoints the committee. Normally when a statute requires action by “the district” (rather than the “the board of trustees”) the task may be delegated to the administration. Although in some districts the board of trustees may wish to appoint the committee members, in most districts this task will be delegated to the superintendent or an emergency management coordinator. An administrator tasked with emergency management may be in a better position to establish contact and coordinate with representatives of local first responders and others required to participate in the committee. Individuals unable to continue serving on the committee may also require timely replacements. Thus, a board of trustees may wish to select which board members will serve on the committee and leave other appointments to the administration.

Q: *What does the committee do?*

A: By law the committee must:

- (1) participate on behalf of the district in developing and implementing emergency plans consistent with the district multihazard emergency operations plan (EOP) to ensure that the plans reflect specific campus, facility, or support services needs;
- (2) periodically provide recommendations to the district’s board of trustees and district administrators regarding updating the district multihazard EOP in accordance with best practices identified by TEA, the TxSSC, or a person included in the registry established by the TxSSC (i.e., a safety consultant);
- (3) provide the district with any campus, facility, or support services information required in connection with the safety and security audit, a safety and security audit report, or other reports the district is required to submit to the TxSSC;
- (4) review each report the district is required to submit to the TxSSC to ensure that the report contains accurate and complete information regarding each campus, facility, or support service in accordance with criteria established by the TxSSC; and
- (5) consult with local law enforcement agencies on methods to increase law enforcement presence near district campuses.

Tex. Educ. Code § 37.109(b).

Q: *How often must the committee meet?*

A: Unless the district operates schools year-round, the committee shall meet at least once during each academic semester and at least once during the summer. A committee established by a school district that operates schools on a year-round system or in

accordance with another alternative schedule shall meet at least three times during each calendar year, with an interval of at least two months between each meeting. Tex. Educ. Code § 37.109(c).

Q: *What does it mean for the committee to be subject to the Open Meetings Act?*

A: Texas Education Code section 37.109, as revised by SB 11, states, “The committee is subject to Chapter 551, Government Code [the Texas Open Meetings Act], and may meet in executive session as provided by that chapter. Notice of a committee meeting must be posted in the same manner as notice of a meeting of the district’s board of trustees.” Tex. Educ. Code § 37.109(d).

The Texas Open Meetings Act (OMA) defines *governmental body* (an entity subject to the OMA) in a way that would not include the school safety and security committee. Section 37.109 specifically identifies two aspects of the OMA that will apply: the committee may rely on the OMA’s exceptions for closed meetings (or “executive sessions”), and public notice must be provided of the meetings in the same manner as for board meetings.

The more difficult question is whether other provisions of the OMA apply if the committee is “subject to” the OMA? If the legislature intended all of the OMA to apply, then the statute need not to specifically list the application of notice and closed meeting exceptions. On the other hand, if the committee is only subject to notice and closed meeting exceptions, then the statute need not say the committees are “subject to Chapter 551, Government Code.”

Pending further guidance from the TxSSC, TEA, or the Texas attorney general, TASB Legal Services recommends that committees comply with the OMA in all aspects that reasonably make sense, including opening the meetings in public, announcing authority for any closed meeting, and keeping records of open and closed meetings.

Q: *What advance posting is required for meetings?*

A: A committee meeting must be posted in the same manner as notice of a meeting of the district’s board of trustees. We recommend that committee meetings be posted in the same timeframes and in the same locations as board meeting postings. Meeting notice should include the date, place, time, and subjects to be discussed, including any proposed action that will be taken at the meeting. Meetings should be identified as meetings of the Safety and Security Committee, however, not as meetings of the board.

Q: How specific must a committee posting be about the topics to be discussed or on which action will be taken?

A: Considering the confidential and security-sensitive nature of many committee discussions, we suggest that meeting notices be specific enough to allow the committee to make use of the OMA's closed meeting exceptions. One option would be to post as topics the items listed in Section 37.109(b) as the tasks of the committee.

Q: Would a committee meeting posting ever include a consent agenda?

A: A committee might use a consent agenda for routine tasks like approving minutes of prior meetings or calendaring future meetings. For the most part, however, the committee is charged with discussing security matters and reviewing reports to the TxSSC. These tasks will not lend themselves to use of a consent agenda.

Q: Are committee meetings open to the public?

A: Other than saying committees are "subject to Chapter 551," Section 37.109 is silent as to whether committee meetings must be open to the public. Because the statute says committees may rely on closed meeting exceptions, the implication is that committees should open their meetings in public and announce authority for any closed meeting.

In addition, in accordance with the OMA, committees should vote or take any action in open session. Most committee discussions and recommendations will be confidential, however. Motions and votes should be made in an open meeting but may have to be stated in a way that does not reveal details of the district's multihazard EOP or other security plans.

Q: Are committee discussions confidential?

A: To the extent the committee's discussions fall within an exception to the OMA found in Texas Government Code chapter 551, the committee may meet in closed session. Tex. Educ. Code § 37.109(d). Examples of possible closed meeting exceptions include:

- **Security personnel or devices:** Deliberation about a security audit or the deployment, or specific occasions for implementation, of security personnel or devices, in closed session. Tex. Gov't Code § 551.076.
- **Security infrastructure:** Deliberation about security assessments or deployments relating to information resources technology; network security information described by Government Code section 2059.055(b); or the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices. Tex. Gov't Code § 551.089.

- **Personnel:** Deliberation about the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee. Tex. Gov't Code § 551.074(a)(1). This provision does not apply to independent contractors. Tex. Att'y Gen. Op. No. MW-129 (1980). Consequently, it would not apply to the deliberation about an SRO or security officer hired as an independent contractor.
- **Student information:** Deliberation about the discipline of a public school child or about a matter regarding a public school student if personally identifiable information about the student will necessarily be revealed by the deliberation. Tex. Gov't Code §§ 551.082(a)(1), .0821. These exceptions may be applicable if the committee is presented with information about a threat assessment for an individual student.
- **Consultation with attorney:** A school board may also seek legal counsel from the district's school attorney in closed session to the extent the discussion is covered by the attorney-client privilege. Tex. Gov't Code § 551.071.

Q: What records should be created of committee meetings?

A: Although no court or other legal authority has offered a formal interpretation of what it means for a safety and security committee to be "subject to Chapter 551," we think that, to be safe, committees should prepare minutes of their open meetings and either certified agendas or confidential audio recordings of their closed sessions.

Q: Are the records created or reviewed by the committee confidential?

A: Generally, yes, with permission from the attorney general. While the OMA has a specific closed meeting exception for board discussions related to security, the Texas Public Information Act (PIA) does not have a comprehensive exception of that nature for an entire category of documents. Protecting the confidentiality of security documents requires considering the content of each individual document and locating and claiming a legal exception. Then, a request must be submitted to the attorney general's office for an official ruling on the claimed exceptions.

Within the PIA, exceptions include:

- Information held by a law enforcement agency, including a school district police department, the disclosure of which would hinder law enforcement. Tex. Gov't Code § 552.108; *Tex. Appleseed v. Spring Branch Indep. Sch. Dist.*, 388 S.W.3d 775 (Tex. App.—Houston [1st Dist.] no pet.).
- Internal memoranda regarding policy recommendations and deliberations. Tex. Gov't Code § 552.111.

- Information related to an employee or officer if, under the specific circumstances pertaining to the employee or officer, disclosure would subject the employee or officer to a substantial threat of physical harm. Tex. Gov't Code § 552.152.
- Information made confidential by law. Tex. Gov't Code § 552.101.

By citing to section 552.101 of the PIA, a school district may also assert confidentiality for documents protected by laws other than exceptions provided by the PIA.

There are several sections under the Texas Disaster Act, as previously discussed, that might apply, including Texas Government Code section 418.176 (information relating to emergency response providers), section 418.177 (information relating to risk or vulnerability assessment), and section 418.182 (information related to homeland security and domestic terrorism). *See Tex. Dep't of Pub. Safety v. Abbott*, 310 S.W.3d 670 (Tex. App—Austin 2010, no pet.) (protecting videos recorded by security cameras in a Texas Capitol hallway under Texas Government Code section 418.182). For example, in at least one instance, a school used Texas Government Code section 418.182(a) to successfully argue for protection of camera surveillance. Tex. Att'y Gen. OR2009-04735 (2009). In another, the governor's office relied on Section 418.176 to protect the governor's security staffing requirements as a tactical plan. Tex. Att'y Gen. OR2015-09398 (2015).

Also, Texas Education Code section 37.2071(i) makes any document or information collected, developed, or produced during the review and verification of a multihazard EOP not subject to disclosure under the Texas Public Information Act (PIA).

In addition, a school district may assert that the district's EOP is confidential under Texas Education Code section 37.108 and not subject to disclosure. Tex. Educ. Code § 37.108(c-1). Section 37.108(c-1) provides that any document or information collected, developed, or produced during a safety and security audit conducted under the provision requiring regular safety and security audits of a district's facilities is confidential. At least one school district attorney has successfully argued that a district's EOP was collected, developed, or produced during a safety and security audit of the district's facilities and therefore need not be produced in response to a PIA request. Tex. Att'y Gen. OR2011-16616 (2011) (cautioning that the ruling is limited to the particular circumstances and may not be relied upon as a previous determination).

Finally, in appropriate instances, a district may be able to rely on Texas Rules of Evidence Rule 503 and Rules of Civil Procedure Rule 192.5 governing attorney-client communications and work product. These are laws that would be a mandatory exception under Section 552.101 of the PIA, and differentiated from the Section 552.107 exception, which is discretionary.

Q: Do committee meetings have to be recorded?

A: We think not. Section 551.128(b-1) of the OMA requires an *elected school district board of trustees for a school district* that has a student enrollment of 10,000 or more to make a video and audio recording of reasonable quality of each regularly scheduled open meeting and of each work session or special called meeting if the board votes on any matter or allows public comment or testimony. Since a safety and security committee is not an *elected school district board of trustees*, we do not think the recording requirement applies to safety and security committee meetings.

Q: Who serves as presiding officer?

A: Texas Education Code section 37.109 does not specify who will serve as the committee's presiding officer. Consequently, the answer is a matter of local choice. The presiding officer could be decided by the committee itself under Robert's Rules of Order. Or, perhaps because the local board president is part of the committee, the board president could preside. The district's superintendent or emergency management official might also be logical choices.

Q: Is a quorum required to call a meeting?

A: Other than saying committees are "subject to Chapter 551," Texas Education Code section 37.109 is silent as to whether a quorum is required to convene a meeting of the safety and security committee and how many committee members would constitute a quorum. We think establishing a quorum as a majority of the members of the committee is useful for a number of practical reasons, including having clear beginnings and endings to meetings, making decisions that are supported by most members of the committee, and establishing voting procedures for recommendations from the committee.

Q: Is public comment required?

A: Other than saying committees are "subject to Chapter 551," Texas Education Code section 37.109 is silent as to whether public comment is required before the committee considers items on the committee's agenda for an open meeting. Public comment at school board meetings is governed by Section 551.007 of the OMA. Section 551.007 applies to specific governmental bodies listed in section 551.007, which includes *a school district board of trustees*; however, the OMA does not include district committees like the safety and security committee under the definition of a *governmental body*. Consequently, we do not believe that Section 551.007 of the OMA requires public comment at safety and security committee meetings. That said, in passing Education Code section 37.109(d), the legislature clearly wanted school districts to inform the community about meetings of the safety and security committee, and districts are encouraged to create opportunities for public input on security matters.

Q: *What training is required for committee members?*

A: Texas Education Code section 37.109 does not require any particular training for committee members. However, new committee members will likely need an orientation to the district's existing security plans and personnel, as well as safety and security confidentiality issues. Considering also the fact that the committee is subject to the OMA and will be addressing extensive confidential information, orientation should include basic training on the OMA and PIA. Finally, it may also benefit new committee members to have a basic understanding about privacy issues related to student education records and health information.

Q: *Where may districts find further guidance on safety and security committees?*

A: Districts should monitor the [TxSSC's](#) website for additional guidance on implementing district safety and security committees. The TxSSC offers [sample procedures](#) for establishing and training behavioral threat assessment teams, as well as a comprehensive [Safety and Security Audit Toolkit](#).

This document is continually updated, and references to online resources are hyperlinked, at tasb.org/services/legal-services/tasb-school-law-esource/business/documents/school-safety-and-security-committees.pdf. For more information on this and other school law topics, visit TASB School Law eSource at schoolawesource.tasb.org.

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