MEMORANDUM

To: Candidate for the Pittsburg ISD Board of Trustees

From: Terry Waldrep, Pittsburg ISD Superintendent

Congratulations on your decision to file for a place on the Pittsburg ISD Board of Trustees. In my opinion, there is no greater service that you can do for your community than to support the education of its children. Being a school board trustee is an honor and statement of public trust in your abilities to serve. If you are elected to this position, I hope that you will also find it personally rewarding.

The materials in this packet are collected to provide information during your candidacy, but certainly do not include everything you might want to know. You may also find additional information on the website for the Office of Secretary of State at http://www.sos.state.tx.us. Any questions regarding campaign finance should be directed to the Texas Ethics Commission at https://www.ethics.state.tx.us/.

All required filing paperwork should be turned in at the administration office located at 402 Broach Street. Should you need assistance or have questions, please contact my Administrative Assistant, Brittani Griffin, at 903.856.3628.

Best wishes,

Terry Waldrep, Superintendent

PITTSBURG SCHOOL DISTRICT

BOARD OF TRUSTEES CANDIDATE ELECTION PACKET 2024

PACKET CONTENTS:

- Election Schedule
- Board Member Candidate Eligibility
- What You Need to Know about Running for Your School Board
- New Trustee Checklist
- What Are a Texas School Board's Roles and Responsibilities?
- Roles and Responsibilities of Individual School Board Members
- School Board Trustees Training
- Training Requirements for School Board Members
- Application for a Place on the PISD General Election Ballot
    - The loyalty oath is included on this form and is to be filed at the PISD Superintendent's office no later than 5:00 pm on Friday, February 16, 2024. The first day of filing is Wednesday. January 17, 2024. *There is no filing fee. The statement regarding nepotism is on the reverse side of the application. Your signature on the application will cover the required signature for this document*.
- Policy BAA (Legal) - Legal Status, Powers and Duties
- Policy BBA (Legal) - Board Member Eligibility/Qualifications
- Policy BBBC (Legal) - Campaign Finance
- Policy BBBD (Legal) - Campaign Ethics
- Policy BBD (Legal) - Board Member Training and Orientation
- **Texas Ethics Commission Forms:**
    - 2024 Filing Schedule
    - Political Advertising: What you Need to Know
    - Form CFCP - Code of Fair Campaign Practices
    - Form CTA - Appointment of a Campaign Treasurer by a Candidate
    - Form C/OH - Candidate/Officeholder Campaign Finance Report

It is the duty of the candidate to become familiar with the applicable law regarding campaign for office. The duty of PISD is limited to accepting and filing the reports and noting the date received thereon.

PHONE NUMBERS/WEBSITES:

- For answers to questions on financial reports or ethics, contact the Texas Ethics Commission at 1.800.325.8506 or visit their website at www.ethics.state. tx.us.

- Information regarding elections can be found on the Secretary of State's website at www.sos.tx.us.

- Please contact the City of Pittsburg for campaign signage at 903.856.3621

- For local assistance, please contact Brittani Griffin, Pittsburg ISD Superintendent Secretary at 903.856.3628 or bgriffin@pittsburgisd.net

PITTSBURG ISD

2024 BOARD ELECTIONS SCHEDULE:

12/18/23	Notice of Deadline to File an Application for a Place on the Ballot
01/01/24	First Day to Apply for Ballot by Mail
01/17/24	First Day to File an Application for a Place on the Ballot
01/22/24	Order of Election
02/16/24	Last Day to File an Application for a Place on the Ballot 5:00 pm
02/20/24	Last Day to File a Declaration of Write-In Candidacy
TBD	Notice of Ballot Drawing
04/04/24	Last Day to Register to Vote
04/22/24	First Day of Early Voting by Personal Appearance
04/23/24	Last Day to Apply for Ballot by Mail (Received, not postmarked)
04/30/24	Last Day of Early Voting by Personal Appearance
05/04/24	Election Day

Candidate Eligibility for Public Office (Texas Education Code 141.001)

- US Citizen
- 18 years of age or older
- No final judgment indicating:
  - Totally mentally incapacitated or
  - Partially mentally incapacitated without the right to vote
- No final felony conviction
  - Unless pardoned or released from resulting disabilities
- No offense under Ed. 11.066 Section 43.02 (b)
- Resided continuously in the state for 12 months
- Resided continuously in the territory for 6 months
- Registered voter of the territory

What You Need to Know about Running for Your School Board



If you're considering running for your local school board, there are a lot of things to think about.

You don't need a background in local government, public education, or public policy to run for the school board. Your children don't have to attend a school in the district either. But you should be able to answer a few questions for yourself.

Why am I running for my local school board?

It's best to start at the basics and determine what's motivating you. Answering this question will help you to determine:

- What your focus might be when campaigning
- If running for the school board is even the right step for you at this time

Is there a specific issue you want to change in your school district, or do you want to improve the overall quality of your district?

Perhaps you're thinking about running for the board because you want to "get rid of a coach," or "make sure the principal is held accountable." Or maybe you think the state has overstepped their bounds on school accountability.

Reasons like these don't line up well with the work you would do as a school board member, and you might find it unfulfilling. Understand exactly what the roles and responsibilities of the school board are before taking the plunge.

Remember: The school board is responsible for making decisions that will affect all students in the district.

"If you have an agenda, you're subject to being disappointed when you're elected to the board," said Longview ISD Board Member Ted Beard. "You're there for the students, and if you're focused on one thing, you're missing the big picture."

Can I make the time commitment to run for the school board?

Campaigning takes time. How much time you commit varies depending on a lot of factors, from the size of the district to how many candidates are running for a seat.

At a minimum, launching a campaign for the school board requires learning the basic ins and outs of running a legal and ethical campaign for office.

TASB's Guide for School Board Candidates provides information about how the school board works, ethical campaigning, and a summary of election laws. It also includes resources and detailed information about

- Campaign finance
- Reporting requirements
- Election advertising guidelines

Tips on ethical campaigning for the school board

"How you campaign absolutely sets the tone for how you will serve," said former school board member and current TASB Senior Board Consultant Kay Douglas. "I once had a board member say, 'I campaigned on the idea that all of them were messing up. Now how do I work with them?' And that's exactly it. In your campaign, you want to make sure you're focusing on service."

Maintaining a high ethical standard while campaigning means more than just following the law. There are expectations to live up to. Review the Code of Ethics for School Board Members, and understand nepotism and conflicts of interest.

These are general practices to ensure you conduct your campaign ethically:

- Focus attention on issues and avoid attacking or finding fault in opponents and district employees.
- Get familiar with the specific issues in your district.

- Always share accurate information during your campaign.
- Keep your focus on what you would like to see happen in your district.
- Avoid making promises that you as an individual cannot keep without board support.

Running an ethical campaign demonstrates your leadership to the community. It helps you establish a positive foundation for working with the board and administrators if you do get elected.

Can I make the time commitment to serve on the school board?

Before you run, you'll want to know what it takes to be a successful board member. Election to the board comes with a whole new time commitment.

You'll definitely be a bit busier because of the time needed to prepare for and attend board meetings and other related obligations.

"Just be prepared to commit that time, if you want to be an effective board member," said Beard. "You're going to be called to do various things just because you're on the school board, and also prepare for school board meetings. You'll need to be doing research of your board packets, being informed and educated as to what's going on in your school district, and not just coming in blind."

Nobody is born knowing how to be a board member. You need training. In fact, the state requires it.

The preparation and getting up to speed are a big part of the first year on the board. During your first year of board service you'll learn about:

- District priorities
- The state accountability system
- District budgeting
- The difference between open and closed meetings
- And so much more

If you're elected, TASB offers a variety of training opportunities throughout the year held around the state, in your district, and even online.

What knowledge and skills do I bring to the school board?

It is useful to consider what you'll bring to the table that can benefit your local board. Take an honest assessment of the knowledge and skills you have that could be an asset to your board.

As a school board member, you'll need to:

- Attend meetings regularly
- Learn about new and sometimes complex issues
- Interact with a variety of community members
- Make decisions on issues that at times can be difficult

"Joining a board is like jumping on a train that's moving. They have been working together. They have a vision. They have goals. You want to figure out how you can be part of that, what you can add to that, and how you can be of service," said Douglas.

There's no one type of person or background that makes for a good school board member, but all good school board members need to:

- Work as a team to create a vision for the district and set measurable goals to achieve that vision
- Understand finances and budgets and regularly monitor the fiscal health of the district
- Focus on the true bottom line: student achievement and implementing policies that ensure success for all students
- Inform the public regularly on the district's progress and challenges
- Collaborate with others and be respectful of the full leadership team
- Advocate for the value of a strong public education system at every chance and at every level of government

While you are at it, think of some of your shortcomings that, if left unaddressed, could hinder your efforts to be an effective board member. Knowing your opportunities for growth is just as important as knowing your strengths.

Serving as a board member can be challenging. But making decisions that benefit your students and community can be very gratifying.

Preparing to Serve: A Webinar for School Board Candidates

TASB hosts a webinar twice a year for school board candidates. This webinar is an opportunity to:

- Learn about the difference between the board's and staff's responsibilities
- How to campaign constructively
- Find more information and insights about being a candidate
- Ask your questions

New Trustee Checklist

LEGAL REQUIREMENTS FOR THE FIRST YEAR

As soon as feasible after election

Receive certificate of election prepared by presiding officer in compliance with Texas Election Code section 67.016. *See TASB Policy BBBB(LEGAL).*

> Policies adopted by school boards are organized by topic into policy manuals maintained by the school district. Your local policy manual contains TASB's (LEGAL) reference policies and board-adopted (LOCAL) policies. Find out more about policies at tasb.org/services/policy-service/resources.aspx.

Read and sign Statement of Elected Officer and take oath of office. Tex. Const. art. XVI, section 1. *See TASB Policy BBBB(LEGAL).*

First week

File conflict-of-interest disclosure forms as applicable. These requirements are ongoing and apply to all school officials as defined by state law and district policy:

- You need to file Form CIS (available on the Texas Ethics Commission website at **ethics.state.tx.us/data/forms/conflict/CIS.pdf**) with the district records administrator (often the superintendent's secretary) if any of the following apply: within the last year, you or your first-degree family member have received taxable income of more than $2,500, or gift(s) with a value of more than $100, from a school district vendor; or you have a family relationship within the third degree of relation to a school district vendor. *See TASB policies BBFA(LEGAL), (LOCAL).*
- If you own, or are a representative of, an entity that does business with the district, you must also complete and file with the district records administrator the vendor's questionnaire form CIQ (available on the Texas Ethics Commission website at **ethics.state.tx.us/data/forms/conflict/CIQ.pdf**). *See TASB Policy CHE(LEGAL).*
- Other disclosures may be required of trustees in your district by state law or local policy. *See TASB Model Policy BBFA(LOCAL).* If you are not sure what laws apply to your district, contact an attorney.

First two weeks

Complete the form to withhold personal information, such as your home address, phone number, emergency contact information, and family information, from the district's response to a request for public information. *See TASB Policy GBA(LEGAL).*

Receive introduction to TASB resources and set up your TASB login.

> Access TASB guidance specific to new board members at New Board Members web page tasb.org/new-board-member.

First 90 days

Attend one to two hours of Open Meetings Act training. Tex. Gov't Code § 551.005. *See TASB Policy BBD (LEGAL).* Open Meetings Act training is availiable in the Online Learning Center at **onlinelearning.tasb.org**.

Attend one to two hours of Public Information Act (PIA) training if required by local policy. Board member training on the PIA is recommended but not required if the district has delegated responsibility for the training to the superintendent or other administrator in Policy BBD(LOCAL). Tex. Gov't Code § 552.012. *See TASB Policy BBD(LEGAL), (LOCAL).*

> TASB Legal Services has online resources about the Texas Open Meetings Act at schoollawesource.tasb.org. The Texas attorney general offers free online training at texasattorneygeneral.gov.

TASB

215650854 MAY 2023

First 120 days

If you have not already attended a local orientation, receive orientation to local district policies and procedures, including, but not limited to, an introduction to the following:

- Current school board policy manual and any operating procedures
- Policies governing board meetings and trustee responsibilities in policy manual Section B on Governance
- District goals and priorities
- District budget calendar and process for board adoption of budget and tax rate
- Superintendent evaluation instrument and process

Attend three-hour orientation on the Texas Education Code delivered by regional education service center.

Attend a three-hour *Evaluating and Improving Student Outcomes (EISO)* session at a regional education service center with an authorized provider. TASB is an authorized EISO provider and can offer these sessions at our conferences or per requests from local boards.

Attend one-hour training on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children. Trustees can also meet this training requirement in the Online Learning Center at **onlinelearning.tasb.org**. *See TASB Policy BBD(LEGAL).*

Complete the Texas School Safety Center's two-hour school safety course provided free online at SBOE - School Safety Training - TEA Learn. **register.tealearn.com/courses/sboe---school-safety-training**

First year

Participate in team-building session and assessment of continuing education needs with district board of trustees and superintendent.

Attend at least 10 hours of additional continuing education based on assessed needs and state-adopted Framework for School Board Development.

Attend annual cybersecurity training in accordance with with the Texas Department of Information Resources guidelines. *See TASB Policy CQB(LEGAL) and DIR Certified Cybersecurity Training. See TASB Policy BBD(LEGAL).*

> You can find more information about school board trustee training requirements, including a list of approved training providers, on the Texas Education Agency website at **tea.texas.gov/Texas_schools/school_boards/school_board_member_training.**

> For more information on board training and other legal requirements, visit TASB School Law eSource **schoollawesource.tasb.org**.

Additional Resources

Board development and events | TASB Board Development Services | **tasb.org/board-dev**, 800.580.8272

Continuing education credit | TASB Board Development Services | **cec.tasb.org**, 800.580.8272

TASB login | **loginsupport@tasb.org**, 800.436.8501

Policy | TASB Policy Service | **policy.tasb.org**, 800.580.7529

TASB Legal Services | **Legal Line** | legal.tasb.org, 800.580.5345

TASB Member Center | tasb.org/members

TASB publications | **store.tasb.org**

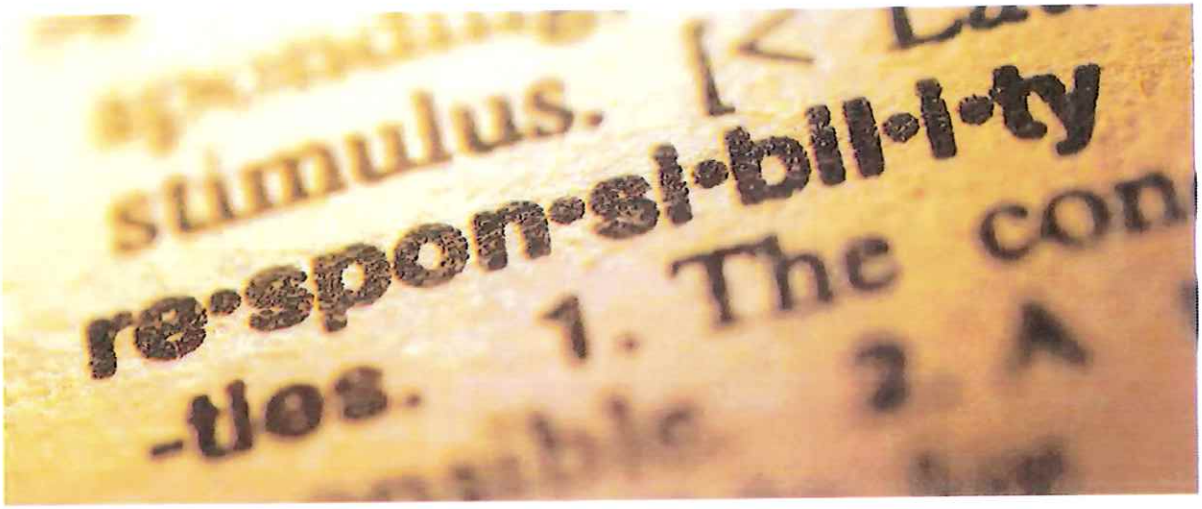
TASB School Law eSource | schoollawesource.tasb.org

TASB website | **tasb.org**

Texas Association of School Boards
P.O. Box 400
Austin, Texas 78767-0400

tasb.org

What Are a Texas School Board's Roles and Responsibilities?



The main function of the school board is to provide local, citizen governance and oversight of education. Though ultimate responsibility for education rests with the state, Texas has delegated much of the authority to local communities who elect their local school trustees to govern the school district.

The idea behind this structure of shared responsibility is that, while some education policy issues are best addressed at the state level, others are far better addressed by your local community.

Within the framework of state and federal law and State Board of Education and commissioner of education rules, your school district has significant latitude in shaping the educational programs of your schools.

The operation of the school district at the local level is also a shared activity. The role of the school board members and the role of the superintendent are different:

- Your school board governs the district, but it does so with the advice of the superintendent.
- The superintendent manages the district, but he or she must do so with the oversight and management of the board, and within the framework of policies and priorities your board adopts.

Local school board responsibilities

Local school board responsibilities can be grouped into five categories:

- Adopt goals and priorities and monitor success
- Adopt policies and review for effectiveness
- Hire and evaluate the superintendent
- Adopt a budget and set a tax rate
- Communicate with the community

Let's explore what each of these means for your school board.

Adopt goals and priorities and monitor success

District planning is one of the most important tasks your board can perform. Developing a vision, and adopting goals and priorities for the district, sets the course and keeps the district moving in a positive direction.

Truly effective boards often refer to their district's vision and goals when preparing for meetings or making decisions. Developing a strong vision and goals helps a board have a North Star to refer back to when it's time to make tough decisions. Vision and goals keep school governance focused on top priorities like student achievement.

Research on effective school governance points to two board functions with a strong connection to student achievement:

- The board holding high expectations for student learning and communicating those expectation through the district's vision and goals
- The board staying engaged with the student learning goals through regular goal progress monitoring

To that end, the board reviews regular reports from the administration on district operations and progress toward goals. Some goals in your district may be stated in terms of measures included in the state's Texas Academic Performance Reports (TAPR).

TAPR can help your district gauge student achievement and other districts measures. It helps your district compare its performance to other districts and campuses of similar size, wealth, and student populations.

Adopt policies and review for effectiveness

A key responsibility of the board is to adopt local policies that guide how the district operates. Your administration and district staff make important decisions based on district policies. Local school boards must adopt policies that are consistent with federal and state laws and regulations and should ensure they match district practice.

Your district's policy manual will have two types of policies (Legal and Local) in many areas.

- Legal policies contain any statements of state or federal law or other legal authority on a topic and are not adopted by the board
- Local policies include governance provisions that the local board has put in place

By distinguishing these two, the board and the public can clearly see what part of district operations are mandated by state and federal law, and which are adopted at the board's discretion.

Learn the basic steps to developing and adopting school district policy and find out the difference between school board policies and regulations.

Hire and evaluate the superintendent

The board sets goals and priorities and adopts the policies by which the district is run. The board also hires a superintendent to execute on the board's decisions.

The role of the superintendent is to:

- Act as chief executive officer of the district
- Ensure that the board's policies are implemented fairly and appropriately
- Move the district forward on the board's goals and priorities
- Be accountable for the progress made toward successful school operations

While the board's focus is oversight of management, policymaking, planning, and evaluation, the superintendent's focus is on implementation and managing day-to-day operations.

The board must also develop superintendent performance goals and evaluate the superintendent's progress. Read more about how to conduct a superintendent evaluation.

Adopt a budget and set a tax rate

The school board's role in adopting a budget is an ongoing activity. The superintendent and staff crunch the numbers for the school district budget and present it to the board for approval.

So, when it comes to the school district budget, what does the school board do?

- Review and approve a calendar for the budget preparation cycle
- Examine budget assumptions, broad guidelines and targets that administration uses in preparing a budget
- Study the budget proposal to make sure it reflects the goals and priorities the board established
- Hold required public hearings
- Adopt a budget and approve an appropriate tax rate to fund it
- Monitor the district's fiscal activity throughout the year and amend the budget if necessary
- Hire an independent auditor and approve the report from the annual financial audit

School board members who want to exercise responsible stewardship of district finances should be armed with two tools:

- Basic information about the district's budget, so they can anticipate the district's revenue profile in coming years
- A habit of asking about the long-term fiscal impact of board decisions, so they can begin to understand the complexities of budget decision and avoid making decisions that put the district in a difficult position down the road

Find out the right questions to ask about your school district's budget.

Communicate with the community

Your board's final major responsibility is to serve as an advocate for public schools. One of the key things trustees can do is to listen to their community. It's one of the best ways for trustees to build trust between the district and community.

Keep your community involved by informing them about:

- District plans
- Actions
- Accomplishments

Board members are the link between the school system and the public. As advocates for public education, board members help grow community support for public schools and report district progress by communicating with the community, students, staff, parents, and the media.

Once your board makes a decision, the board's role is to engage the community in ways that:

- Promote continued constructive discussion

- Generate positive community interest in the efforts of the public schools

It's a difficult job, but serving as a school trustee carries a much greater burden than simply being a representative.

Texas Association of School Boards • Legal Services
P.O. Box 400 • Austin, Texas 78767-0400 • 512.467.3610 • 800.580.5345 • legal.tasb.org • legal@tasb.org

Serving Texas Schools Since 1949

Roles and Responsibilities of Individual School Board Members

Published online in TASB School Law eSource

Board members are elected to serve as trustees for their school districts. As such, they have the opportunity and responsibility to participate in matters of school business. An independent school district is governed by a board of trustees who, as a body corporate, shall oversee the management of the district. Tex. Educ. Code § 11.051(a).

Trustees, however, must operate as "a body corporate," which means no single board member may act alone. Tex. Educ. Code § 11.051. So how do the roles and responsibilities of each individual trustee intersect with the role of the board as an entity?

The Limits of Free Speech

Although board members and other public officials do not lose their free speech rights when they enter public office, the U.S. Supreme Court has acknowledged that restrictions on speech based upon the necessities of governmental functions do not violate the First Amendment. *See Asgeirsson v. Abbott*, 773 F. Supp. 2d 684 (W.D. Tex. 2011) (concluding that the Texas Open Meetings Act (OMA) requirement that open meetings take place in public was necessary to provide the governmental function of transparency and therefore did not violate the First Amendment). In other words, school board members have free speech rights, but when they are acting in their official capacity, those rights may be limited to serve the legitimate needs of the public.

On the one hand, the government may not limit public officials' capacity to discuss their views of local or national policy. The Supreme Court has observed that the interest of the public in hearing all sides of a matter of public concern would not be advanced by extending more free speech protection to citizen-critics than to public officials. Instead, the public benefits by knowing what governmental officials think so the public can judge whether the elected officials are truly the best people to represent them. *Bond v. Floyd*, 385 U.S. 116 (1966).

On the other hand, a board member's personal right to free speech does not extend to using the advantage of public office to promote personal views. For example, when a judge who had been censured for holding a press conference in his courtroom to address allegations made by a litigant appealed the censure, the Fifth Circuit struck down the censure order "[t]o the extent that [it] censured [the Judge] for the content of his speech, shutting down all communication between the Judge and his constituents;" however, the Fifth Circuit held that the portion of the order that was directed at the judge's "use of the trappings of judicial office to boost his

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

message, his decision to hold a press conference in his courtroom, and particularly stepping out from behind the bench, while wearing his judicial robe, to address the cameras" survived strict scrutiny. *Jenevein v. Willing*, 493 F.3d 551, 560 (5th Cir. 2007). In other words, the judge had a right to speak out about the allegations, but not to use the courtroom as a platform.

In the same way, board members' right to speak out and advocate regarding school business is not unlimited. Sometimes the limits come from legal requirements like the OMA or prohibitions on the use of public funds for political advertising. Tex. Gov't Code ch. 551; Tex. Elec. Code ch. 255. Other times these limits are self-imposed by a school board in the form of a local policy or board operating procedure adopted in the interest of best school district practices. See TASB Policy BE(LOCAL).

Board Meeting Attendance and Participation

A school board member holds the rights and obligations of the office until replaced by a duly-qualified successor. Tex. Const. art. XVI, § 17. The office changes hands only when another person has been elected (or, in the case of a board member's resignation, appointed) to the office and has taken the oath of office. In Texas, school board members are not subject to recall by the voters, nor may they be removed by an action of the rest of the school board. Tex. Civ. Prac. & Rem. Code §§ 66.001-.002 (providing for quo warranto action in district court); Tex. Loc. Gov't Code § 87.015 (providing for removal by petition and trial).

Consequently, a qualified board member is entitled to participate in deliberation and voting, unless there is a conflict of interest that prevents the board member's participation.

Voting

All board members may vote on all matters, absent a conflict of interest. (See Legal Conflicts of Interest, below.) To vote, a trustee must attend the board meeting in person (unless the meeting is being held by videoconference in accordance with the OMA) and cast a vote in public. Proxy votes, secret ballots, and straw polls are not permissible; nor is voting of any kind in a closed meeting. Tex. Gov't Code § 551.102; Tex. Att'y. Gen. Op. No. JH-1163 (1978). The board president has the same opportunity to vote and deliberate as any other board member. See TASB Policy BE(LEGAL). See TASB Legal Services' FAQ on Voting.

A trustee is not obligated to deliberate or cast a vote, even if state law would not prohibit participation. At times, a trustee may feel too involved with a certain situation or with a particular vendor to make an unbiased decision and may abstain. The trustee may also choose to abstain from participation to avoid the appearance of impropriety. Through local policy, most school districts have adopted a local board member code of ethics that can assist trustees in evaluating their circumstances and determining when to abstain. See TASB Policy BBF(LOCAL).

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

Public officials have argued that restricting their ability to vote based on conflicts of interest would be an unconstitutional restraint on the officials' exercise of free speech. However, these arguments have failed. In *Nevada Comm'n on Ethics v. Carrigan,* the U.S. Supreme Court considered this question when a city council member challenged his censure by the Nevada Commission on Ethics for failing to disclose a business relationship with a vendor and recuse himself from voting on a construction project. The Court agreed to hear the case and directly addressed the question of whether restrictions upon an official's vote are restrictions upon the official's protected speech. The Court opined that a public official casts a vote in trust for the official's constituents, not as an act of personal power. According to the Court, the act of voting is not, in and of itself, symbolic speech. Rather, even though a vote may reflect an official's deeply held personal belief, and even if the official would like the vote to convey that belief, the official's belief does not transform the action of voting into First Amendment speech. *Nevada Comm'n on Ethics v. Carrigan*, 564 U.S. 117 (2011).

Legal Conflicts of Interest

In certain circumstances, a board member may be legally prohibited from participating in deliberation and voting on a matter when there is a conflict of interest. Examples include the following:

- **Nepotism:** When an employee related to a board member is employed pursuant to the "continuous employment" exception, the board member may not participate in any deliberation or voting on the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of the employee if that action applies only to the individual and is not taken regarding a bona fide class or category of employees. Tex. Gov't Code § 573.062(b). See TASB Policy DBE(LEGAL).
- **Substantial interest:** A trustee with a substantial interest in a business or real property must abstain from further participation in the official decision-making process if the board's action on the matter will have a special economic effect on the business entity or real property that is distinguishable from the effect on the public. Tex. Loc. Gov't Code § 171.004(a). However, abstention is *not* required if a majority of board members are required to file, and do file, affidavits of substantial interest in a particular business entity. Tex. Loc. Gov't Code § 171.004(c). See TASB Policy BBFA(LEGAL).
- **Budget items:** The school board must take a separate vote on any budget item specifically dedicated to a contract with a business entity in which a board member has a substantial interest. The member may, however, vote on the budget as a whole if the member has filed the necessary affidavit, abstained from voting on the specific item, and the specific budget item has been otherwise resolved. Tex. Loc. Gov't Code § 171.005. See TASB Policy BBFA(LEGAL).

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

- **Duty to another entity:** In many cases, state law permits an individual to hold two positions, such as serving simultaneously as a school board member and as a director for a private corporation. Separate laws governing the actions of the individual while serving in the second capacity may affect the individual's ability to participate in school board decision making. Assume, for instance, that a school board member is also on the board of a nonprofit corporation. If the trustee ignores a potential conflict of interest between the school district and the nonprofit, the trustee could be sued for breach of the trustee's fiduciary duty to the nonprofit. Tex. Att'y Gen. Op. No. DM-0256 (1993) (citing *Blocker v. State*, 718 S.W.2d 409 (Tex. App.—Houston [1st Dist.] 1986, writ ref'd n.r.e.)). A trustee should consider the trustee's obligations to both the school district and the other entity before participating in school board matters.

Exclusion from a Meeting

The circumstances under which a board member can be excluded from a board meeting are exceptionally rare.

Open meetings: Like all members of the public, board members are permitted to attend open meetings. Even board members with a conflict of interest on a matter before the board may (but do not have to) attend the portion of an open meeting related to that item, even if they are not participating in the deliberation and vote. If there is a disruption during a meeting involving board members, the presiding officer typically calls a recess until all are able to resume.

Closed meetings: A board member who is prohibited from participation (meaning deliberating and voting) due to a legal conflict of interest may still be able to attend (sitting silently) a closed meeting regarding the matter; however, the attorney general has *strongly suggested* that a public official choose to refrain from attending the portion of a closed meeting that addresses such a matter in order to avoid the appearance of impropriety. Tex. Att'y Gen. Op. No. GA-0334 (2005). In addition, a school board may exclude a particular trustee from a closed meeting if the trustee has taken a legal position adverse to the district on the subject of the closed meeting and disclosure of the deliberation would compromise the district's position as to that matter. In one case, the attorney general ruled it was proper for a school board to exclude from closed session a trustee who had sued the school district. The board could prevent the trustee from hearing the board's consultation with its attorney regarding defense strategy or settlement of the claim. Tex. Att'y Gen. Op. No. JM-1004 (1984). A board should always consult with an attorney before excluding a trustee from any portion of a meeting.

Placing an Item on a Future Agenda

For districts using TASB Policy BE(LOCAL), local policy permits a single board member to request that an item go on the agenda for an upcoming meeting. In planning an agenda, the superintendent and board president must ensure that all trustee requests appear on the present agenda or are scheduled for a future agenda. No item may be removed from an agenda

© 2022. Texas Association of School Boards, Inc. All rights reserved.

without the permission of the requesting trustee. The attorney general has noted that a board cannot adopt a procedure that has the net effect of precluding individual board members from placing an item on the agenda. Tex. Att'y Gen. Op. No. DM-0228 (1993).

A board president or superintendent who chooses to delay or deny a board member's request should consult with the board member about the request. If a board member believes that a requested item is being improperly kept off the board's agenda, the board member may raise the issue during a board meeting. Because the item does not appear on that board meeting's agenda, the board is not permitted to discuss the merits of the matter. The board is permitted to vote, however, on whether to place the item on a future agenda. Tex. Gov't Code § 551.042.

Speaking at a Board Meeting about an Item Not on the Agenda

Because board members have the opportunity to request specific agenda items, speaking during public comment on an item that is not on the agenda may violate the OMA. For example, the Hays County Commissioners Court posted a meeting notice that included an item listed as "Presentation by Commissioner Molenaar" under the heading "Proclamations & Presentations." When Molenaar spoke, his comments went into some detail about a proposed county transportation plan. A taxpayer organization sued the county for OMA violations. The court of appeals concluded that "presentation" was too vague a description to give the public notice of the subject matter. *Hays County Water Planning P'ship v. Hays County*, 41 S.W.3d 174 (Tex. App.—Austin 2001, pet. denied).

Similarly, after the chair of the Board of Directors of the Brazos Valley Groundwater Conservation District (BVGCD) refused a board member's request to add an item to a board agenda out of concern that it related to pending litigation, the board member attempted to sign in and make a public comment at the board meeting. When he was not allowed to address the board, he joined the pending lawsuit against the BVGCD, alleging a violation of his First Amendment right to free speech. The district court ruled in favor of the board, and the Fifth Circuit affirmed. The court concluded that, given the board member's status as a public official, he was governed by the OMA and did not have the same rights as a member of the public when attending a BVGCD meeting. *Stratta v. Roe*, 961 F.3d 340 (5th Cir. 2020).

If a board member or a member of the public asks about a subject that is not on the agenda during a meeting, the board may only:

- **Give factual information:** Make a statement of specific factual information, e.g., "The deadline for submitting bids on that proposal is December 29, 2021."
- **Give a policy reference:** Recite existing policy in response to the inquiry, e.g., "Complaints by a parent against a district employee should be submitted under the district's local policy FNG (LOCAL)."

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

- **Place on a future agenda:** Deliberate about or decide whether to place the subject on the agenda for a later meeting. Tex. Gov't Code § 551.042.

Making Personal Recordings

The OMA permits any person to record all or any part of an open meeting by audio recorder, video camera, or other means of aural or visual reproduction. The board may adopt reasonable rules to maintain order relating to any such recording, such as the location of the recording equipment and the manner in which the recording is conducted. Tex. Gov't Code § 551.023. The same is not true in closed meetings, however. Neither board members nor other individuals may audio record a closed meeting absent authorization by the board. *Zamora v. Edgewood Indep. Sch. Dist.*, 592 S.W.2d 649 (Tex. Civ. App.—Beaumont 1979, writ ref'd. n.r.e.).

Activities Outside of Board Meetings

Persuading Fellow Board Members

Board members are permitted to speak to each other and to the district administration (in person and through electronic communications) about public business outside of board meetings. They may "lobby" each other on relevant matters. Board members must take care, however, not to violate the OMA with these discussions. The Fifth Circuit has concluded that government officials do not have a First Amendment right to discuss public policy and public business among a quorum of their governing body in private, concluding that the OMA is not unconstitutional in its regulation of public business. *See Asgeirsson v. Abbott*, 773 F. Supp. 2d 684 (W.D. Tex.2011), aff'd, 696 F.3d 454 (5th Cir. 2012) (finding the OMA was not vague or overbroad with respect to indictment of city council members for emails about public business).

A *meeting* under the OMA happens whenever a quorum deliberates school business. Tex. Gov't Code § 551.001(4). *Deliberation* means a verbal exchange during a meeting between a quorum of a board, or between a quorum of a board and another person, concerning an issue within the jurisdiction of the board or any other public business. Tex. Gov't Code § 551.001(2). According to the Texas Supreme Court, "When a majority of a public decisionmaking [sic] body is considering a pending issue, there can be no 'informal' discussion. There is either formal consideration of a matter in compliance with the Open Meetings Act or an illegal meeting." *Acker v. Tex. Water Comm'n*, 790 S.W.2d 299, 300 (Tex. 1990). An illegal meeting can occur if a quorum deliberates school business outside of a posted meeting, even if the quorum does not meet at one time or place. *Hitt v. Mabry*, 687 S.W.2d 791 (Tex. App.—San Antonio 1985, no writ); Tex. Att'y Gen. LO-95-055 (1995).

A *walking quorum* occurs when members of a governmental body deliberately hold serial meetings of less than a quorum outside of a public meeting and then ratify the decisions made in private at a subsequent public meeting in an attempt to circumvent the OMA. *Esperanza Peace & Justice Ctr. v. City of San Antonio*, 316 F. Supp. 2d 433 (W.D. Tex. 2001). A board member

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

commits an offense if the member knowingly engages in communications in violation of the OMA, and if the member knew that the communication involved or would involve a quorum and would constitute a deliberation. Tex. Gov't Code § 551.143(a). This offense is a misdemeanor punishable by fine, confinement, or both. Tex. Gov't Code § 551.143(b). *See also* Tex. Att'y Gen. Op. No. GA-0098 (2003) (warning against holding serial, closed, quorumless meetings).

Preserving School District Records

Under the Texas Public Information Act (PIA), a school board member is a *temporary custodian* of school district records to the extent, in the transaction of official business, the board member creates or receives *public information* that the member has not provided to the district's public information officer (i.e., the superintendent). Tex. Gov't Code § 552.003(7). *Public information* is defined broadly to include any district information created or maintained in connection with the transaction of official business and located on any device. Tex. Gov't Code § 552.002(a)-(a-2). As a temporary custodian, a board member may either forward the public information to the district or preserve information as required by the PIA and other laws governing the preservation and retention of local government records, including Texas Government Code chapter 441 and Texas Local Government Code Title 6. Tex. Gov't Code § 552.004(b)-(c). For this reason, board members are well-advised to limit electronic exchanges related to school business to software applications (like district email) that are accessible to and retained by the school district. For more information, see TASB Legal Services' memo Board Member Responsibilities as Temporary Custodians.

Reviewing School District Records

Trustees have a special right of access to existing district records to the extent necessary to do their job. Tex. Att'y Gen. Op. No. JM-0119 (1983).

Requesting records: A board member, acting in an official capacity, may request information and records from the district without the need for a public information request. Information not subject to disclosure as public information may be redacted or withheld, and the district is required to track and periodically report certain information about board member requests for records. Tex. Educ. Code § 11.1512(c)-(f). Of course, trustees should observe good governance practices, requesting only the documents needed to perform their appropriate functions and following established procedures for making document requests. On the other hand, most boards have a local policy that requires a majority vote before the board will commission the creation of a new report. See TASB Policy BBE(LOCAL). See also TASB Legal Services' memo on Board Member Access to School District Records.

Access to closed meeting records: Either a certified agenda or an official audio recording must be kept of the proceedings of each closed meeting, except for a governmental body's private consultation with its attorney. Tex. Gov't Code § 551.103(a). A certified agenda or recording of

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

a closed meeting is available for public inspection and copying only under a court order. Tex. Gov't Code § 551.104(c). However, current trustees who attended a closed meeting may review the certified agenda or audio recording of that meeting. Tex. Att'y Gen. Op. No. DM-0227 (1993). Current board members may also review the recording or certified agenda of a closed meeting they did *not* attend. Tex. Att'y Gen. Op. No. JC-0120 (1999). Although a board may adopt reasonable procedures for review of closed meeting records, the board may not absolutely prohibit a board member from reviewing the recording or certified agenda. While a board member may review the record, this does not include the authority to obtain a copy of the record. Former board members may not review a recording or certified agenda after they have left office. Tex. Att'y Gen. Op. No. JC-0120 (1999).

Talking to the Public or the Press

Like all citizens, individual board members may voice their opinions to the public or the press. Nevertheless, important practical considerations should guide board members speaking publicly about school business. First, because the board acts only as "a body corporate," many school boards have a board operating procedure that appoints the board president as a spokesperson; other board members are free to speak to the press or the public but should clarify that their statements reflect their own views, not necessarily the official position of the board. Moreover, board members should not use the press as a vehicle for communicating with each other; such communications undermine good working relationships and the purpose of open meetings.

Public statements may also telegraph bias on contested matters. Generally, a board member is presumed to be impartial absent specific evidence of actual bias. *Nardone v. El Paso Indep. Sch. Dist.*, Tex. Comm'r of Educ. Decision No. 151-R1-798 (Aug. 25, 1998). In some cases, however, board members act in the role of a judge or tribunal by hearing appeals of contested cases. Examples include grievances, employee contract appeals, and other contested matters, many of which require due process of law. The concept of due process calls for the board to serve as an impartial decision maker, which means board members should come to the hearing with an open mind.

Public statements by a board member expressing an opinion on pending matters may be considered evidence of bias or prejudgment on the issue. This evidence of bias may be used to call into question the validity of board action. *See, e.g., Valley v. Rapides Par. Sch. Bd.*, 118 F.3d 1047 (5th Cir. 1997) (overturning a superintendent's termination when the record showed that four members of a nine-member school board had made public statements indicating bias against the superintendent).

Finally, disagreement among the board is to be expected from time to time, but most boards encourage individual members to express their views during the debate of a matter and to refrain from criticizing decisions after the fact. For example, many boards commit in their code of ethics to air their disagreements during board deliberations, but to avoid undermining final majority decisions afterwards. See TASB Policy BBF(LOCAL) ("I will respect the majority decision as the

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

decision of the Board."). That said, board members have a constitutionally protected right to express dissent. *See City of Corpus Christi v. Bayfront Assoc., Ltd.*, 814 S.W.2d 98 (Tex. App.—Corpus Christi–Edinburg 1991, writ denied) (observing that a city council member who disagreed publicly with a decision of the council could not be "sanctioned" for voicing her disagreement).

For more information, see TASB Legal Services' Social Media Guidelines Use by Board Members.

Interacting with Staff

A district's employment policy must provide each employee with the right to present grievances to the board, and the policy may not restrict the ability of an employee to communicate directly with a member of the board regarding a matter relating to the operation of a district, with the exception of communications about a pending appeal under Texas Education Code chapter 21 regarding employment contracts or another appeal or hearing in which *ex parte* communication (i.e., communication with only one party in a pending matter) would be inappropriate pending a final decision by the board. Tex. Educ. Code § 11.1513(i)-(j). See TASB Policy DGBA(LEGAL) and (LOCAL).

That said, local school boards routinely establish guidelines for school board members that emphasize that individual members are not authorized to respond to complaints from individual employees or other citizens. Instead, complaints or concerns should be redirected through the chain of command to an appropriate administrator. Boards set this expectation in board policies, board operating procedures, and often their superintendent contracts.

Board members should avoid asking school employees, other than the superintendent, to perform any tasks or favors for the board member. Not only do such requests disrupt the chain of command, but they also risk the board member being accused of micromanagement or abuse of official capacity.

Visiting Campuses

Each school board is required to establish a policy regarding board members' visits to district campuses or facilities. Tex. Educ. Code § 11.1512(g). See TASB Policy BBE(LOCAL).

Liability Issues

Preserving Confidential Information

The audio recording or written record of a closed meeting, called a certified agenda, is confidential by law. A person who knowingly discloses a certified agenda or a recording of a closed meeting to a member of the public, without lawful authority, commits a Class B misdemeanor. Tex. Gov't Code § 551.146. The penalty is a fine not to exceed $2,000, jail confinement not to exceed 180 days, or both. Tex. Penal Code § 12.22.

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

Although the unauthorized release of an audio recording or certified agenda from a closed meeting is a criminal offense, there is no comparable statutory prohibition in the OMA specifically preventing other disclosure of the subject or content of closed meeting discussions. The attorney general has stated that the restrictions on the disclosure of the certified agenda or recording do not prohibit board members or other persons who attend a closed meeting from making public statements about the subject matter of a closed meeting. The attorney general's conclusion was based on the fact that (1) school board members and others present during a closed meeting possess constitutional rights to freedom of speech; and (2) in enacting the certified agenda or recording requirement, the legislature apparently intended only to ensure the preservation of the record of closed meeting discussions. Tex. Att'y Gen. Op. No. JM-1071 (1989).

Despite this ruling, there are several compelling reasons for a trustee not to reveal the content of closed meeting deliberations. First, as a *trustee* to the district, a board member owes a fiduciary obligation to the district to put its interests ahead of the board member's own. Disclosure of information discussed in a closed meeting, such as the negotiating position of the district, could harm the district's interests. Consequently, the trustee could be subject to a civil lawsuit for breach of fiduciary duty.

Second, disclosing information discussed in a closed meeting is inconsistent with the board's local policies. Most school districts have adopted a local policy stating that a trustee will not "disclose information that is confidential by law or that will needlessly harm the District if disclosed." Trustees also commit to "consistently uphold all applicable laws, rules, policies, and governance procedures." See TASB Policy BBF(LOCAL). While these ethical standards may not create a separate legal cause of action, they define the policy duties of the trustee.

Third, an individual board member may be sued for *defamation*. Defamation occurs when an individual, acting with actual malice if the target is a public figure or with mere negligence if the target is a private individual, publishes or prints a statement that "tends to impeach [a] person's honesty, integrity, or virtue." *Marshall v. Mahaffey*, 974 S.W.2d 942, 949 (Tex. App.—Beaumont 1998, pet. denied). A school board member can claim official immunity in such suits if the statement was made by the member while performing a discretionary duty in good faith and within the scope of the member's authority. The defense of official immunity will fail, however, if the board member's statements were not made in good faith and within the scope of the board member's authorized duties. A successful plaintiff could recover monetary damages caused by the statement plus exemplary damages. *Kinsey v. Ryan*, No. Civ. A. 398CV-1000-BC, 1998 WL 920329 (N.D. Tex. Dec. 31, 1998) (mem. op.).

Fourth, depending on how confidential information is used, a board member may be subject to criminal liability for *misuse of official information.* The Texas Penal Code specifically prohibits a public official from misusing information that has not been made public and to which the official has access by virtue of the public office. Official information is information to which the public generally does not have access and which is prohibited from disclosure under the PIA. Depending on the circumstances, information discussed in a closed meeting may fall in this

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

category. A trustee may run afoul of this provision by relying on official information to acquire (or help someone else to acquire) a financial interest in property, a transaction, or an enterprise affected by the information or discloses or uses official information for a non-governmental purpose with intent to benefit from or harm or defraud another. Violation of this provision is a third-felony. Tex. Penal Code § 39.06.

Finally, a board member's disclosure of closed meeting discussions undermines the purpose and integrity of the closed meeting. The closed meeting exceptions represent the legislature's determination of the subject areas that warrant discussion outside the public's view. Disclosing discussions or information about these subjects may inhibit open discussion of issues in future closed meetings. For all these reasons, it is highly inadvisable for board members to disclose information regarding deliberations in closed meetings.

Defamation against Board Members

While the First Amendment may sometimes be called upon to protect speech by public officials, it is more often called upon to protect speech about and against public officials. School board members must have thicker skin than ordinary citizens when it comes to personal attacks. *See, e.g., Greer v. Abraham,* 489 S.W.3d 440 (Tex. 2016) (concluding that a school board member is a public figure justifying a heightened standard requiring proof of "actual malice" to support a defamation claim). Accordingly, public officials must tolerate more significant actions taken in response to their exercise of free speech than an average citizen would before the actions are considered adverse. *Mattox v. City of Forest Park*, 183 F.3d 515 (6th Cir.1999). In Texas, even candidates for school board are considered public officials, subject to the heightened standard of actual malice to support a defamation claim. *Schofield v. Gerda*, No. 02-15-00326-CV, 2017 WL 2180708, at *1 (Tex. App.—Fort Worth May 18, 2017, no pet.).

Not only is it harder for a school board member to claim defamation, but any such claim could be struck down as a "SLAAP," which stands for a Strategic Lawsuit Against Public Participation. A SLAPP is considered a meritless lawsuit aimed at stopping citizens from talking about issues of public concern. In response to a growing number of defamation claims related to online speech, the Texas Legislature passed the Texas Citizens Participation Act (TCPA), more generally known as an anti-SLAPP law, in 2011 to "protect people's right of free speech, petition, or association." Bill Analysis, Tex. H.B. 2973, 82d Leg., R.S. (2011). In 2019, the Texas Legislature went back to the TCPA and substantially amended the law to clarify what parties were subject to the law. Importantly, a government entity, agency, or an official or employee acting in an official capacity *cannot* file a TCPA motion to dismiss. This includes school districts, school boards, and school board members acting in their official capacity. Tex. Civ. Prac. & Rem. Code § 27.003(a).

Censure

Nothing in the U.S. Supreme Court's precedent "suggests the Court intended for the First Amendment to guard against every form of political backlash that might arise out of the everyday squabbles of hardball politics," and "the First Amendment may well prohibit retaliation against

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

elected officials for speech pursuant to their official duties only when the retaliation interferes with their ability to adequately perform their elected duties." *Willson v. Yerke*, 604 F. App'x 149, 151 (3rd Cir. 2015) (affirming summary judgment in favor of township and board of supervisors on allegations by former member that chairman and other members insulted and threatened him, directed obscene gestures at him, and changed locks on township garage).

Under most circumstances, conflicts and miscommunications among board members can be addressed by ensuring that board members receive regular continuing education and that local boards collaborate to develop and review sound board operating procedures.

In the event a board member's actions deliberately violate local policy or board operating procedures, the rest of the board may consider addressing the concerns by taking the following steps:

- A private conversation between the offending member and the board president or other appropriate individual.
- A confidential conversation between the offending member and the board and the district's school attorney.
- Discussion in closed session between the offending member and the full board.
- If private conversations have not been effective, the board could seek the assistance of the school district's attorney to express in writing concerns about specific policy violations.
- If all possible private interventions have not been effective, board members may make public statements to distance themselves from the acts or statements of another board member.

While board members each have a protected First Amendment right to express their views on matters of public concern—including views about the acts or statements of a fellow board member—a board that is considering a formal reprimand, censure, or sanction against an individual member of the board should consult its school attorney to carefully consider the costs and benefits of such actions. Public censure of a fellow board member often leads to protracted and expensive litigation with claims and counterclaims of unconstitutional restrictions on protected speech. In *Houston Community College System v. Wilson*, the U.S. Supreme Court reviewed the claim by a community college trustee that the board's vote to publicly censure the trustee for actions not consistent with the best interests of the college and board violated the First Amendment. The Fifth Circuit Court of Appeals had determined that the trustee's allegation of censure in retaliation for speaking out on a matter of public concern was sufficient to establish an actionable harm for lower court review of the claimed damages. In reversing the Fifth Circuit's ruling, the Supreme Court noted that "elected bodies in this country have long exercised the power to censure their members" and that members should expect "a degree of criticism about their public service from their constituents and their peers." As to the

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

trustee's claim that the censure constituted an unconstitutional adverse action in response to speech, the Court reasoned that the First Amendment "cannot be used as a weapon to silence other representatives" from seeking to exercise their same rights to speak on matters public policy. The Court cautioned that its holding was limited to a verbal censure of a member of an elected body by other members, not to more extreme forms of punishment like expulsion or exclusion. *Houston Cmty. Coll. Sys. v. Wilson*, 142 S. Ct. 1253, 1259-61 (2022).

Personal Legal Liability

School board service is a voluntary role and should not typically subject board members to personal liability. That said, when board members stray from acting in good faith within the scope of their appropriate role on the board, risks may ensue. Board members can be subjected to two types of liability: civil and criminal. Board members almost always have immunity from liability for civil claims. Civil claims are lawsuits by individuals seeking either monetary damages or injunctive relief from the school district. Board members are immune from liability for discretionary acts done in good faith within the course and scope of their role on the board. *City of Lancaster v. Chambers*, 883 S.W.2d 650 (Tex. 1994); Tex. Educ. Code § 22.0511.

Plaintiffs in state lawsuits must choose to sue either the school district as an entity or an individual person (employee or board member) who allegedly caused the harm. Tex. Civ. Prac. & Rem. Code § 101.106. Generally speaking, unless a plaintiff is claiming that a board member acted separate and apart from the rest of the board—for example, the plaintiff claims the board member made a defamatory statement—suit will be brought against the district, not an individual board member.

If a civil suit, like a defamation claim, is brought against a board member in the member's individual capacity, the board member may be able to rely on the district's director and officer (D&O) insurance to mount a defense, as long as the board member was acting in good faith in the course and scope of the board member role. Tex. Att'y Gen. Op. No. JH-0070 (1973). If, however, the board member was not acting in good faith, the board member's actions may not be covered by the district's insurance. In these rare circumstances, a board member may have a conflict of interest with the school district that would require the individual to rely on personal resources, such as homeowner's insurance or personal assets, to defend the claim. Tex. Att'y Gen. Op. No. GA-0878 (2011). Whether public funds may be spent on a board member's defense must be decided on a case-by-case basis. Tex. Att'y Gen. Op. No. GA-0115 (2003). A school district may not expend public funds to represent the purely personal interests of an individual trustee. Tex. Att'y Gen. Op. Nos. DM-0488 (1998), JM-0968 (1988), JH-0070 (1973).

Board members are also immune from federal claims unless their conduct violates clearly established rights of which reasonable person would have known. *Harlow v. Fitzgerald*, 457 U.S. 800 (1982). As supervisory officials, board members may be considered liable for the acts or omissions of subordinates only if: (1) the board members learned of facts or a pattern of behavior by a subordinate pointing plainly toward the conclusion that the subordinate was

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

depriving someone of federal rights; (2) the board member demonstrated deliberate indifference toward the individual's rights by failing to take action that was obviously necessary to prevent or stop the deprivation; and (3) such failure caused injury to the individual. *Doe v. Taylor Indep. Sch. Dist.*, 15 F.3d 443 (5th Cir. 1994) (en banc). If board members do not have actual knowledge of a violation of rights, or if the board responds in a way calculated to end or prevent civil rights abuses, board members will not be liable under federal law.

Board members must be cautious to avoid the violation of a variety of state laws that carry criminal penalties. Examples include:

- Open Meetings Act
- Public Information Act
- Nepotism prohibition
- Conflict of interest disclosure laws
- Purchasing laws
- Prohibitions on gifts and bribes

If a board member is accused of a criminal act, the board member must pay the cost of criminal defense. If the board member is found not guilty, the rest of the board may vote to reimburse the board member for the cost of the defense. If, however, the board member is found guilty, the school district may not reimburse the defense costs. Tex. Att'y Gen. Op. No. JC-0294 (2000). A school district also has the authority to pay attorney's fees for a board member who sought legal representation for a criminal investigation that did not result in any criminal charges filed, provided that the board determines, subject to judicial review, that the payment will serve a public interest and not merely the member's private interest. Tex. Att'y Gen. Op. No. KP-0016 (2015).

This document is continually updated at tasb.org/services/legal-services/tasb-school-law-esource/governance/documents/roles-responsibilities-of-individual-school-board-members.pdf. For information on school law topics, visit TASB School Law eSource at schoollawesource.tasb.org.

This document is provided for educational purposes and contains information to facilitate a general understanding of the law. References to judicial or other official proceedings are intended to be a fair and impartial account of public records, which may contain allegations that are not true. This publication is not an exhaustive treatment of the law, nor is it intended to substitute for the advice of an attorney. Consult your own attorney to apply these legal principles to specific fact situations.

Published October 2022

© 2022. Texas Association of School Boards, Inc. All rights reserved.
TASB Legal Services

School Board Trustee Training

The board of trustees of an independent school district is a corporate body that has the exclusive power and duty to oversee the district management and evaluate the performance of its superintendent. All powers and duties not specifically delegated by state law to the Texas Education Agency (TEA) or State Board of Education (SBOE) are reserved for the trustees.

Texas Education Code, Chapter 11, Subchapter D (http://www.statutes.legis.state.tx.us/Docs/ED/htm/ED.11.htm) defines the powers and duties of an independent school district board of trustees.

The Framework for School Board Development (/node/102913) outlines the vision and goals, systems and processes, progress and accountability, advocacy and engagement, and synergy and teamwork needed to provide local educational programs and services that will promote excellence in student academic achievement. Initially adopted in January 1996, the framework was revised by the SBOE in November 2020.

Texas Education Code, §11.159, (https://statutes.capitol.texas.gov/Docs/ED/htm/ED.11.htm#11.159) requires the SBOE to provide a course of training for independent school district boards of trustees.

School Board Training Requirements

Continuing education requirements for independent school board trustees are established in Texas Education Code, §11.159, (https://statutes.capitol.texas.gov/Docs/ED/htm/ED.11.htm#11.159) Texas Administrative Code §61.1 (https://tea.texas.gov/sites/default/files/ch061a.pdf) and Texas Government Code, §§ 551.005 (http://www.statutes.legis.state.tx.us/SOTWDocs/GV/htm/GV.551.htm#551.005), 552.012 (http://www.statutes.legis.state.tx.us/SOTWDocs/GV/htm/GV.552.htm#552.012), and 2054.5191 (https://statutes.capitol.texas.gov/Docs/GV/htm/GV.2054.htm#2054.519). This table provides a summary of these requirements. Use the links in the *Eligible Provider(s)* column to find a provider.

Required Continuing Education	First Year in Office	Subsequent Years in Office	Eligible Provider(s)
Local District Orientation	Three hours within the first 120 days in office	N/A	Local District
Orientation to the Texas Education Code	Three hours within the first 120 days in office	N/A	Education Service Centers (https://tea.texas.gov/about-tea/other-services/education-service-centers)
Update to the Texas Education Code	Following each legislative session and of sufficient length to address major changes		• Registered Providers (http://tea4avcastro.tea.state.tx.us/school_board/registered_providers.html) • Authorized Providers (http://tea4avcastro.tea.state.tx.us/school_board/providers.html) • LSG Coaches (http://tea4avcastro.tea.state.tx.us/school_board/coaches.html)
Team-building (Team-of-eight)	Three hours	Three hours every year	• Registered Providers (http://tea4avcastro.tea.state.tx.us/school_board/registered_providers.html) • Authorized Providers (http://tea4avcastro.tea.state.tx.us/school_board/providers.html) • LSG Coaches (http://tea4avcastro.tea.state.tx.us/school_board/coaches.html)
Additional Education based on Framework for School Board Development	Ten hours	Five hours every year	• Registered Providers (http://tea4avcastro.tea.state.tx.us/school_board/registered_providers.html) • Authorized Providers (http://tea4avcastro.tea.state.tx.us/school_board/providers.html) • LSG Coaches (http://tea4avcastro.tea.state.tx.us/school_board/coaches.html)

Evaluating and Improving Student Outcomes	Three hours within the first 120 days in office	Three hours every two years	• Authorized Providers (http://tea4avcastro.tea.state.tx.us/school_board/providers.html) • LSG Coaches (http://tea4avcastro.tea.state.tx.us/school_board/coaches.html)
Sexual Abuse, Human Trafficking, and Other Maltreatment of Children	One hour within the first 120 days in office	One hour every two years	• Registered Providers (http://tea4avcastro.tea.state.tx.us/school_board/registered_providers.html) • Authorized Providers (http://tea4avcastro.tea.state.tx.us/school_board/providers.html) • LSG Coaches (http://tea4avcastro.tea.state.tx.us/school_board/coaches.html)
Open Meetings Act (OMA)	One hour within the first 90 days in office	N/A	Attorney General of Texas (https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources)
Public Information Act (PIA)	One hour within the first 90 days in office	N/A	Attorney General of Texas (https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources)
Cybersecurity	Varies by provider	Every year	Department of Information Resources (https://dir.texas.gov/View-About-DIR/Information-Security/Pages/Content.aspx?id=154)
School Safety	Two hours within the first 120 days in office	Every two years	• TEA Learn (https://register.tealearn.com/courses/sboe---school-safety-training) • Technical Support (https://app.smartsheet.com/b/form/5e77d5f134044515a7eda8ab70635e81)

Team Commendation

Local board-superintendent teams that, together, receive at least eight hours of continuing education specified in Texas Administrative Code §61.1(k) (https://tea.texas.gov/sites/default/files/ch061a.pdf#page=6) are eligible for commendation. The SBOE established this commendation in recognition of the importance of working together as a team for the benefit of Texas students. Complete and submit the commendation eligibility form (https://form.jotform.com/90995324219161) to apply.

Contact Information

School Governance
Phone: (512) 936-1533
SchoolGovernance@tea.texas.gov (mailto:schoolgovernance@tea.texas.gov)

TRAINING REQUIREMENTS FOR SCHOOL BOARD MEMBERS

Length of Service	Local District Orientation	Intro to TEC	Open Government	Cybersecurity	Post-Legislative Update to TEC	Child Abuse Prevention	Evaluating and Improving Student Outcomes (formerly SB 1566)	Team Building	Additional Continuing Education (based on assessed needs)
New Trustees *(First Year)* **~25 hrs**	Local Orientation[2] *(within 120 days)* **3 hrs**	*(within 120 days)* **3 hrs**	OMA[3] *(within 90 days)* **1-2 hrs** PIA **1-2 hrs**	**~1 hr** each year	N/A because update is incorporated into Intro to TEC	**1 hr** every two years	*(within 120 days)* **3 hrs**[2] every two years	**3 hrs**[2] each year with all trustees and superintendent	**10 hrs** first year
Experienced Trustees *(After First Year)* **9–16 hrs**[1]	Can attend, but not required				Sufficient length **~1-2 hrs** after each legislative session				**5 hrs** each year
Providers	School District	ESC	TASB or other registered provider	See Department of Information Resources website	TASB or other registered provider	TASB or other registered provider	TASB or other authorized provider	TASB or other registered provider	TASB or other registered provider

Training Requirements Notes:

[1] Required hours after the first year will vary depending on how the Post-Legislative Update, Child Abuse, and Student Achievement and Accountability hours fall for an individual trustee.

[2] Trustees may receive any training online **except** Local Orientation for new board members, Team Building, and Evaluating and Improving Student Outcomes.

[3] **OMA** and **PIA training** is required (outside of SBOE rule) of all elected officials within 90 days of election or appointment. PIA training may be delegated by district policy.

OMA: Open Meetings Act

TEC: Texas Education Code

PIA: Public Information Act

SBOE: State Board of Education

TASB

Updated 3/2021

Note: This policy addresses many of the powers and duties of the board set forth in Education Code Chapter 11, Subchapter D. For other powers and duties of the board not listed below, see the applicable policy codes.

Governance

A district is governed by a board of trustees who, as a body corporate, shall oversee the management of the district and ensure that the superintendent implements and monitors plans, procedures, programs, and systems to achieve appropriate, clearly defined, and desired results in the major areas of district operations. *Education Code 11.051(a)*

General Powers and Duties

The trustees constitute a body corporate and in the name of the district may acquire and hold real and personal property, sue and be sued, and receive bequests and donations or other moneys or funds coming legally into their hands.

Except as provided by Education Code 39A.201 and 39A.202 [see AIC], the trustees as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the district. All powers and duties not specifically delegated by statute to the Texas Education Agency (TEA) or the State Board of Education are reserved for the board, and TEA may not substitute its judgment for the lawful exercise of those powers and duties by the trustees.

The trustees may adopt rules and bylaws necessary to carry out these powers and duties.

Education Code 11.151(a), (b), (d)

Specific Powers and Duties

In addition to powers and duties under Education Code 11.151 above or other law, the board has the powers and duties provided by Education Code 11.1511(b) below, except as otherwise provided by Education Code 39A.201 or 39A.202. *Education Code 11.1511(a)*

The board shall:

1. Seek to establish working relationships with other public entities to make effective use of community resources and to serve the needs of public school students in the community.
2. Adopt a vision statement and comprehensive goals for the district and the superintendent, and monitor progress toward those goals. [See AE]
3. Establish performance goals for the district concerning the academic and fiscal performance indicators under Education

Code Chapter 39, Subchapters C, D, and J, and any performance indicators adopted by the district. [See AI series]

4. Provide oversight regarding student academic achievement and strategic leadership for maximizing student performance. *Education Code 11.1515* [See AIB]

5. Ensure that the superintendent is accountable for achieving performance results, recognizes performance accomplishments, and takes action as necessary to meet performance goals. [See BJA]

6. Collaborate with the superintendent as set forth at Education Code 11.1512(b). *Education Code 11.1512* [See BJA]

7. Adopt a policy to establish a district- and campus-level planning and decision-making process as required under Education Code 11.251. [See BQ series]

8. Publish an annual educational performance report as required under Education Code 39.306. [See AIB, BQ series]

9. Adopt an annual budget for the district as required under Education Code 44.004. [See CE]

10. Adopt a tax rate each fiscal year as required by Tax Code 26.05. [See CCG]

11. Monitor district finances to ensure that the superintendent is properly maintaining the district's financial procedures and records. [See CF series]

12. Ensure that district fiscal accounts are audited annually as required by Education Code 44.008. [See CFC]

13. Publish an end-of-year financial report for distribution to the community. [See CFA]

14. Conduct elections as required by law. [See BBB series]

15. By rule, adopt a process through which district personnel, students or the parents or guardians of students, and members of the public may obtain a hearing from the district administrators and the board regarding a complaint. [See DGBA, FNG, and GF]

16. Make decisions relating to terminating the employment of district employees employed under a contract to which Education Code Chapter 21 applies, including terminating or not renewing an employment contract to which that chapter applies. [See DF series]

17. Select the internal auditor if a district employs an internal auditor. The internal auditor shall report directly to the board. *Education Code 11.170* [See DC]

18. Adopt a policy providing for the employment and duties of district personnel. *Education Code 11.1513* [See BJ series, DC series, and DEA series]

19. Limit redundant requests for information and the number and length of written reports that a classroom teacher is required to prepare. The board shall review paperwork requirements imposed on classroom teachers and transfer to existing non-instructional staff a reporting task that can reasonably be accomplished by that staff. *Education Code 11.164* [See DLB]

20. Adopt a cybersecurity policy. *Education Code 11.175* [See CQB]

21. Adopt early childhood literacy and mathematics proficiency plans. *Education Code 11.185* [See EA]

22. Adopt college, career, and military readiness plans. *Education Code 11.186* [See EA]

23. Conduct an efficiency audit before seeking voter approval to adopt a tax rate for the maintenance and operations of the district at an election held for that purpose. *Education Code 11.184* [See CCG]

24. Carry out other powers and duties as provided by the Education Code or other law.

Education Code 11.1511(b), except as noted

Discretionary Powers and Duties

The board may:

1. Issue bonds and levy, pledge, assess, and collect an annual ad valorem tax to pay the principal and interest on the bonds as authorized under Education Code 45.001 and 45.003. *Education Code 11.1511(c)(1)* [See CCA]

2. Levy, assess, and collect an annual ad valorem tax for maintenance and operation of a district as authorized under Education Code 45.002 and 45.003. *Education Code 11.1511(c)(2)* [See CCG]

3. Employ a person to assess or collect the district's taxes as authorized under Education Code 45.231. *Education Code 11.1511(c)(3)* [See CCG and BDAF]

4. Enter into contracts as authorized under the Education Code or other law and delegate contractual authority to a superintendent as appropriate. *Education Code 11.1511(c)(4)*

5. Require a district's chief business official or curriculum director or a person holding an equivalent position to appear at an executive session of the board or to testify at a public hearing held by the board. *Education Code 11.1511(d)* [See BJA regarding prohibition of superintendent interference]

6. Contract with a public or private entity for that entity to provide educational services for the district. *Education Code 11.157* [See EEL]

7. Charge fees as set forth at Education Code 11.158. *Education Code 11.158* [See FP]

8. Change the name of the district. *Education Code 11.160* [See AB]

9. Adopt rules that require students at a school in the district to wear school uniforms as set forth at Education Code 11.162. *Education Code 11.162* [See FNCA]

10. Adopt rules to keep school campuses, including school libraries, open for recreational activities, latchkey programs, and tutoring after school hours. *Education Code 11.165*

11. Operate a school or program or hold a class on the campus of an institution of higher education as set forth at Education Code 11.166. *Education Code 11.166* [See GNC]

12. Operate a school or program, including an extracurricular program, or hold a class outside the boundaries of the district. *Education Code 11.167* [See GNA]

13. Use the board evaluation tool developed by the commissioner of education. *Education Code 11.182* [See BG]

Note: For restrictions on a board's authority to use district resources for certain purposes, see CE(LEGAL).

For the board's authority related to district property, see CDB and CI.

Note: If the district is subject to a court order or other binding legal determination, the district shall conduct its elections in accordance with that court order or determination, applicable law, and this policy. To the extent of any conflict, the court order or other legal determination shall prevail. [See BBB(LOCAL)]

Eligibility

To be eligible to be a candidate for, or elected or appointed to, the office of school board member, a person must:

1. Be a United States citizen.
2. Be 18 years of age or older on the first day of the term to be filled at the election or on the date of appointment, as applicable.
3. Have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote.
4. Have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities [but see Ineligibility below].
5. Have resided continuously in the state for 12 months and in the territory from which the office is elected for six months immediately preceding the following date:
   a. For an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot.
   b. For a write-in candidate, the date of the election at which the candidate's name is written in.
   c. For an appointee to an office, the date the appointment is made.
6. Be registered to vote in the territory from which the office is elected on the date described at item 5, above.

Election Code 1.020, 141.001(a); Gov't Code 601.009; Tex. Const. Art. XVI, Sec. 14

Qualified Voter

A person may not be elected trustee of an independent school district unless the person is a qualified voter. *Education Code 11.061(b)*

"Qualified voter" means a person who:

1. Is 18 years of age or older;

2. Is a United States citizen;

3. Has not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote;

4. Has not been finally convicted of a felony or, if so convicted, has fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or been pardoned or otherwise released from the resulting disability to vote;

5. Is a resident of this state; and

6. Is a registered voter.

Election Code 1.020, 11.002 [See *Atty. Gen. Op. KP-0251 (2019)* (concluding that the restoration of a convicted felon's qualification to vote under Election Code 11.002(a)(4)(A) after fully discharging a sentence does not restore the person's eligibility to hold public office under Election Code 141.001(a)(4))]

Residence

"Residence" Defined

In the Election Code, "residence" means domicile, that is, one's home and fixed place of habitation to which one intends to return after any temporary absence. A person may not establish residence for the purpose of influencing the outcome of a certain election. A person does not lose the person's residence by leaving to go to another place for temporary purposes only. A person does not acquire a residence in a place to which the person has come for temporary purposes only and without the intention of making that place the person's home. A person may not establish a residence at any place the person has not inhabited. A person may not designate a previous residence as a home and fixed place of habitation unless the person inhabits the place at the time of designation and intends to remain. *Election Code 1.015*

Note: The issue of whether a candidate has satisfied residency requirements should be judicially determined. *State v. Fischer, 769 S.W.2d 619 (Tex. App.—Corpus Christi 1989, writ dism'd w.o.j.)*

Intent to Return

For purposes of satisfying the continuous residency requirement, a person who claims an intent to return to a residence after a temporary absence may establish that intent only in accordance with Election Code 141.001(a-1), which does not apply to a person displaced from the person's residence due to a declared local, state, or national disaster. *Election Code 141.001(a-1)–(a-2)*

Single-Member Districts	A candidate for board member representing a single-member district must be a resident of the district the candidate seeks to represent. *Education Code 11.052(g)*
Ineligibility	A person is ineligible to serve as a member of the board of a district if the person has been convicted of a felony or an offense under Penal Code 43.021 (solicitation of prostitution). *Education Code 11.066*

Campaign Treasurer Appointment

Each candidate shall appoint a campaign treasurer as provided by Election Code, Chapter 252. An individual may appoint himself or herself as campaign treasurer. *Election Code 252.001, .004*

Contents

A campaign treasurer appointment by a candidate must be in writing and include:

1. The campaign treasurer's name, residence or business street address, and telephone number;
2. The name of the person making the appointment;
3. The candidate's telephone number; and
4. A statement, signed by the candidate, that the candidate is aware of the nepotism law. [See DBE]

Election Code 252.002, .0032

Filing Authority

A candidate for a school board must file the campaign treasurer appointment and all required financial statements with the clerk or secretary of the board or, if the district has no clerk or secretary, with the board's presiding officer. *Election Code 252.005(3)*

A specific-purpose committee for supporting or opposing a candidate for the board must file its campaign treasurer appointment with the same authority. *Election Code 251.001(13), 252.006*

A specific-purpose committee for supporting or opposing a measure must file its campaign treasurer appointment with the secretary of the board or, if the district has no secretary, with the board's presiding officer. *Election Code 252.007(3)*

Period of Effectiveness

A campaign treasurer appointment takes effect at the time it is filed and continues in effect until terminated. *Election Code 252.011*

Termination of Appointment

Removal

A campaign treasurer may be removed at any time by the appointing authority by filing the written appointment of a successor in the same manner as the original appointment. The appointment of a successor terminates the appointment of the campaign treasurer who is removed. *Election Code 252.012*

Board Action

A board by order may adopt a process by which the clerk or secretary, as applicable, of the district may terminate the campaign treasurer appointment of an inactive candidate or political committee that is required to file a campaign treasurer appointment with the clerk or secretary.

The order must:

1. Define "inactive candidate or political committee" for purposes of terminating the campaign treasurer appointment; and

2. Require written notice to the affected candidate or committee of the proposed termination; the date, time, and place of the meeting at which the board will consider the proposed termination; and the effect of termination of the campaign treasurer appointment.

For purposes of this section, a candidate or political committee is inactive if the candidate or committee:

1. Has never filed or has ceased to file reports under Election Code Chapter 254 (Political Reporting);
2. In the case of a candidate, has not been elected to an office for which a candidate is required to file a campaign treasurer appointment with the board; and
3. Has not filed a final report under Election Code 254.065 or 254.125, or a dissolution report under Election Code 254.126 or 254.159.

Before the clerk or secretary of the district may terminate a campaign treasurer appointment, the board must consider the proposed termination in a regularly scheduled open meeting.

The termination of a campaign treasurer appointment under this section takes effect on the 30th day after the date of the meeting at which the board votes to terminate the appointment. Following that meeting, the clerk or secretary of the district shall promptly notify the affected candidate or political committee that the appointment has been terminated. The notice must state the effective date of the termination.

Election Code 252.0131

Contributions and Expenditures

A candidate may not knowingly accept a campaign contribution or make or authorize a campaign expenditure at a time when a campaign treasurer appointment for the candidate is not in effect. *Election Code 253.031(a)*

Recordkeeping

Each candidate and each officeholder shall maintain a record of all reportable activity. The record must contain the information necessary for filing the reports required by Election Code Chapter 254. *Election Code 254.001*

Reporting

Candidates and Officeholders

Reports by candidates and officeholders shall be filed with the authority with whom the campaign treasurer appointment is required to be filed. *Election Code 254.066, .097* [See Filing Authority, above]

Specific-Purpose Committee

Except as provided below at Bonds, reports by a specific-purpose committee shall be filed with the authority with whom the political committee's campaign treasurer appointment is required to be filed.

Bonds

A specific-purpose committee created to support or oppose a measure on the issuance of bonds by a district shall file reports with the Ethics Commission.

Election Code 254.130

Internet Posting

The clerk or secretary of the board or, if the board does not have a clerk or secretary, the board's presiding officer shall make a report filed with the district by a candidate, officeholder, or specific-purpose committee under Election Code Chapter 254, Subchapter B (Political Reporting Generally) available to the public on the district's internet website not later than the 10th business day after the date the report is received.

Internet access to these reports is in addition to the public's access to the information through other electronic or print distribution of the information.

Before making a report available on the internet as required above, the district may remove each portion, other than city, state, and zip code, of the address of a person listed as having made a political contribution to the person filing the report. The address information removed must remain available on the report maintained in the district's office.

A report made available on an internet website must be accessible on that website until the fifth anniversary of the date the report is first made available.

Electronic report data saved in a temporary storage location of the district for later retrieval and editing before the report is filed is confidential and may not be disclosed. After the report is filed with the district, the information disclosed in the filed report is public information to the extent provided by Election Code Title 15 (Regulating Political Funds and Campaigns).

Election Code 254.0401(b), (d), (e-1), (g), (h)

Electioneering

The board may not use state or local funds or other resources of the district to electioneer for or against any candidate, measure, or political party. *Education Code 11.169*

Political Advertising

An officer or employee of a district may not knowingly spend or authorize the spending of public funds for the purpose of political advertising. This does not apply to a communication that factually describes the purposes of a measure if the communication does not advocate passage or defeat of the measure.

An officer or employee of a district may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that:

1. The officer or employee knows is false; and
2. Is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure.

It is an affirmative defense to prosecution for an offense under these provisions or the imposition of a civil penalty for conduct under these provisions that the officer or employee reasonably relied on a court order, or an interpretation of these provisions in a written opinion issued by a court of record, the attorney general, or the Ethics Commission.

On written request of the board that has ordered an election on a measure, the Ethics Commission shall prepare an advance written advisory opinion as to whether a particular communication relating to a measure does or does not comply with these provisions.

Election Code 255.003 [See CPAB regarding use of the internal mail system for political advertising.]

Definition

"Political advertising" means a communication that supports or opposes a political party, a public officer, a measure, or a candidate for nomination or election to a public office or office of a political party, and:

1. Is published in a newspaper, magazine, or other periodical in return for consideration;
2. Is broadcast by radio or television in return for consideration;
3. Appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication; or
4. Appears on an internet website.

"Political advertising" does not include an individual communication made by email or text message but does include mass emails and

text messages involving an expenditure of funds beyond the basic cost of hardware, messaging software, and bandwidth.

1 TAC 20.1(11); Election Code 251.001(16)

Newsletters

A newsletter of a public officer of a district is not political advertising if:

1. It includes no more than two pictures of a public officer per page and if the total amount of area covered by the pictures is no more than 20 percent of the page on which the pictures appear;
2. It includes no more than eight personally phrased references on a page that is 8 1/2" x 11" or larger, with a reasonable reduction in the number of such personally phrased references in pages smaller than 8 1/2" x 11"; and
3. When viewed as a whole and in the proper context:
    a. Is informational rather than self-promotional;
    b. Does not advocate passage or defeat of a measure; and
    c. Does not support or oppose a candidate for nomination or election to a public office or office of political party, a political party, or a public officer.

1 TAC 26.2

Disclosure Statement

A person may not knowingly cause to be published, distributed, or broadcast political advertising containing express advocacy that does not indicate in the advertising:

1. That it is political advertising; and
2. The full name of the:
    a. Person who paid for the political advertising;
    b. Political committee authorizing the political advertising; or
    c. Candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate.

Political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under Election Code Title 15 shall be deemed to contain express advocacy.

These requirements do not apply to tickets or invitations to political fundraising events; campaign buttons, pins, hats, or similar campaign materials; or circulars or flyers that cost in the aggregate less than $500 to publish and distribute.

Election Code 255.001(a), (b), (d)

A required disclosure statement must contain the words "political advertising" or any recognizable abbreviation and comply with 1 Administrative Code 26.1. *1 TAC 26.1*

Note: For specific information regarding political advertising and campaign communications by candidates, including offenses, see Election Code 255.001–.006. For information regarding political signs, see Election Code Chapter 259.

Nepotism

A candidate may not take affirmative action to influence a district employee or current trustee regarding the appointment, reappointment, confirmation of the appointment or reappointment, employment, reemployment, change in status, compensation, or dismissal of another individual related to the candidate within a prohibited degree of relationship under the nepotism law. [See DBE] This prohibition does not apply to a candidate's actions taken regarding a bona fide class or category of employees or prospective employees. *Gov't Code 573.042*

Open Meetings Act Training

Not later than the 90th day after taking the oath of office, each board member shall complete training of not less than one and not more than two hours regarding the responsibilities of the board and its members under Government Code Chapter 551 (Open Meetings Act).

The attorney general may provide the training and may also approve other acceptable sources of training.

The board shall maintain and make available for public inspection the record of its members' completion of the training. The failure of one or more members of the board to complete the training does not affect the validity of an action taken by the board.

Gov't Code 551.005

Public Information Act Training

Not later than the 90th day after taking the oath of office, each board member shall complete training of not less than one and not more than two hours regarding the responsibilities of the board and its officers and employees under Government Code Chapter 552 (Public Information Act [PIA]). A board member may designate a public information coordinator to satisfy the training for the board member if the public information coordinator is primarily responsible for administering the responsibilities of the board member or board under the PIA. The attorney general may require a board member to complete the course of training if the attorney general determines that the district has failed to comply with a requirement of the PIA. *Gov't Code 552.012(b), (b-1), (c)* [See GBAA regarding public information coordinator training.]

SBOE-Required Training

A trustee must complete any training required by the State Board of Education (SBOE). *Education Code 11.159*

The SBOE's framework for governance leadership [see BBD(EXHIBIT)] shall be distributed annually by the board president to all current board members and the superintendent. *19 TAC 61.1(a)*

The continuing education required under Education Code 11.159 applies to each member of the board. To the extent possible, an entire board shall participate in continuing education programs together. *19 TAC 61.1(b), (i)*

No continuing education shall take place during a board meeting unless that meeting is called expressly for the delivery of board member continuing education. Continuing education may take place prior to or after a legally called board meeting in accordance with Government Code 551.001(4) (definition of "meeting"). *19 TAC 61.1(e)*

A regional education service center (ESC) board member continuing education program shall be open to any interested person, including a current or prospective board member. A district is not responsible for any costs associated with individuals who are not current board members. *19 TAC 61.1(f)*

Annually, the SBOE shall commend those board-superintendent teams that complete at least eight hours of the continuing education specified at Team Building and Additional Continuing Education, below, as an entire board-superintendent team.

Annually, the SBOE shall commend board-superintendent teams that effectively implement the commissioner of education's trustee improvement and evaluation tool developed under Education Code 11.182 [see BG] or any other tool approved by the commissioner.

19 TAC 61.1(k), (l)

Verification

For each training described below, the provider of continuing education shall provide verification of completion of board member continuing education to the individual participant and to the participant's school district. The verification must include the provider's authorization or registration number. *19 TAC 61.1(h)*

Reporting

At the last regular board meeting before an election of trustees, the board president shall announce the name of each board member who has completed the required continuing education, who has exceeded the required hours of continuing education, and who is deficient in meeting the required continuing education as of the anniversary of the date of each board member's election or appointment to the board or two-year anniversary of his or her previous training, as applicable. The announcement shall state that completing the required continuing education is a basic obligation and expectation of any board member under SBOE rule. The minutes of the last regular board meeting held before an election of trustees must reflect whether each trustee has met or is deficient in meeting the training required for the trustee as of the first anniversary of the date of the trustee's election or appointment or two-year anniversary of his or her previous training, as applicable. The president shall cause the minutes to reflect the announcement and, if the minutes reflect that a trustee is deficient in training as of the anniversary of his or her joining the board, 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. *19 TAC 61.1(j); Education Code 11.159(b)*

Local District Orientation

Each board member shall complete a local district orientation session. The purpose of the local orientation is to familiarize new

board members with local board policies and procedures and district goals and priorities.

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

The orientation shall:

1. Be at least three hours in length.
2. Address local district practices in the following, in addition to topics chosen by the local district:
    a. Curriculum and instruction;
    b. Business and finance operations;
    c. District operations;
    d. Superintendent evaluation; and
    e. Board member roles and responsibilities.

Each board member should be made aware of the continuing education requirements of 19 Administrative Code 61.1 and those of the following:

1. Open meetings act in Government Code 551.005 [see Open Meetings Act Training above];
2. Public information act in Government Code 552.012 [see Public Information Act Training above]; and
3. Cybersecurity in Government Code 2054.5191 [see CQB].

The orientation shall be open to any board member who chooses to attend.

19 TAC 61.1(b)(1)

Education Code Orientation

Each board member shall complete a basic orientation to the Education Code and relevant legal obligations. The orientation shall have special, but not exclusive, emphasis on statutory provisions related to governing Texas school districts.

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

The orientation shall be at least three hours in length. Topics shall include, but not be limited to, Education Code Chapter 26 (Parental Rights and Responsibilities) and Education Code 28.004 (Local School Health Advisory Council and Health Education Instruction).

The orientation shall:

1. Be provided by an ESC.
2. Be open to any board member who chooses to attend.

The continuing education may be fulfilled through online instruction, provided that the training incorporates interactive activities that assess learning and provide feedback to the learner and offers an opportunity for interaction with the instructor.

19 TAC 61.1(b)(2)

Legislative Update

After each session of the Texas Legislature, including each regular session and called session related to education, each board member shall complete an update to the basic orientation to the Education Code.

The update session shall be of sufficient length to familiarize board members with major changes in statute and other relevant legal developments related to school governance.

The update shall be provided by an ESC or a registered provider [see Registered Provider, below].

A board member who has attended an ESC basic orientation session described at Education Code Orientation, above, that incorporated the most recent legislative changes is not required to attend an update.

The continuing education may be fulfilled through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

19 TAC 61.1(b)(3)

Team Building

The entire board shall participate with their superintendent in a team-building session.

The purpose of the team-building session is to enhance the effectiveness of the board-superintendent team and to assess the continuing education needs of the board-superintendent team.

The session shall be held annually and shall be at least three hours in length.

The session shall include a review of the roles, rights, and responsibilities of the board as outlined in the framework for governance leadership. [See BBD(EXHIBIT)] The assessment of needs shall be based on the framework for governance leadership and shall be used to plan continuing education activities for the year for the governance leadership team.

The team-building session shall be provided by an ESC or a registered provider [see Registered Provider and Authorized Provider, below].

19 TAC 61.1(b)(4)

Additional Continuing Education (Based on Assessed Needs)

In addition to the continuing education requirements set out above, each board member shall complete additional continuing education based on the framework for governance leadership. [See BBD(EXHIBIT)]

The purpose of continuing education is to address the continuing education needs referenced at Team Building above.

The continuing education shall be completed annually.

At least 50 percent of the continuing education shall be designed and delivered by persons not employed or affiliated with the board member's school district. No more than one hour of the required continuing education that is delivered by the district may use self-instructional materials.

The continuing education shall be provided by an ESC or a registered provider [see Registered Provider, below].

The continuing education may be fulfilled through online instruction, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

First Year

In a board member's first year of service, he or she shall complete at least 10 hours of continuing education in fulfillment of assessed needs.

Subsequent Years

Following a board member's first year of service, he or she shall complete at least five hours of continuing education annually in fulfillment of assessed needs.

Board President

A board president shall complete continuing education related to leadership duties of a board president as some portion of the annual requirement.

19 TAC 61.1(b)(5)

Evaluating Student Academic Performance

Each board member shall complete continuing education on evaluating student academic performance and setting individual campus goals for early childhood literacy and mathematics and college, career, and military readiness.

The purpose of the training on evaluating student academic performance is to provide research-based information to board members that is designed to support the oversight role of the board of trustees outlined in Education Code 11.1515. [See BAA]

The purpose of the continuing education on setting individual campus goals for early childhood literacy and mathematics and college, career, and military readiness is to facilitate boards meeting the requirements of Education Code 11.185 and 11.186.

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

The continuing education shall be completed every two years and shall be at least three hours in length.

The continuing education required by this provision shall include, at a minimum:

1. Instruction in school board behaviors correlated with improved student outcomes with emphasis on:
    a. Setting specific, quantifiable student outcome goals; and
    b. Adopting plans to improve early literacy and numeracy and college, career, and military readiness for applicable student groups evaluated in the Closing the Gaps domain of the state accountability system established under Education Code Chapter 39;
2. Instruction in progress monitoring practices to improve student outcomes; and
3. Instruction in state accountability with emphasis on the Texas Essential Knowledge and Skills, state assessment instruments administered under Education Code Chapter 39, and the state accountability system established under Chapter 39.

The continuing education shall be provided by an authorized provider [see Authorized Provider, below].

If the training is attended by an entire board and its superintendent, includes a review of local school district data on student achieve-

ment, and otherwise meets the requirements described at Team Building above, the training may serve to meet a board member's obligation to complete training described at Team Building and at Evaluating Student Academic Performance, above, as long as the training complies with the Open Meetings Act.

19 TAC 61.1(b)(6)

Identifying and Reporting Abuse

Each board member shall complete continuing education on identifying and reporting potential victims of sexual abuse, human trafficking, and other maltreatment of children in accordance with Education Code 11.159(c)(2).

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed board member who did not complete this training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

The training shall be completed every two years and shall be at least one hour in length.

The training must familiarize board members with the requirements of Education Code 38.004 and 38.0041, and 19 Administrative Code 61.1051 (relating to Reporting Child Abuse or Neglect, Including Trafficking of a Child).

The training required by this provision shall include, at a minimum:

1. Instruction in best practices of identifying potential victims of child abuse, human trafficking, and other maltreatment of children;
2. Instruction in legal requirements to report potential victims of child abuse, human trafficking, and other maltreatment of children; and
3. Instruction in resources and organizations that help support victims and prevent child abuse, human trafficking, and other maltreatment of children.

The training sessions shall be provided by a registered provider [see Registered Provider, below].

This training may be completed online, provided that the training is designed and offered by a registered provider, incorporates interactive activities that assess learning and provide feedback to the learner, and offers an opportunity for interaction with the instructor.

19 TAC 61.1(b)(7)

School Safety

The SBOE shall require a trustee to complete training on school safety. *Education Code 11.159(b-1)*

The continuing education required under Education Code 11.159(b-1) applies to each member of an independent school district board of trustees.

Each member shall complete the training on school safety adopted by the SBOE. The training requirement shall be fulfilled by completing the online course adopted by the SBOE and made available by the commissioner of education. The training shall be completed every two years.

A candidate for school board may complete the training up to one year before he or she is elected or appointed. A newly elected or appointed trustee who did not complete the training in the year preceding his or her election or appointment must complete the training within 120 calendar days after election or appointment.

A district shall maintain verification of completion for each trustee.

19 TAC 61.3

Training Provider

Registered Provider

For the purposes of 19 Administrative Code 61.1, a registered provider has demonstrated proficiency in the content required for a specific training. A private or professional organization, school district, government agency, college/university, or private consultant shall register with the Texas Education Agency (TEA) to provide the board member continuing education required by 19 Administrative Code 61.1(b)(3), (5), and (7) [see Legislative Update, Additional Continuing Education, and Identifying and Reporting Abuse, above].

A district that provides continuing education exclusively for its own board members is not required to register under 19 Administrative Code 61.1(c)(1)-(2).

19 TAC 61.1(c)

Authorized Provider

An authorized provider meets all the requirements of a registered provider and has demonstrated proficiency in the content required by 19 Administrative Code 61.1(b)(4) and (6). Proficiency may be demonstrated in accordance with 19 Administrative Code 61.1(d).

A private or professional organization, school district, government agency, college/university, or private consultant may be authorized by TEA to provide the board member training required in 19 Administrative Code 61.1(b)(4) and (6).

An ESC shall be authorized by TEA to provide the board member training required in 19 Administrative Code 61.1(b)(4) and (6).

19 TAC 61.1(d)

[See above for 19 Administrative Code 61.1(b)(4) on Team Building and (b)(6) on Evaluating Student Academic Performance.]

Note: For cybersecurity training requirements, see CQB(LEGAL).

TEXAS ETHICS COMMISSION
2024 FILING SCHEDULE FOR REPORTS DUE IN CONNECTION WITH ELECTIONS HELD ON UNIFORM ELECTION DATES

This is a filing schedule for reports to be filed in connection with elections held on uniform election dates in May and November. Examples of elections held on uniform election dates are elections for school board positions and city offices. The uniform election dates in 2024 are May 4 and November 5.

Candidates and officeholders must file semiannual reports (due on January 16, 2024, and July 15, 2024). In addition, a candidate who has an opponent on the ballot in an election held on a uniform election date must file two pre-election reports (unless the candidate has elected modified reporting).

The campaign treasurer of a political committee that is involved in an election held on a uniform election date must also file pre-election reports (unless the committee is a general-purpose political committee that files monthly or a specific-purpose political committee that files on the modified reporting schedule). This schedule sets out the due dates for pre-election reports in connection with elections on uniform election dates. Please consult the 2024 REGULAR FILING SCHEDULE FOR GENERAL-PURPOSE POLITICAL COMMITTEES (GPAC), COUNTY EXECUTIVE COMMITTEES (CEC), AND SPECIFIC-PURPOSE POLITICAL COMMITTEES (SPAC) for a complete listing of political committee deadlines.

Candidates for and officeholders in local offices regularly filled at the general election for state and county officers (the November election in even-numbered years) should use the 2024 FILING SCHEDULE FOR CANDIDATES AND OFFICEHOLDERS FILING WITH THE COUNTY CLERK OR ELECTIONS ADMINISTRATOR.

EXPLANATION OF THE FILING SCHEDULE CHART

COLUMN I: REPORT DUE DATE - This is the date by which the report must be filed. If the due date for a report falls on a Saturday, Sunday, or legal holiday, the report is due on the next regular business day. This schedule shows the extended deadline where applicable. A report transmitted to the Texas Ethics Commission over the Internet is considered timely filed if it is transmitted ***by midnight, Central Time Zone, on the night of the filing deadline***. For most filing deadlines, a report filed on paper is considered timely filed if it is deposited with the U.S. Post Office or a common or contract carrier properly addressed with postage and handling charges prepaid, or hand-delivered to the filing authority by the filing deadline. **Pre-Election Reports:** A report due 30 days before an election and a report due 8 days before an election must be *received* by the appropriate filing authority no later than the report due date to be considered timely filed.

COLUMN II: TYPE OF REPORT (WHO FILES) - This column gives the report type and explains which reporting form to use and which filers are required to file the report.

COLUMN III: BEGINNING DATE OF PERIOD COVERED - This column sets out the beginning date of the time period covered by the report. Use the latest one of the applicable dates. The "date of campaign treasurer appointment" is the beginning date only for the *first* report filed after filing a campaign treasurer appointment. For officeholders recently appointed to an elective office, the beginning date for the first report will be the date the officeholder took office, provided that he or she was not already filing as an officeholder or candidate at the time of the appointment. (*NOTE:* If you are ever confused about the beginning date for a required report, remember this rule: **There should never be gaps between reporting periods and, generally, there should not be overlaps.**)

COLUMN IV: ENDING DATE OF PERIOD COVERED - This column sets out the ending date of the time period covered by the report. The report must include reportable activity occurring on the ending date.

Please consult the CAMPAIGN FINANCE GUIDE FOR CANDIDATES AND OFFICEHOLDERS WHO FILE WITH LOCAL FILING AUTHORITIES or the CAMPAIGN FINANCE GUIDE FOR POLITICAL COMMITTEES for further information.

COLUMN I DUE DATE	COLUMN II TYPE OF REPORT (WHO FILES)	COLUMN III BEGINNING DATE OF PERIOD COVERED	COLUMN IV ENDING DATE OF PERIOD COVERED
Tuesday, January 16, 2024 *Deadline is extended because of holiday.*	**January semiannual** [FORM C/OH] (all local candidates and officeholders, except for officeholders who do not have a campaign treasurer appointment on file and who do not exceed $1,010 in contributions or expenditures for the reporting period) [FORM GPAC] (all GPACs) [FORM SPAC] (all SPACs)	July 1, 2023, *or* the date of campaign treasurer appointment, *or* the day after the date the last report ended.	December 31, 2023
Tuesday, January 16, 2024 *Deadline is extended because of holiday.*	**Annual report of unexpended contributions** [FORM C/OH-UC] (former candidates and former officeholders who have filed a final report and who retained unexpended contributions or assets purchased with contributions)	January 1, 2023, *or* the day after the date the final report was filed.	December 31, 2023

REPORTS DUE BEFORE THE MAY 4, 2024, UNIFORM ELECTION

Thursday, April 4, 2024 **NOTE: This report must be received by the appropriate filing authority no later than April 4, 2024.**	**30th day before the May 4, 2024, uniform election** [FORM C/OH] (all local candidates who have an opponent on the ballot in the May 4 election and who do not file on the modified reporting schedule) [FORM GPAC] (all GPACs that are involved in the May 4 election) [FORM SPAC] (all SPACs that do not file on the modified reporting schedule and that supported or opposed an opposed candidate or a measure in the May 4 election)	January 1, 2024, *or* the date of campaign treasurer appointment, *or* the day after the date the last report ended.	March 25, 2024

NOTE: A political committee must file pre-election reports if the committee is involved in the election during each pre-election reporting period. **A political committee must file an 8-day pre-election report if the committee filed a 30-day pre-election report, even if there is no activity to report during the 8-day reporting period.** The campaign treasurer of a political committee may be required to file 30-day and 8-day pre-election reports in connection with elections not listed on this schedule.

COLUMN I DUE DATE	COLUMN II TYPE OF REPORT (WHO FILES)	COLUMN III BEGINNING DATE OF PERIOD COVERED	COLUMN IV ENDING DATE OF PERIOD COVERED
Friday, April 26, 2024 **NOTE: This report must be received by the appropriate filing authority no later than April 26, 2024.**	**8th day before May 4, 2024, uniform election** [FORM C/OH] (all local candidates who have an opponent on the ballot in the May 4 election and who do not file on the modified reporting schedule) [FORM GPAC] (all GPACs that filed a "30th Day Before Election Report" or that are involved in the May 4 election) [FORM SPAC] (all SPACs that do not file on the modified reporting schedule and that filed a "30th Day Before Election Report" or that supported or opposed an opposed candidate or a measure in the May 4 election)	March 26, 2024, *or* the date of campaign treasurer appointment, *or* the day after the date the last report ended.	April 24, 2024 **NOTE:** Daily pre-election reports of contributions accepted and direct campaign expenditures made after April 24, 2024, may be required. Please consult the Campaign Finance Guide for further information.
Monday, July 15, 2024	**July semiannual** [FORM C/OH] (all local candidates and officeholders, except for officeholders who do not have a campaign treasurer appointment on file and who do not exceed $1,080 in contributions or expenditures for the reporting period) [FORM GPAC] (all GPACs) [FORM SPAC] (all SPACs)	January 1, 2024, *or* the date of campaign treasurer appointment, *or* the day after the date the last report ended.	June 30, 2024

NOTE: A political committee must file pre-election reports if the committee is involved in the election during each pre-election reporting period. **A political committee must file an 8-day pre-election report if the committee filed a 30-day pre-election report, even if there is no activity to report during the 8-day reporting period.** The campaign treasurer of a political committee may be required to file 30-day and 8-day pre-election reports in connection with elections not listed on this schedule.

COLUMN I DUE DATE	COLUMN II TYPE OF REPORT (WHO FILES)	COLUMN III BEGINNING DATE OF PERIOD COVERED	COLUMN IV ENDING DATE OF PERIOD COVERED
REPORTS DUE BEFORE THE NOVEMBER 5, 2024, UNIFORM ELECTION			
Monday, October 7, 2024 *Deadline is extended because of weekend.* **NOTE: This report must be received by the appropriate filing authority no later than October 7, 2024.**	**30th day before the November 5, 2024, uniform election** [FORM C/OH] (all local candidates who have an opponent on the ballot in the November 5 election and who do not file on the modified reporting schedule) [FORM GPAC] (all GPACs that are involved in the November 5 election) [FORM SPAC] (all SPACs that do not file on the modified reporting schedule and that supported or opposed an opposed candidate or a measure in the November 5 election)	July 1, 2024, *or* the date of campaign treasurer appointment, *or* the day after the date the last report ended.	September 26, 2024
Monday, October 28, 2024 **NOTE: This report must be received by the appropriate filing authority no later than October 28, 2024.**	**8th day before the November 5, 2024, uniform election** [FORM C/OH] (all local candidates who have an opponent on the ballot in the November 5 election and who do not file on the modified reporting schedule) [FORM GPAC] (all GPACs that filed a "30th Day Before Election Report" or that are involved in the November 5 election) [FORM SPAC] (all SPACs that do not file on the modified reporting schedule and that filed a "30th Day Before Election Report" or that supported or opposed an opposed candidate or a measure in the November 5 election)	September 27, 2024, *or* the date of campaign treasurer appointment, *or* the day after the date the last report ended.	October 26, 2024 **NOTE:** Daily pre-election reports of contributions accepted and direct campaign expenditures made after October 26, 2024, may be required. Please consult the Campaign Finance Guide for further information.
NOTE: A political committee must file pre-election reports if the committee is involved in the election during each pre-election reporting period. **A political committee must file an 8-day pre-election report if the committee filed a 30-day pre-election report, even if there is no activity to report during the 8-day reporting period.** The campaign treasurer of a political committee may be required to file 30-day and 8-day pre-election reports in connection with elections not listed on this schedule.			

COLUMN I DUE DATE	COLUMN II TYPE OF REPORT (WHO FILES)	COLUMN III BEGINNING DATE OF PERIOD COVERED	COLUMN IV ENDING DATE OF PERIOD COVERED
Wednesday, January 15, 2025	**January semiannual** [FORM C/OH] (all local candidates and officeholders, except for officeholders who do not have a campaign treasurer appointment on file and who do not exceed $1,080 in contributions or expenditures for the reporting period) [FORM GPAC] (all GPACs) [FORM SPAC] (all SPACs)	July 1, 2024, *or* the date of campaign treasurer appointment, *or* the day after the date the last report ended.	December 31, 2024
Wednesday, January 15, 2025	**Annual report of unexpended contributions** [FORM C/OH-UC] (former candidates and former officeholders who have filed a final report and who retained unexpended contributions or assets purchased with contributions)	January 1, 2024, *or* the day after the date the final report was filed.	December 31, 2024

POLITICAL ADVERTISING
What You Need to Know



The Texas Election Code requires certain disclosures and notices on political advertising. The law also prohibits certain types of misrepresentation in political advertising and campaign communications. This brochure explains what you need to know to insure that your political advertising and campaign communications comply with the law.

If you are not sure what the law requires, do the cautious thing. Use the political advertising disclosure statement whenever you think it might be necessary, and do not use any possibly misleading information in political advertising or a campaign communication. If you are using political advertising or campaign communications from a prior campaign, you should check to see if the law has changed since that campaign.

Candidates for federal office should check with the Federal Election Commission at (800) 424-9530 for information on federal political advertising laws.

NOTICE: This guide is intended only as a general overview of the disclosure statements that must appear on political advertising as required under Chapter 255 of the Election Code, which is distinct from political reporting requirements under Chapter 254 of the Election Code.

Texas Ethics Commission
P.O. Box 12070
Austin, Texas 78711-2070

(512) 463-5800

TDD (800) 735-2989

Visit us at *www.ethics.state.tx.us*.

Revised July 16, 2019

REQUIRED DISCLOSURE ON POLITICAL ADVERTISING

I. What Is Political Advertising?

The disclosure statement and notice requirements discussed in this section apply to "political advertising." In the law, "political advertising" is a specifically defined term. Do not confuse this special term with your own common-sense understanding of advertising.

To figure out if a communication is political advertising, you must look at what it says and where it appears. If a communication fits in one of the categories listed in Part A (below) and if it fits in one of the categories listed in Part B (below), it is political advertising.

Part A. What Does It Say?

1. Political advertising includes communications supporting or opposing a candidate for nomination or election to either a public office or an office of a political party (including county and precinct chairs).

2. Political advertising includes communications supporting or opposing an officeholder, a political party, or a measure (a ballot proposition).

Part B. Where Does It Appear?

1. Political advertising includes communications that appear in pamphlets, circulars, fliers, billboards or other signs, bumper stickers, or similar forms of written communication.

2. Political advertising includes communications that are published in newspapers, magazines, or other periodicals in return for consideration.

3. Political advertising includes communications that are broadcast by radio or television in return for consideration.

4. Political advertising includes communications that appear on an Internet website.

II. When Is a Disclosure Statement Required?

The law provides that political advertising that contains express advocacy is required to include a disclosure statement. The person who causes the political advertising to be published, distributed, or broadcast is responsible for including the disclosure statement.

The law does not define the term "express advocacy." However, the law does provide that political advertising is deemed to contain express advocacy if it is authorized by a candidate, an agent of a candidate, or a political committee filing campaign finance reports. Therefore, a disclosure statement is required any time a candidate, a candidate's agent, or a political committee authorizes political advertising.

The precise language of political advertising authorized by someone other than a candidate, the candidate's agent, or a political committee will determine if the advertising contains express advocacy and is therefore required to include a disclosure statement. Generally, the question is whether the communication expressly advocates the election or defeat of an identified candidate, or expressly advocates the passage or defeat of a measure, such as a bond election. The inclusion of words such as "vote for," "elect," "support," "defeat," "reject," or "Smith for Senate" would clearly constitute express advocacy, but express advocacy is not limited to communications that use those words. Similar phrases, such as "Cast your ballot for X," would also constitute express advocacy. Additionally, in 2007, the United States Supreme Court held that an advertisement included express advocacy or its functional equivalent "if the ad is susceptible to no reasonable interpretation other than as an appeal to vote for or against a specific candidate." FEC v. Wis. Right to Life, Inc., 551 U.S. 449 (2007). It is a question of fact whether a particular communication constitutes express advocacy. If you are not sure whether political advertising contains express advocacy, do the cautious thing and include the disclosure statement. That way, there is no need to worry about whether you have violated the law.

Remember: The concept of "express advocacy" is relevant in determining whether political advertising is required to include a disclosure statement. However, the political advertising laws governing the right-of-way notice, misrepresentation, and use of public funds by political subdivisions will apply to political advertising regardless of whether the advertising contains express advocacy.

III. What Should the Disclosure Statement Say?

A disclosure statement must include the following:

1. the words "political advertising" or a recognizable abbreviation such as "pol. adv."; and

2. the full name of one of the following: (a) the person who paid for the political advertising; (b) the political committee authorizing the political advertising; or (c) the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate.

The disclosure statement must appear on the face of the political advertising or be clearly spoken if the political advertising is audio only and does not include written text.

The advertising should not be attributed to entities such as "Committee to Elect John Doe" unless a specific-purpose committee named "Committee to Elect John Doe" has filed a campaign treasurer appointment with the Ethics Commission or a local filing authority.

IV. Are There Any Exceptions to the Disclosure Statement Requirement?

The following types of political advertising do not need the disclosure statement:

1. t-shirts, balloons, buttons, emery boards, hats, lapel stickers, small magnets, pencils, pens, pins, wooden nickels, candy wrappers, and similar materials;

2. invitations or tickets to political fundraising events or to events held to establish support for a candidate or officeholder;

3. an envelope that is used to transmit political advertising, provided that the political advertising in the envelope includes the disclosure statement;

4. circulars or fliers that cost in the aggregate less than $500 to publish and distribute;

5. political advertising printed on letterhead stationery, if the letterhead includes the name of one of the following: (a) the person who paid for the advertising, (b) the political committee authorizing the advertising, or, (c) the candidate or specific-purpose committee supporting the candidate, if the political advertising is authorized by the candidate. (Note: There is also an exception for holiday greeting cards sent by an officeholder, provided that the officeholder's name and address appear on the card or the envelope.)

6. postings or re-postings on an Internet website if the person posting or re-posting is not an officeholder, candidate, or political committee and did not make an expenditure exceeding $100 in a reporting period for political advertising beyond the basic cost of hardware messaging software and bandwidth;

7. an Internet social media profile webpage of a candidate or officeholder, if the webpage clearly and conspicuously displays the full name of the candidate or officeholder; and

8. postings or re-postings on an Internet website if the advertising is posted with a link to a publicly viewable Internet webpage that either contains the disclosure statement or is an Internet social media profile webpage of a candidate or officeholder that clearly and conspicuously displays the candidate's or officeholder's full name.

V. What Should I Do If I Discover That My Political Advertising Does Not Contain a Disclosure Statement?

The law prohibits a person from using, causing or permitting to be used, or continuing to use political advertising containing express advocacy if the person knows it does not include the disclosure statement. A person is presumed to know that the use is prohibited if the Texas Ethics Commission notifies the person in writing that the use is prohibited. If you receive notice from the Texas Ethics Commission that your political advertising does not comply with the law, you should stop using it immediately.

If you learn that a political advertising sign designed to be seen from the road does not contain a disclosure statement or contains an inaccurate disclosure statement, you should make a good faith attempt to remove or correct those signs that have been distributed. You are not required to attempt to recover other types of political advertising that have been distributed with a missing or inaccurate disclosure statement.

VI. The Fair Campaign Practices Act.

The Fair Campaign Practices Act sets out basic rules of decency, honesty, and fair play to be followed by candidates and political committees during a campaign. A candidate or political committee may choose to subscribe to the voluntary code by signing a copy of the code and filing it with the authority with whom the candidate or committee is required to file its campaign

treasurer appointment. A person subscribing to the code may indicate that fact on political advertising by including the following or a substantially similar statement:

> **(Name of the candidate or political committee, as appropriate) subscribes to the Code of Fair Campaign Practices.**

VII. Special Notice to Political Subdivisions and School Districts.

You may not use public funds or resources for political advertising. Please see our "Publications and Guides" section of our website for more information.

ROAD SIGNS

I. When Is the "Right-Of-Way" Notice Required?

All written political advertising that is meant to be seen from a road must carry a "right-of-way" notice. It is a criminal offense to omit the "right-of-way" notice in the following circumstances:

1. if you enter into a contract or agreement to print or make written political advertising meant to be seen from a road; or

2. if you instruct another person to place the written political advertising meant to be seen from a road.

II. What Should the "Right-Of-Way" Notice Say?

Section 259.001 of the Texas Election Code prescribes the exact language of the notice:

> **NOTICE: IT IS A VIOLATION OF STATE LAW (CHAPTERS 392 AND 393, TRANSPORTATION CODE) TO PLACE THIS SIGN IN THE RIGHT-OF-WAY OF A HIGHWAY.**

III. Do Yard Signs Have to Have the "Right-Of-Way" Notice?

Yes. The "right-of-way" notice requirement applies to signs meant to be seen from any road. The notice requirement assures that a person responsible for placing signs is aware of the restriction on placing the sign in the right-of-way of a highway.

IV. What About Bumper Stickers?

Bumper stickers do not need the "right-of-way" notice. They do, however, need a political advertising disclosure statement.

V. Where May I Place My Signs and How Long May Signs Be Posted?

For information about exactly where you may or may not place signs, or for information regarding the length of time your signs may be posted, check with your city or county government or your homeowner's association. The Texas Ethics Commission does not have

jurisdiction over matters involving the location of signs, and the length of time that they may be posted.

MISREPRESENTATION

I. Are There Restrictions on the Contents of Political Advertising?

Political advertising and campaign communications may not misrepresent a person's identity or official title, nor may they misrepresent the true source of the advertising or communication. The election law does not address other types of misrepresentation in political advertising or campaign communications.

Note that the misrepresentation rules apply to both political advertising and campaign communications. "Campaign communication" is a broader term than "political advertising."

A "campaign communication" means "a written or oral communication relating to a campaign for nomination or election to public office or office of a political party or to a campaign on a measure."

II. Misrepresentation of Office Title.

A candidate may not represent that he or she holds an office that he or she does not hold at the time of the representation. **If you are not the incumbent in the office you are seeking, you must make it clear that you are seeking election rather than reelection by using the word "for" to clarify that you don't hold that office.** The word "for" must be at least one-half the type size as the name of the office and should appear immediately before the name of the office. For example, a non-incumbent may use the following formats:

Vote John Doe **for Attorney General**

John Doe **For** **Attorney General**

A non-incumbent may not be allowed to use the following verbiage:

Elect John Doe **Attorney General**

John Doe **Attorney General**

III. Misrepresentation of Identity or Source.

A person violates the law if, with intent to injure a candidate or influence the result of an election, the person misrepresents the source of political advertising or a campaign communication or if the person misrepresents his or her own identity or the identity of his or her agent in political advertising or in a campaign communication. (If someone else is doing something for you, that person is your agent.) For example, you may not take out an ad in favor of your opponent that purports to be sponsored by a notoriously unpopular group.

IV. Use of State Seal.

Only current officeholders may use the state seal in political advertising.

V. Criminal Offenses.

Be aware that many violations of the Election Code are criminal offenses. For example, unlawfully using public funds for political advertising can be a Class A misdemeanor. So can misrepresenting one's identity or office title in political advertising. For more details on these offenses and political advertising in general, see Chapter 255 of the Election Code.

2-26
Prescribed by Secretary of State
Section 141.031, Chapters 143 and 144, Texas Election Code
09/2021

APPLICATION FOR A PLACE ON THE BALLOT FOR A GENERAL ELECTION FOR A CITY, SCHOOL DISTRICT OR OTHER POLITICAL SUBDIVISION

ALL INFORMATION IS REQUIRED TO BE PROVIDED UNLESS INDICATED AS OPTIONAL[1] Failure to provide required information may result in rejection of application.

APPLICATION FOR A PLACE ON THE Pittsburg ISD **GENERAL ELECTION BALLOT**
(name of election)

TO: City Secretary/Secretary of Board

I request that my name be placed on the above-named official ballot as a candidate for the office indicated below.

OFFICE SOUGHT (Include any place number or other distinguishing number, if any.)	**INDICATE TERM** ☐ FULL ☐ UNEXPIRED

FULL NAME (First, Middle, Last)	**PRINT NAME AS YOU WANT IT TO APPEAR ON THE BALLOT***

PERMANENT RESIDENCE ADDRESS (Do not include a P.O. Box or Rural Route. If you do not have a residence address, describe location of residence.)			**PUBLIC MAILING ADDRESS (Optional)** (Address for which you receive campaign related correspondence, if available.)		
CITY	**STATE**	**ZIP**	**CITY**	**STATE**	**ZIP**

PUBLIC EMAIL ADDRESS (Optional) (Address for which you receive campaign related emails, if available.)	**OCCUPATION (Do not leave blank)**	**DATE OF BIRTH** / /	**VOTER REGISTRATION VUID NUMBER[2] (Optional)**

TELEPHONE CONTACT INFORMATION (Optional)

Home: Office: Cell:

FELONY CONVICTION STATUS (You MUST check one)	**LENGTH OF CONTINUOUS RESIDENCE AS OF DATE THIS APPLICATION WAS SWORN**	
	IN THE STATE OF TEXAS	**IN TERRITORY/DISTRICT/PRECINCT FROM WHICH THE OFFICE SOUGHT IS ELECTED**
☐ I have not been finally convicted of a felony.		
☐ I have been finally convicted of a felony, but I have been pardoned or otherwise released from the resulting disabilities of that felony conviction and I have provided proof of this fact with the submission of this application.[3]	_____ year(s) _____ month(s)	_____ year(s) _____ month(s)

*If using a nickname as part of your name to appear on the ballot, you are also signing and swearing to the following statements: I further swear that my nickname does not constitute a slogan or contain a title, nor does it indicate a political, economic, social, or religious view or affiliation. I have been commonly known by this nickname for at least three years prior to this election. Please review sections 52.031, 52.032 and 52.033 of the Texas Election Code regarding the rules for how names may be listed on the official ballot.

Before me, the undersigned authority, on this day personally appeared (name of candidate)_____, who being by me here and now duly sworn, upon oath says:

"I, (name of candidate) _____, of _____ County, Texas,

being a candidate for the office of _____, swear that I will support and defend the Constitution and laws of the United States and of the State of Texas. I am a citizen of the United States eligible to hold such office under the constitution and laws of this state. I have not been determined by a final judgment of a court exercising probate jurisdiction to be totally mentally incapacitated or partially mentally incapacitated without the right to vote. I am aware of the nepotism law, Chapter 573, Government Code. I am aware that I must disclose any prior felony conviction, and if so convicted, must provide proof that I have been pardoned or otherwise released from the resulting disabilities of any such final felony conviction. I am aware that knowingly providing false information on the application regarding my possible felony conviction status constitutes a Class B misdemeanor. I further swear that the foregoing statements included in my application are in all things true and correct."

X _____
SIGNATURE OF CANDIDATE

Sworn to and subscribed before me this the _____ day of _____, _____, by _____.
(day) (month) (year) (name of candidate)

_____ _____
Signature of Officer Authorized to Administer Oath[4] Printed Name of Officer Authorized to Administer Oath

_____ Notarial or Official Seal
Title of Officer Authorized to Administer Oath

TO BE COMPLETED BY FILING OFFICER: THIS APPLICATION IS ACCOMPANIED BY THE REQUIRED FILING FEE (If Applicable) PAID BY:
☐ CASH ☐ CHECK ☐ MONEY ORDER ☐ CASHIERS CHECK OR ☐ PETITION IN LIEU OF A FILING FEE.

This document and $_____ filing fee or a nominating petition of _____ pages received. ☐ **Voter Registration Status Verified**

_____/_____/_____ _____/_____/_____ **(See Section 1.007)** _____
Date Received Date Accepted Signature of Filing Officer or Designee

2-26
Prescribed by Secretary of State
Section 141.031, Chapters 143 and 144, Texas Election Code
09/2021

INSTRUCTIONS

An application for a place on the general election for a city, school district or other political subdivision, may not be filed earlier than 30 days before the deadline prescribed by this code for filing the application. An application filed before that day is void. All fields of the application **must** be completed unless specifically marked optional.

For an election to be held on a uniform election date, the day of the filing deadline is the 78th day before Election Day.

If you have questions about the application, please contact the Secretary of State's Elections Division at 800-252-8683.

NEPOTISM LAW

The candidate must sign this statement indicating his awareness of the nepotism law. When a candidate signs the application, it is an acknowledgment that the candidate is aware of the nepotism law. The nepotism prohibitions of chapter 573, Government Code, are summarized below:

No officer may appoint, or vote for or confirm the appointment or employment of any person related within the second degree by affinity (marriage) or the third degree by consanguinity (blood) to the officer, or to any other member of the governing body or court on which the officer serves when the compensation of that person is to be paid out of public funds or fees of office. However, nothing in the law prevents the appointment, voting for, or confirmation of anyone who has been continuously employed in the office or employment for the following period prior to the election or appointment of the officer or member related to the employee in the prohibited degree: six months, if the officer or member is elected at an election other than the general election for state and county officers.

No candidate may take action to influence an employee of the office to which the candidate is seeking election or an employee or officer of the governmental body to which the candidate is seeking election regarding the appointment or employment of a person related to the candidate in a prohibited degree as noted above. This prohibition does not apply to a candidate's actions with respect to a bona fide class or category of employees or prospective employees.

FOOTNOTES

[1]An application for a place on the ballot, including any accompanying petition, is public information immediately on its filing. (Section 141.035, Texas Election Code)

[2]Inclusion of a candidate's VUID is optional. However, many candidates are required to be registered voters in the territory from which the office is elected at the time of the filing deadline. Please visit the Elections Division of the Secretary of State's website for additional information. http://www.sos.state.tx.us/elections/laws/hb484-faq.shtml

[3]Proof of release from the resulting disabilities of a felony conviction would include proof of judicial clemency under Texas Code of Criminal Procedure 42A.701, proof of executive pardon under Texas Code of Criminal Procedure 48.01, or proof of a restoration of rights under Texas Code of Criminal Procedure 48.05. (Texas Attorney General Opinion KP-0251)
One of the following documents must be submitted with this application.
Judicial Clemency under Texas Code of Criminal Procedure 42A.701
Executive Pardon under Texas Code of Criminal Procedure 48.01
Restoration of Rights under Texas Code of Criminal Procedure 48.05

[4]All oaths, affidavits, or affirmations made within this State may be administered and a certificate of the fact given by a judge, clerk, or commissioner of any court of record, a notary public, a justice of the peace, city secretary (for a city office), and the Secretary of State of Texas. See Chapter 602 of the Texas Government Code for the complete list of persons authorized to administer oaths.