

BOARD MEMBERS
AUTHORITY

BBE
(LEGAL)

BOARD AUTHORITY

The board members as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the district. *Education Code 11.151(b)*

A board may act only by majority vote of the members present at a meeting held in compliance with Government Code Chapter 551, at which a quorum of the board is present and voting. Unless authorized by the board, a member of the board may not, individually, act on behalf of the board. *Education Code 11.051(a-1)*

ACCESS TO
INFORMATION

When acting in the member's official capacity, a board member has an inherent right of access to information, documents, and records maintained by the district.

"Official capacity" means all duties of office and includes administrative decisions or actions.

A district shall provide the information, documents, and records to the board member without requiring the board member to submit a public information request under Texas Government Code Chapter 552 (Public Information Act) and without regard to whether the requested items are the subject of or relate to an item listed on an agenda for an upcoming meeting.

The district may withhold or redact information, a document, or a record requested by a board member to the extent that the item is excepted from disclosure or is confidential under the Public Information Act or other law [see GBA]. Education Code 11.1512 does not require the district to provide information, documents, and records that are not subject to disclosure under the Family Educational Rights and Privacy Act of 1974 [see FL].

A district shall post, in a place convenient to the public, the cost of responding to one or more requests submitted by a board member under Education Code 11.1512(c) if the requests are for 200 or more pages of material in a 90-day period.

A district shall report annually to TEA not later than September 1 of each year:

1. The number of requests submitted by a board member under Education Code 11.1512(c) during the preceding school year; and
2. The total cost to the district for that school year of responding to the requests.

Education Code 11.1512(c)-(f)

An individual board member has an inherent right of access to records maintained by the district when the board member requests

the records in his or her official capacity. *Atty. Gen. Op. No. JM-119 (1983)*

When there are competing confidentiality or security concerns, it may be proper for a board to establish reasonable procedures to preserve confidentiality, but the district may not absolutely prohibit an individual board member from viewing records involving district business that are otherwise properly available to the board as a governmental body. *Atty. Gen. Op. No. GA-138 (2004)*

ACCESS TO
STUDENT
RECORDS

Personally identifiable information in education records may be released, without the written consent of the student's parents, only to a school official who has a legitimate educational interest in the education records. *34 C.F.R. 99.31 [See FL]*

RESPONSIBILITY
FOR RECORDS

A person, including a board member, commits a criminal offense if the person:

1. Knowingly or intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a district record in contravention of Local Government Code Chapter 202. *Local Gov't Code 202.008; Penal Code 37.10*
2. Willfully destroys, mutilates, alters, or removes public information without permission as provided by Government Code Chapter 552. *Gov't Code 552.351*
3. Distributes information considered confidential under the Public Information Act. *Gov't Code 552.352*

PROTECTIONS FOR
ACTING ON A
LEGISLATIVE
MEASURE

A board member may not be subject to disciplinary action or a sanction, penalty, disability, or liability for:

1. An action permitted by law that the officer takes in the officer's official capacity regarding a legislative measure;
2. Proposing, endorsing, or expressing support for or opposition to a legislative measure or taking any action permitted by law to support or oppose a legislative measure;
3. The effect of a legislative measure or of a change in law proposed by a legislative measure on any person; or
4. A breach of duty, in connection with the board member's practice of or employment in a licensed or regulated profession or occupation, to disclose to any person information, or to obtain a waiver or consent from any person, regarding the officer's actions relating to a legislative measure; or the substance, effects, or potential effects of a legislative measure.

Gov't Code 572.059

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BOARD MEMBER
IMMUNITIES

The statutory immunity detailed below is in addition to and does not preempt the common law doctrine of official and governmental immunity. *Education Code 22.051(b)*

STATE LAW
IMMUNITIES

A board member is not personally liable for any act that is incident to or within the scope of the duties of the board member's position and that involves the exercise of judgment or discretion. *Education Code 22.0511(a)*

FEDERAL LAW
IMMUNITIES

Except as provided in 20 U.S.C. Section 7946(b), no board member shall be liable for harm caused by an act or omission of the board member on behalf of a district if the conditions of the Paul D. Coverdell Teacher Protection Act of 2001 are met. *20 U.S.C. 7943, 7946(a)* [See also DGC]