



Mayor's Office of Boards and Commissions

STATE LAW REQUIRES THAT CERTAIN OFFICERS COMPLETE THE TEXAS ATTORNEY GENERAL'S OPEN MEETINGS ACT AND PUBLIC INFORMATION ACT TRAINING

Training. Sections 551.005 and 552.012 of the Texas Government Code require elected and appointed officials who are members of a "governmental body," as that term is defined in the Texas Public Information Act (TPIA), which includes the board or commission to which you have been appointed, to complete a course of training addressing the official's responsibilities under the Open Meetings and Public Information Acts. This training must be completed within 90 days of your appointment.

The Texas Attorney General's Open Government website provides information and links to the required training. https://www.oag.state.tx.us/open/og_training.shtml After completing the training, you should provide a copy of your certificate of completion to the Mayor's Office of Boards and Commissions and retain the original certificate in your own files.

THE TEXAS OPEN MEETINGS ACT

Open Meetings. Section 551.002 of the Texas Government Code (the Texas Open Meetings Act) provides that "[e]very regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter." The Texas Supreme Court has ruled that:

[The Open Meetings Act's] breadth is [consistent with the recommendation of Woodrow Wilson that 'Government ought to be all outside and no inside.' Our citizens are entitled to more than a result. **They are entitled not only to know what government decides but to observe how and why every decision is reached.** (Emphasis added)

Acker v. Texas Water Commission, 790 S.W.2d 299, 300 (Tex. 1990).

City boards and commissions with decision-making powers (rather than being advisory boards) are subject to the Texas Open Meetings Act (TOMA). Courts demand "exact and literal compliance" with the terms of this statute. *Acker*, 790 S.W.2d at 300.

Notice. The TOMA requires a governmental body to give written notice of the date, hour, place and subject of each meeting held by the governmental body. The notice must be posted in a place readily accessible to the public for at least 72 hours before the meeting. Tex. Gov't Code Secs. 551.041, 043(a). Courts and the Texas Attorney General consistently admonish governmental bodies that notice must specifically and fully disclose the subjects to be considered at the upcoming meeting. To determine if the notice is sufficient, courts often compare the content of the notice and the action ultimately taken at the meeting.

Meeting. Section 551.001(4) defines a "meeting" as:

"(A) a deliberation between a quorum of a governmental body, or between a quorum of a governmental body and another person, during which public business or public policy over which the governmental body has supervision or control is discussed or considered or during which the governmental body takes formal action; or

(B) except as otherwise provided by this subdivision, a gathering:

- (i) that is conducted by the governmental body or for which the governmental body is responsible;

- (ii) at which a quorum of members of the governmental body is present;
- (iii) that has been called by the governmental body; and
- (iv) at which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the governmental body, about the public business or public policy over which the governmental body has supervision or control.

The term does not include the gathering of a quorum of a governmental body at a social function unrelated to the public business that is conducted by the body, or the attendance by a quorum of a governmental body at a regional, state, or national convention or workshop, ceremonial event, or press conference, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, or press conference.”

Deliberation. A "deliberation" means a verbal exchange during a meeting between a quorum of a governmental body, or between a quorum of a governmental body and another person, concerning an issue within the jurisdiction of the governmental body or any public business. Sec. 551.001(2).

Referring to meetings as something less than deliberative, such as an “informal discussion,” is ineffectual to avoid the TOMA’s consequences. If a majority of the governing body is considering a pending issue within its jurisdiction, the meeting (regardless of whether it is called a workshop, retreat, informal discussion, briefing, etc.) is subject to the TOMA’s requirements.

Violations of the Act.

Criminal penalties. Section 551.144 of the Act provides for criminal penalties for board or commission members who close or participate in a closed meeting that is not permitted to be closed under the Act.

Civil enforcement. Actions taken by a board or commission in a meeting that violates the TOMA are voidable. Voiding an action generally is accomplished through a suit for mandamus or injunction to stop, prevent or reverse a violation or threatened violation of the act by members of a governmental body.

THE TEXAS PUBLIC INFORMATION ACT

The policy of the Public Information Act (Ch. 552 of the Texas Government Code) is expressed in part as follows:

The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

The Texas Public Information Act gives the public the right to request access to government information. All governmental bodies have the responsibility to provide the requested information promptly, and to inform a requestor when the Attorney General has been asked to rule on whether information may or must be withheld.

If, after completion of the required training, you have questions, you should contact the General Counsel Section of the City Attorney’s Office.