



Texas Association of School Boards

Legal Services

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Serving Texas Schools Since 1949

Open Meetings Act

Open Meeting Records

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This article answers frequently asked questions about records related to open meetings. For closed meeting records, see TASB Legal Services' [OMA: Closed Meeting Records](#).

1. Are we required to keep records of our open meetings?

Yes. The Texas Open Meetings Act (OMA) requires a school board to either keep minutes or make a recording of its open meetings. Tex. Gov't Code § 551.021(a).

2. What are minutes?

The OMA does not define the term “minutes”; however, the attorney general has defined “minutes” as a memoranda or notes of a transaction or proceeding, or the official record of the proceedings of a meeting. Tex. Att’y Gen. Op. No. JM-0840 (1988).

3. What must minutes contain?

The minutes of an open meeting must:

- State the **subject matter** of each deliberation. Tex. Gov't Code § 551.021(b).
- Indicate each **vote, order, decision**, or other **action taken**. Tex. Gov't Code § 551.021(b).
- Indicate each member's **attendance** at or absence from the meeting. Tex. Educ. Code § 11.0621.
- Reflect the board's acceptance or rejection of the superintendent's recommendation for **selecting district personnel**. Tex. Educ. Code § 11.1513(b).
- Reflect, in the minutes of the last regularly scheduled board meeting held before an election of trustees, whether each trustee has met or is deficient in satisfying his or her **required training** as of the anniversary of the date of the trustee's election or appointment. If the minutes reflect that the trustee is deficient, the district shall post the minutes on the district's Internet website within 10 business days of the meeting and maintain the posting until the trustee meets the requirements. Tex. Educ. Code § 11.159(b).

4. How detailed must minutes be?

Other than requiring that open meeting minutes contain the subject of each deliberation and each vote, order, decision, or other action taken, the OMA does not prescribe specific requirements concerning how meeting minutes must be written. The attorney general has declined to set forth iron-clad guidelines for complying with the OMA but has suggested, in an opinion examining the level of detail necessary for closed meeting certified agendas, that meeting minutes would not require a verbatim transcript but should be more detailed than an agenda. Tex. Att’y Gen. Op. No. JM-0840 (1988). One court has generally defined “minutes” to refer to the record or notes of a meeting or proceeding, whatever they may contain. *York v. Tex. Guaranteed Student Loan Corp.*, 408 S.W.3d. 677 (Tex. App.—Austin 2013, no pet.).

5. What is a recording?

A recording is “a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed.” Tex. Gov’t Code § 551.001(7).

6. Must we make written minutes if we are already making a recording?

No, the OMA does not require school districts to keep both written minutes and a recording of the open meeting. There may be practical and evidentiary benefits to using both methods of capturing an open meeting in case recording equipment fails to work or electronic records become damaged or inaccessible. Consult with your school attorney to determine the appropriate practice for your district.

7. May we keep only minutes instead of recordings if we’re holding a meeting by videoconference or emergency telephone conference?

No. If a meeting is held by telephone conference due to emergency or public necessity or held by videoconference, the school board must make at least an audio recording of the open meeting at the location specified in the meeting notice as the location of the meeting. Tex. Gov’t Code §§ 551.125(e), .127(g).

8. Must we post minutes or recordings of open meetings on our school district website?

Yes, with a limited exception for small schools. A school district that maintains a website is required to post each record of a meeting of the school board on its website. Tex. Gov’t Code § 2051.152(a). This requirement does not apply to a school district with a population of less than 5,000 in the district’s boundaries and located in a county with a population of less than 25,000. Tex. Gov’t Code § 2051.152(b).

9. Do different rules apply to large school districts?

Yes. School districts with a student enrollment of 10,000 or more must make a video and audio recording of each regularly scheduled open meeting and each work session or special called meeting if at that meeting the board votes on any matter or allows public comment or testimony. Tex. Gov't Code § 551.128(b-1).

Because the OMA requires a board of trustees to allow public comment for all agenda items at every open meeting, all school districts with student enrollment of 10,000 or more are essentially required to record all of their board meetings. Tex. Gov't Code § 551.007(b).

School districts subject to this requirement must make recordings of meetings available on the Internet not later than seven days after the date the recording was made and maintain archived recordings online for not less than two years after the date the recordings were first made available. Tex. Gov't Code § 551.128(b-2), (b-4).

School districts may choose to make the archived recordings of meetings available on an existing Internet site, including a publicly accessible video-sharing or social networking site. Districts that maintain an Internet site must make available on that site, in a conspicuous manner, the archived recording of each meeting or a link to the archived recording of each meeting. Tex. Gov't Code § 551.128(b-2), (b-3).

10. Is there an exception to the Internet posting requirements for school districts dealing with Internet challenges?

Yes. In the event of a catastrophe or technical breakdown, a school district is exempt from the requirement to post an archived recording of a meeting on an existing Internet site, make the archived recording available not later than seven days after the date the recording was made, and maintain the archived recording for not less than two years. Following the catastrophe or breakdown, the district must make all reasonable efforts to make the required recording available in a timely manner. A *catastrophe* is a condition or occurrence that interferes physically with the ability of the school board to conduct a meeting, including fire, flood, earthquake, hurricane, tornado, wind, rain, or snow storm; power failure, transportation failure, or interruption of communication facilities; epidemic; or riot, civil disturbance, enemy attack, or other actual or threatened act of lawlessness or violence. Tex. Gov't Code §§ 551.128(b-5), .0411.

11. Why are meeting minutes or recordings important?

In addition to records retention and public information preservation requirements under law, meeting minutes or recordings serve as the official records of school board meetings and provide public access to the actions of the governmental body, as

intended by the OMA. In litigation, courts have found meeting minutes to be conclusive evidence of what transpired at a meeting or what action was taken by the board, and such evidence could not be varied or contradicted by other evidence. If the minutes do not affirmatively show that the board took a particular action, however, then other evidence may be considered. A board may not amend the minutes if it would affect the rights of a party. Board minutes may also be part of the record the commissioner of education considers when resolving certain appeals of local decisions. *See Hext v. Cent. Educ. Agency*, 909 S.W.2d 252 (Tex. App.—Austin 1995, no writ) (upheld dismissal of teacher and allowing external evidence that teacher received notice of recommended nonrenewal where board’s minutes were silent as to whether the board sent requisite notice); *Castañeda v. Lasara Indep. Sch. Dist.*, Tex. Comm’r of Educ. Decision No. 081-R1-502 (July 2, 2002) (citing *Hext* to find board minutes conclusively established actions recorded without need for additional evidence about predetermination in nonrenewal of teacher); *see also, e.g., Moore v. El Paso Indep. Sch. Dist.*, Tex. Comm’r of Educ. Decision No. 245-R3-492 (Apr. 22, 1994) (resolving appeal regarding JROTC instructor’s salary schedule by referencing board minutes that showed adoption of “a salary step increase, as presented by the Administration,” which did not include changes to the JROTC schedule); *Alvarez v. Bishop Consol. Indep. Sch. Dist.*, Tex. Comm’r of Educ. Decision No. 058-R9-1092 (Feb. 11, 1994) (finding board’s motion to “adopt and ratify” policy manuals “as revised during the Policy Review Seminar” insufficient to accomplish actual revisions, which were never submitted for processing to get actual policy revisions into the policy manual and were not before the board when the motion to “adopt and ratify” was made).

12. Are the minutes or recordings of open board meetings public records?

Yes. Both written minutes and recordings of open meetings are public records that must be made available for public inspection and copying upon request. In fact, the minutes and recordings of an open meeting cannot be withheld under any exception to disclosure under the Texas Public Information Act. Tex. Gov’t Code § 551.022; *York v. Tex. Guaranteed Student Loan Corp.*, 408 S.W.3d. 677 (Tex. App.—Austin 2013, no pet.).

On the other hand, the certified agenda or recording of a closed meeting may not be disclosed and is available for public inspection or copying only under a court order. Tex. Gov’t Code § 551.104(c); Tex. Att’y Gen. Op. No. JM-0995 (1988); Tex. Att’y Gen. ORD-330 (1982). See TASB Legal Services’ [OMA: Closed Meeting Records](#).

13. Must the district transcribe an open meeting audio or video recording at the request of a public citizen?

Not likely. If a transcript of the open meeting recording was not already written, produced, collected, assembled, or maintained at the time of the request, the school district does not have to create a new record such as a transcription of a recorded

meeting to provide to a public requestor. Tex. Gov't Code § 552.002; *see also* Office of the Attorney General, [2018 Public Information Handbook](#) 18-19 (2018) (stating the Texas Public Information Act does not require a governmental body to prepare new information in response to a request or to inform a requestor if the requested information comes into existence after the request has been made).

A school district may provide a copy of the recording to the requestor or offer the requestor an opportunity to inspect the recording in accordance with the Texas Public Information Act (Chapter 552 of the Texas Government Code).

14. How long must the district retain minutes or recordings of open meetings?

Written minutes or recordings of open meetings must be retained permanently. Tex. Gov't Code § 551.021. If a district maintains both minutes and recordings, recordings of open meetings for which written minutes are prepared must be retained for 90 days after approval of minutes by the school board. Texas State Library and Archives Commission, [Local Schedule GR - Retention Schedule for Records Common to All Local Governments](#), GR1000-03a, GR1000-03c, GR1000-03e (Fifth Edition, effective Apr. 17, 2016).

If the meeting minutes do not describe each matter considered by the school board and reference to an agenda is required, the agenda must also be retained permanently. Texas State Library and Archives Commission, [Local Schedule GR - Retention Schedule for Records Common to All Local Governments](#), GR1000-01a (Fifth Edition, effective Apr. 17, 2016).

15. May a trustee, the superintendent, or the board's secretary make corrections to minutes after the board has approved them?

Not without the board's consent at a subsequent open meeting. First, any single trustee does not have any authority to take action that is not approved by the entire board. Second, because meeting minutes are required to be maintained by the board and constitute official governmental records, any alteration, modification, or revision—no matter how minor it is believed to be—may be challenged as violating various laws governing public records and subject an individual to potential civil and criminal penalties. *See, e.g.*, Tex. Penal Code §§ 37.09 (Tampering with and Fabricating Physical Evidence), .10 (Tampering with Governmental Record); Tex. Gov't Code § 552.351 (Destruction, Removal, or Alteration of Public Information). TASB Legal Services recommends that any proposed corrections to previously adopted minutes be addressed by the board as an agenda item at an open meeting so that the board may deliberate and approve changes, if needed, based on personal knowledge. Board actions and new meeting minutes should reflect proper authority and approval to modify past open meeting minutes.

16. Must the district keep minutes or recordings for meetings just to canvass elections?

Yes. In addition to the above-noted content required for meeting minutes, the presiding officer of a canvassing authority must also note the completion of the canvass in the minutes or in the recording of a board meeting held to canvass an election. Tex. Elec. Code § 67.004(g).

17. Are records required for school board training or continuing education events?

It depends on whether the board's attendance at a training or continuing education event meets the OMA's definition of a meeting. See Tex. Gov't Code § 551.001(4) (definition of *meeting*).

Generally, if a training event meets the OMA's definition of a meeting, then all OMA requirements apply, including meeting notice and recordkeeping. A training that takes place at a regional, state, or national convention or workshop where formal action is not taken and any discussion of school business is incidental to the convention or workshop is not a meeting under the OMA. For more detailed discussion on board member training, see TASB Legal Services' [Texas School Board Member Continuing Education](#).

18. Which policies in our board policy manual contains information about open meetings?

Review the BE series in your district's policy manual.

19. Where can I get more information about the OMA?

The [office of the attorney general](#) is the primary source of information related to the OMA. Supplemental resources from TASB related to school board meetings are available on the [TASB Store](#) or [TASB School Law eSource](#). School district trustees and administrators may contact TASB Legal Services at 800.580.5345.

This document is continually updated at tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Governance/documents/oma-open-meeting-records.pdf. For more information on school law topics, visit TASB School Law eSource at schoollawesource.tasb.org.

This document is provided for educational purposes only and contains information to facilitate a general understanding of the law. It is not an exhaustive treatment of the law on this subject nor is it intended to substitute for the advice of an attorney. Consult with your own attorneys to apply these legal principles to specific fact situations.

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