



TCSA Model Board Policy Series

*500 Texas Open Government
Charter Board Policy for
Excellence in Leadership Academy
Update 2019*

INTRODUCTION

The Model Board Policies for Charter Schools is a series of publications by the Texas Charter Schools Association (TCSA). These publications are an educational tool for charter school leaders to aid in the operation and management of open-enrollment charter schools in Texas.

Overall Policy Framework

Each module in the Board Policy Series provides a summary of federal and state statutes, regulations, and related materials applicable to open enrollment charter schools. Citations to these materials are provided throughout the module and many contain a hyperlink so the actual statutory or regulatory provision can be accessed on the Internet. The summary is designated by the LEGAL AUTHORITY tab on the right edge of each page.

After the LEGAL AUTHORITY portion of the module you will find the model policy section designed to comply with current statutory and regulatory requirements described in the LEGAL AUTHORITY summaries. These policies are designated by the red CHARTER BOARD POLICY tab on the right edge of each page.

These are suggested policies to address the requirements set forth in this Module. Prior to adoption of the model policies by the Board of a charter school, each policy should be customized by including the school's name and by tailoring the language, if appropriate, to fit the specific needs, culture and requirements of the school. TCSA recommends that the Board of a charter school consult with and obtain the advice of the school's legal counsel in connection with adopting policies to comply with laws governing charter schools.

TCSA plans to update the Model Board Policies for Charter Schools after each Texas Legislative Session to reflect changes in applicable laws. We also will regularly and continually update the Policy Series when changes occur in state and federal case law and administration regulations that affect open enrollment charter schools. We encourage you to renew your subscription to the policy series each year to ensure that your school has the most recent laws and regulations.

Scope of Service & Copyright Notice

This policy module prepared by the TCSA is designed and intended as a resource of information for charter schools and is not to be construed as legal advice. It should be used in connection with consulting and obtaining the advice of the school's legal counsel to ensure compliance with applicable legal requirements.

This policy module and all updates are copyrighted publications of the TCSA. All rights are reserved and will be enforced to the fullest extent of the law. The policy modules are for the sole use of the purchaser. Duplication and distribution in whole or in part are prohibited unless otherwise specifically authorized in writing by TCSA. Inquiries should be directed to TCSA, 700 Lavaca, Suite 930, Austin, TX 78701.

For questions concerning the Model Board Policies for Charter Schools contact:

Christine Nishimura, Texas Charter Schools Association_
cnishimura@txcharterschools.org
512.584.8272

Module 500: Open Government

The Open Government Module 500, is the fifth module of the Model Board Policies. The material included in this module provides a comprehensive summary of statutes and regulations that apply to charter schools, as well as specific model board policies designed to comply with these legal requirements. Other policy modules in the series include:

Module 100: Financial Operations

Module 200: Charter School Governance & Organization

Module 300: General School Operations

Module 400: Students

Module 600: Human Resources

Legal Abbreviations Used In the TCSA Model Board Policy Series

Atty. Gen. Op.	Attorney General Opinion
C.F.R	Code of Federal Regulations
Tex. Admin. Code	Texas Administrative Code
Tex. Educ. Code	Texas Education Code
Tex. Gov't Code	Texas Government Code
Tex. Labor Code	Texas Labor Code
Tex. Loc. Gov't Code	Texas Local Government Code
U.S.C.A	United States Code Annotated

I. 500.020. TEXAS OPEN MEETINGS ACT

The governing body ("Board") of Excellence in Leadership Academy adopts the following policy which shall be effective on the date that the policy is adopted by the Board.

SECTION 1. Compliance

Excellence in Leadership Academy shall comply with the Texas Open Meetings Act.

SECTION 2. Meetings

Section 2.1. Location. Unless otherwise provided in the notice for a meeting, regular board meetings shall be held at Excellence in Leadership Academy Library located at 915 W. Interstate Highway 2, Mission, Texas 78572.

Section 2.2. Time. Regular meetings of the Board shall be held on last Monday of the Month at 5:30 p.m. The President of the Board may change the date or time of a regular meeting. The notice for that meeting shall reflect the change in date or time.

Section 2.3. Special or Emergency Meetings. Notice shall be sent out establishing the time and place of special and emergency meetings.

The Board Chair may call an emergency meeting only when the Board President determines that an emergency or public necessity, as defined by the Texas Open Meetings Act, warrants the meeting.

Section 2.4. Closed Meeting. The Board may conduct a closed meeting when the agenda includes a subject that by law may be discussed in a closed meeting.

NOTE: The following policy is only needed if the board will allow members to participate via video conference should adopt one of the following policies based on the school's geographic boundaries.

Section 2.5 Participation by Videoconference.

A member of the board may fully participate remotely in a board meeting via videoconference if the member's participation is broadcast live at the meeting, a quorum is present at the physical location of the meeting, and the meeting otherwise complies with the requirements of the Texas Open Meetings Act.

Members of the board will be considered present, so long as the video and audio remain active. At any time the video or audio becomes disconnected, that board member will be considered absent until the video or audio is reconnected.

Excellence in Leadership Academy will include a statement indicating video conference will be used on each applicable agenda posted prior to the meeting.

Section 3. Agenda

Section 3.1. Preparation. In consultation with the Board Chair, the ED shall prepare the agenda for all board meetings. Any board member may request a subject be included on the agenda for a meeting and the ED shall include on the draft agenda proposed to the Board President all topics that have been requested by the board members that have been timely submitted.

Before the agenda is finalized, the ED shall consult with the Board President to secure his or her approval of the final agenda. The Board President shall approve the draft agenda as presented unless, in the Board President's discretion, compelling reasons exist to add or delete an agenda item from the draft agenda.

Section 3.2. Deadline for Submitting Agenda Items. The deadline for submitting items for inclusion on the agenda is four calendar days before a regular meeting.

Section 4. Voting

Voting shall be by voice vote or show of hands, as directed by the Board President. Any member may abstain from voting, and a member's vote or failure to vote shall be recorded in the minutes. Proxy voting is not allowed.

Section 5. Minutes

The Board Secretary shall record all board action. The written minutes of all meetings shall be approved by vote of the Board and signed by the Board Secretary.

Section 6. Board Meeting Discussions

Discussions at board meetings shall be limited to the items on the board agenda. The Board President shall halt any discussion that does not apply to an agenda item. If a member of the public begins discussing an item not on the posted agenda, the Board shall only listen to the citizen's concern. The item may be posted for discussion at a future board meeting.

II. 500.040. TEXAS PUBLIC INFORMATION ACT

The governing body (“Board”) of Excellence in Leadership Academy adopts the following policy which shall be effective on the date that the policy is adopted by the Board.

SECTION 1. Compliance

Excellence in Leadership Academy shall comply with the Texas Public Information Act (PIA) and it shall be the policy of Excellence in Leadership Academy to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested.

SECTION 2. Officer for Public Information

Section 2.1. Designation. The Board designates the Business Manager as the Officer for Public Information. Each department head is an agent of the officer for public information for purposes of complying with the PIA. The Officer for Public Information is responsible for the release of public information in compliance with the PIA.

Section 2.2. Duties. The duty of the Officer for Public Information is to ensure compliance with the PIA.

Section 2.3. Sign Display. In accordance with the PIA, the Officer for Public Information shall prominently display a sign(s) regarding rights, responsibilities, and procedures under the PIA. Such signs may be found on the Attorney General of Texas’ website:

<https://www.oag.state.tx.us/open/pia/piasign120110.pdf>

https://www.oag.state.tx.us/open/pia/piasign120110_span.pdf

SECTION 3. Charges for Public Information

The Officer for Public Information may charge requestors for public information as permitted by the PIA.

SECTION 4. Electronic Communications Policy

Section 4.1. Electronic Communications as Public Information. Absent any applicable exception established under Texas law, electronic communications that pertain to official business of the school that are created by, transmitted to, received by, or maintained by a board member, officer, or employee of the school, are presumed to be public information under the Public Information Act, regardless of whether the device used to create, transmit, maintain or receive the electronic communication is a personal electronic communication device or an electronic device provided by the school to the board member, officer or employee to use in his or her official capacity, and regardless of the form of the electronic communication. Electronic communications in the form of e-mail, Internet postings, text messages, and instant message pertaining to official business of the school are considered Public Information under Texas law and under this Policy. Nothing in this Policy waives any applicable exception to disclosure under the Public Information Act of such electronic communications.

Section 4.2 School Accounts. Only school email accounts should be used to create, transmit or receive school business. If a board member, officer or employee conducts school business

on a non-school account, he or she shall promptly forward the electronic communication to his or her school email account. Board members, officers and employees of the school shall not communicate regarding official business of the school using text messages, instant messages, or posting on the Internet.

If the board has established an online message board or similar Internet application purposed to allow an electronic communication exchange between board members, officers and employees, then board members, officers, and employees shall use the online message board or similar Internet application in a manner consistent with school policy and state law.

If a board member, officer or employee creates, transmits or receives an electronic communication that pertains to the official business of the school, whether in the form of a text, instant message, Internet posting or other form of electronic communication, he or she shall promptly forward the electronic communication to ED @ info@elacharterschool.com. All electronic communications pertaining to official business of the school shall be maintained and disposed of in accordance with the Records Management Policy of the school.

III. 500.060. RECORDS MANAGEMENT

TCSA NOTE: The Record Management Policy below is the recommended policy from the Texas State Library and Archives Commission

RECORD MANAGEMENT POLICY

WHEREAS, Title 6, Subtitle C, Local Government Code (Local Government Records Act), provides that each local government must establish an active and continuing records management program; and

WHEREAS, the Excellence in Leadership Academy desires to adopt a plan for that purpose and to prescribe policies and procedures consistent with the Local Government Records Act and in the interests of cost-effective and efficient recordkeeping; NOW THEREFORE:

SECTION 1. DEFINITION OF RECORDS OF THE Excellence in Leadership Academy

All documents, papers, letters, books, maps, photographs, sound or video recordings, microfilm, magnetic tape, electronic media, or other information recording media, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under the laws of the state, created or received by the Excellence in Leadership Academy or any of its officers or employees pursuant to law or in the transaction of public business are hereby declared to be the records of the Excellence in Leadership Academy and shall be created, maintained, and disposed of in accordance with the provisions of this ordinance or procedures authorized by it and in no other manner.

SECTION 2. RECORDS DECLARED PUBLIC PROPERTY.

All records as defined in Sec. 1 of this plan are hereby declared to be the property of Excellence in Leadership Academy. No official or employee of the Excellence in Leadership Academy has, by virtue of his or her position, any personal or property right to such records even though he or she may have developed or compiled them. The unauthorized destruction, removal from files, or use of such records is prohibited.

SECTION 3. POLICY.

It is hereby declared to be the policy of the Excellence in Leadership Academy to provide for efficient, economical, and effective controls over the creation, distribution, organization, maintenance, use, and disposition of all records of this office through a comprehensive system of integrated procedures for the management of records from their creation to their ultimate disposition, consistent with the requirements of the Local Government Records Act and accepted records management practice.

SECTION 4. RECORDS MANAGEMENT OFFICER.

The ED or Ed Designee will serve as records management officer for the Excellence in Leadership Academy as provided by law and will ensure that the maintenance, destruction, electronic

storage, or other disposition of the records of this office are carried out in accordance with the requirements of the Local Government Records Act.

SECTION 5. RECORDS CONTROL SCHEDULES.

Appropriate records control schedules issued by the Texas State Library and Archives Commission shall be adopted by the records management officer for use in Excellence in Leadership Academy, as provided by law. Any destruction of records of the Excellence in Leadership Academy will be in accordance with these schedules and the Local Government Records Act.

RECORDS MANAGEMENT OFFICER APPOINTMENT

The EXECUTIVE DIRECTOR, or the EXECUTIVE DIRECTOR's designee, shall ensure that an appointment form (SLR 504) or letter is on file with the Texas State Library and Archives Commission (TSLAC) specifying the person currently holding the Records Management Officer position.

RECORDS CONTROL SCHEDULE

The Records Management Officer shall ensure that Excellence in Leadership Academy has a record control schedule approved by the Texas State Libraries and Archives Commission.

The Records Management Officer shall develop Excellence in Leadership Academy own schedule using forms SLR 500 and SLR 540, where all records series are listed along with the retention period for each. The retention period must be at least as long as those found in the TSLAC schedules.



TCSA Model Board Policy Series

500.020. Texas Open Meetings Act

INTRODUCTION

The Model Board Policies for Charter Schools is a series of publications by the Texas Charter Schools Association (TCSA). These publications are an educational tool for charter school leaders to aid in the operation and management of open-enrollment charter schools in Texas.

Overall Policy Framework

Each module in the Board Policy Series provides a summary of federal and state statutes, regulations, and related materials applicable to open enrollment charter schools. Citations to these materials are provided throughout the module and many contain a hyperlink so the actual statutory or regulatory provision can be accessed on the Internet. The summary is designated by the LEGAL AUTHORITY tab on the right edge of each page.

After the LEGAL AUTHORITY portion of the module you will find the model policy section designed to comply with current statutory and regulatory requirements described in the LEGAL AUTHORITY summaries. These policies are designated by the red CHARTER BOARD POLICY tab on the right edge of each page.

These are suggested policies to address the requirements set forth in this Module. Prior to adoption of the model policies by the Board of a charter school, each policy should be customized by including the school's name and by tailoring the language, if appropriate, to fit the specific needs, culture and requirements of the school. TCSA recommends that the Board of a charter school consult with and obtain the advice of the school's legal counsel in connection with adopting policies to comply with laws governing charter schools.

TCSA plans to update the Model Board Policies for Charter Schools after each Texas Legislative Session to reflect changes in applicable laws. We also will regularly and continually update the Policy Series when changes occur in state and federal case law and administration regulations that affect open enrollment charter schools. We encourage you to renew your subscription to the policy series each year to ensure that your school has the most recent laws and regulations.

Scope of Service & Copyright Notice

This policy module prepared by the TCSA is designed and intended as a resource of information for charter schools and is not to be construed as legal advice. It should be used in connection with consulting and obtaining the advice of the school's legal counsel to ensure compliance with applicable legal requirements.

This policy module and all updates are copyrighted publications of the TCSA. All rights are reserved and will be enforced to the fullest extent of the law. The policy modules are for the sole use of the purchaser. Duplication and distribution in whole or in part are prohibited unless otherwise specifically authorized in writing by TCSA. Inquires should be directed to TCSA, 700 Lavaca, Suite 930, Austin, TX 78701.

For questions concerning the Model Board Policies for Charter Schools contact:

Christine Nishimura, Texas Charter Schools Association
cnishimura@txcharterschools.org
512.584.8272

Module 500: Open Government

The Open Government Module 500, is the fifth module of the Model Board Policies. The material included in this module provides a comprehensive summary of statutes and regulations that apply to charter schools, as well as specific model board policies designed to comply with these legal requirements. Other policy modules in the series include:

Module 100: Financial Operations

Module 200: Charter School Governance & Organization

Module 300: General School Operations

Module 400: Students

Module 600: Human Resources

Legal Abbreviations Used In the TCSA Model Board Policy Series

Atty. Gen. Op.	Attorney General Opinion
C.F.R	Code of Federal Regulations
Tex. Admin. Code	Texas Administrative Code
Tex. Educ. Code	Texas Education Code
Tex. Gov't Code	Texas Government Code
Tex. Labor Code	Texas Labor Code
Tex. Loc. Gov't Code	Texas Local Government Code
U.S.C.A	United States Code Annotated

500.020. TEXAS OPEN MEETINGS ACT

A. Definitions (Updated November 2017)

1. Meeting

A "meeting" is a deliberation between a quorum of the board, or between a quorum of the board and another person, during which public business or public policy over which the board has supervision or control is discussed, considered, or during which the board takes formal action.

2. Gathering

A gathering is a meeting:

- a. That is conducted by the board or for which the board is responsible;
- b. At which a quorum of members of the board is present;
- c. That has been called by the board; and
- d. 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.

A gathering does not include a quorum of the board at a social function unrelated to the public business that is conducted by the board, or the attendance by a quorum of the board at a regional, state, or national convention or workshop, ceremonial event, or press conference or the attendance by a quorum of a governmental body at a candidate forum, appearance, or debate to inform the electorate, so long as formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, or press conference.

3. Deliberation

A deliberation is a verbal exchange during a meeting between a quorum of the board, or between a quorum of the board and another person, concerning an issue within the jurisdiction of the board or any public business.

4. Quorum

A quorum is a majority of the board, regardless of the number of vacancies, unless defined differently by applicable law, rule, or the charter of the board.

[Tex. Gov't Code §551.001; Op. Tex. Att'y Gen. No. JM-1127 \(1989\); 85th Leg., R.S. SB 1440](#)

B. Open Meetings Requirement

1. Texas Education Code

The boards of both an open-enrollment charter holder and open-enrollment charter school are considered governmental bodies for purposes of the Texas Open Meetings Act, [Chapter 551 of the Texas Government Code](#) ("TOMA").

2. Any requirement in TOMA, or another law that concerns open meetings that applies to a school district, the board of trustees of a school district, or public school students applies to an open-enrollment charter school, the boards of both a charter holder and charter school, or students attending an open-enrollment charter school.

Tex. Educ. Code §12.1051.

3. Texas Government Code
Every regular, special, or called meeting of the board shall be open to the public with the exception of closed meetings as allowed by law.

Tex. Gov't Code §551.002.

C. Notice

1. General Rule
 - a. The notice of a board meeting, containing the date, hour, place, and subject of each board meeting, must be posted at all times at least 72 hours before the scheduled time of the meeting. The notice must be posted at:
 - i. A place readily accessible to the general public;
 - ii. The central administration office; and
 - b. If the open-enrollment charter school has an Internet website, on the school's Internet website.

Tex. Gov't. Code §551.041; Tex. Gov't. Code §551.043; Tex. Gov't. Code §551.056.

2. Notice to the Media
 - a. An open-enrollment charter school shall provide notice of each board meeting to any news media that has:
 - i. Requested notice; and
 - ii. Agreed to reimburse the charter school for the cost of providing the notice.
 - iii. The notice shall be made by telephone, facsimile transmission, or electronic mail.

Tex. Gov't. Code §551.052.

3. Emergency Exception to the General Rule
 - a. In an emergency or when there is an urgent public necessity, the notice, or the

supplemental notice of a subject added as an item to the agenda for a meeting where a notice was posted in accordance with TOMA, is sufficient if it is posted for at least two hours before the meeting is convened.

- b. An emergency or an urgent public necessity only exists if immediate action is required by the board because of:
 - i. An imminent threat to public health and safety; or
 - ii. A reasonably unforeseeable situation.
- c. The emergency or urgent public necessity shall be clearly identified in the notice or supplemental notice.
- d. Emergency Notice to the Media
 - i. The presiding officer of the board, or the board member who has called the emergency board meeting or added the emergency agenda item, shall notify the news media at least one hour before the board meeting.
 - ii. This notice is only required to members of the news media that have previously filed at the headquarters of the charter school a request containing all pertinent information for the notice and have agreed to reimburse the charter school for the cost of providing the notice.
 - iii. The presiding officer or board member shall give the notice by telephone, facsimile transmission, or electronic mail.

Tex. Gov't. Code §§551.045, 551.047.

4. Inquiry Made at a Meeting

- a. If, at a board meeting, a person inquires about a subject for which proper notice has not been given, the board is limited to responding with:
 - i. A statement of specific factual information given in response to the inquiry; or
 - ii. A recitation of existing policy in response to the inquiry.
- b. Any deliberation or decision about the inquiry shall be limited to a proposal to place the subject on the agenda for the next board meeting.

Tex. Gov't. Code §551.042.

D. Minutes and Recording

1. Open Meeting

- a. The board shall prepare and keep minutes, or make a tape recording, of each open meeting. A recording is a tangible medium on which audio or a combination of audio and video is recorded and includes a disc, tape, film, electronic storage drive or other medium now existing or later developed.
- b. The minutes must state the subject of each deliberation and indicate each vote, order, decision, or other action taken.
- c. The minutes and recordings of an open meeting are public records and shall be available for public inspection and copying on request to the board's chief administrative officer or the officer's designee.

Tex. Gov't Code §§551.021 - .022.

- d. No vote shall be by secret ballot.

Op. Tex. Att'y Gen. No. H-1163 (1978).

E. Exceptions to Open Meetings Requirement - Closed Meetings (Updated November 2017)

1. Attorney Conference

- a. The board may meet in a closed meeting when seeking the advice of its attorney about pending or contemplated litigation or a settlement offer; or
- b. Any time in which the duty of the attorney to the board under Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas conflicts with TOMA.

Tex. Gov't Code §551.071.

2. Deliberation Regarding Real Property or Prospective Gifts

- a. The board may meet in a closed meeting to deliberate the purchase, exchange, lease, or value of real property, or to deliberate a negotiated contract for a prospective gift or donation to the school, if deliberation in an open meeting would have a detrimental effect on the position of the board in negotiations with a third person.

Tex. Gov't Code §§551.072, 551.073; Op. Tex. Att'y Gen. No. MW-417 (1981);

3. Personnel Matters

An open meeting is not required to:

- a. Deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of an employee;
- b. To hear a complaint or charge against an employee; or

- c. To deliberate a complaint or charge that is brought against an employee by another employee and the complaint or charge directly results in a need for a hearing.
- d. Subsections (a) through (c) do not apply if the employee who is the subject of the deliberation, or who the charge or complaint is against, requests a public hearing.

Tex. Gov't Code §§551.074, 551.082(a)(2).

4. Security

- a. Meetings to deliberate the deployment, or specific occasions for implementation of security personnel or devices, may be closed.

Tex. Gov't Code §551.076.

5. Students

- a. A closed meeting is allowed to deliberate the discipline of a student unless the student's parent requests, in writing, an open meeting.

Tex. Gov't Code §551.082.

- b. An open meeting is not required when conducting a meeting involving a student if personally identifiable information about the student will be revealed by the deliberation.
 - i. Directory information, as defined by the Family Educational Rights and Privacy Act, is considered to be personally identifiable information.
 - ii. A parent or guardian, or a student at least 18 years of age, may request, in writing, that the meeting be open.

Tex. Gov't Code §551.0821.

6. Consultation with Employee Group

- a. The TOMA does not require a school board operating under a consultation agreement authorized by Section 13.901, Education Code, to conduct an open meeting to deliberate the standards, guidelines, terms, or conditions the board will follow, or instruct its representatives to follow, in a consultation with a representative of an employee group.

Tex. Gov't Code §551.083.

7. Witnesses

- a. A witness may be excluded while the board is questioning another witness in an investigation.

Tex. Gov't Code §551.084.

8. Deliberation Regarding Economic Development Negotiations
TOMA does not require a board to conduct an open meeting:

- a. To discuss or deliberate regarding commercial or financial information that the board has received from a business prospect that the governmental body seeks to have locate, stay, or expand in or near the territory of the school and with which the board is conducting economic development negotiations; or
- b. To deliberate the offer of a financial or other incentive to a business prospect described by Subsection (a).

Tex. Gov't Code §551.087.

9. Assessment Instruments

The board shall conduct closed meetings to discuss or adopt individual assessment instruments or assessment instrument items.

Tex. Educ. Code §39.030(a).

10. Security Devices or Audits

A governmental body is not required to hold an open meeting to discuss:

- a. security assessments or deployments relating to information resources technology;
- b. network security information as described by Section 2059.055(b); or
- c. the deployment, or specific occasions for implementation, of security personnel, critical infrastructure, or security devices.

Tex. Gov't Code §551.089

F. Procedures Relating to Closed Meetings

1. A quorum of the board must first meet in an open session, for which notice has been appropriately given, before holding a closed meeting.
2. The presiding officer of the board must announce that a closed meeting will be held and identify the section or sections of the TOMA under which the closed meeting is held.
3. Any final action, decision, or vote must be made in an open meeting.
4. Except for the attorney consultation allowed under TOMA, a certified agenda or tape recording of every closed meeting must be kept.

- a. The presiding officer shall certify that the certified agenda or recording is a true and correct record of the proceedings.
- b. The certified agenda must include:
 - i. A statement of the subject matter of each deliberation;
 - ii. A record of any further action taken; and
 - iii. An announcement by the presiding officer at the beginning and the end of the meeting indicating the date and time.
- c. A tape recording must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time.
- d. The certified agenda or tape recording must be kept for at least two years after the date of the meeting. If a legal action involving the closed meeting is brought within the two years, the board shall preserve the certified agenda or tape recording while the action is pending.
- e. The certified agenda or tape recording is available for public inspection and copying only under a court order.
- f. A board member may be guilty of a Class C misdemeanor if the member participates in a closed meeting knowing that a certified agenda or tape recording is not being kept.
- g. An individual, corporation, or partnership may be guilty of a Class B misdemeanor if, without lawful authority, they knowingly disclose to a member of the public the certified agenda or tape recording of a lawfully closed board meeting.

Tex. Gov't Code §§551.101-.104, 551.145-.146.

G. Meetings Held by Teleconference Call

1. A meeting may be held by telephone conference call only if:
 - a. An emergency or public necessity exists, as defined under "C. Notice" of this section; and
 - b. The convening at one location of a quorum of the board is difficult or impossible; or
 - c. An advisory board holds the meeting.
2. A teleconference call is subject to the same notice requirements as other meetings. The notice must specify the location where the board's meetings are usually held as the location of the telephone conference call meeting.

3. Each part of the meeting that is required to be open to the public shall be audible in the location specified in the notice and shall be tape-recorded. The tape-recording shall be available to the public.
4. The location of the meeting shall provide two-way communication during the entire telephone conference call and the identification of each party to the call shall be clearly stated prior to speaking.

Tex. Gov't Code §551.125.

H. Videoconference Call (Updated November 2017)

1. A meeting may be held by video conference provided that:
 - a. The quorum of the board meeting is present at that physical space, unless the governmental body extends into three (3) or more counties, then only the presiding officer must be present at a physical space;
 - b. The board makes available to the public at least one suitable physical space, located in or within the geographic boundary of the school, equipped with videoconference equipment that provides audio and video display, a camera and a microphone, for each board member participating, and so the members of the public can provide testimony or otherwise actively participate during the open portion of the meeting;
 - c. Any member of the public present at that physical space is provided the opportunity to participate in the meeting by means of videoconference call in the same manner as a person who is physically present at a meeting of the board not conducted by conference call; and
 - d. The notice, in addition to notice requirements applicable to all meetings, must specify the location of the physical space where the quorum, or presiding officer of the board will be meeting, and must note that the board intends to use videoconference.
2. Each portion of the meeting must be visible and audible and have two-way communication.
3. The quality of the audio and video signals at each location must meet or exceed minimum standards established by the Department of Information Resources. If technical difficulties cause the quality of the audio or video signal to fall below the minimum standards, the board must recess or adjourn the meeting. The board must adjourn if the technical difficulties are not solved within six (6) hours.
4. A member of a governing body that participates via video conference shall be considered absent from the meeting during any portion of the meeting where the board member loses an audio or visual connection.

5. The board shall make at least an audio recording of the meeting.
6. The board may allow a member of the public to testify at a meeting from a remote location by videoconference.
7. "Videoconference call" means a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through duplex audio and video signals transmitted over a telephone network, a data network, or the Internet.

Tex. Gov't Code §551.127; Op. Tex. Att'y Gen. No. DM-480 (1998); 85th Leg., R.S. HB 3047

I. Internet Broadcast

1. The board may broadcast a meeting over the Internet provided that:
 - a. The school establishes an Internet site and provides access to the broadcast from that site;
 - b. The school provides on the Internet site the same notice of the meeting that the school is required to post for all meetings and within the same time frames.

Tex. Gov't Code §551.128.

2. Online Message Boards. A communication or information exchange between board members about public business or public policy that is posted over an online message board or similar Internet application that is viewable and searchable by the public does not constitute a meeting or deliberation of the board subject to TOMA, if:
 - a. The communication is in writing, displayed in real time on the online message board or Internet application for at least 30 days after the communication is first posted;
 - b. The online message board or Internet application is owned or controlled by the open-enrollment charter school or open-enrollment charter holder and prominently displayed on the school or charter holder's primary internet page; and
 - c. The online message board or Internet application is used only by board members of the open-enrollment charter school or staff members of the open-enrollment charter school.

Tex. Gov't Code §551.006

J. Telephone and Electronic Mail Communication

1. It is possible to violate TOMA, even if there is not a quorum physically present in one place, by having communication regarding the public business of the board via the telephone or electronic mail.

Op. Tex. Att'y Gen. No. JC-307 (2000).

2. Electronic communications could, depending on the facts of a particular case, constitute a deliberation and a meeting for purposes of TOMA.

[Op. Tex. Att'y Gen. No. GA-0896.](#)

K. Consultation Between the Board and its Outside Attorney

1. The board may conduct a telephone conference call, a videoconference call, or communicate via the Internet to conduct a public consultation with its attorney in an open meeting of the board or a private consultation with its attorney in a closed meeting of the board.
2. This section does not apply to an attorney who is an employee of the charter holder/school.

[Tex. Gov't Code §551.129.](#)

L. Criminal Violations

1. It is an offense if a member, or group of members, of the board knowingly conspires to circumvent TOMA by meeting in numbers less than a quorum for the purpose of secret deliberations.
2. A member of the board commits an offense if a closed meeting is not permitted under TOMA and the member knowingly:
 - a. Calls or aids in calling or organizing the closed meeting, whether it is a special or called closed meeting;
 - b. Closes or aids in closing the meeting to the public, if it is a regular meeting; or
 - c. Participates in the closed meeting, whether it is a regular, special, or called meeting.

[Tex. Gov't Code §§551.143 - .144.](#)

M. Video Recording of Board Meeting (Updated November 2017)

1. A governing body of an open-enrollment charter school with a student enrollment of more than 10,000 must:
 - a. make a video and audio recording of each:
 - i. regularly scheduled open meeting, and
 - ii. special called meeting or work session, where the board votes on any matter or allows public comment or testimony.
 - b. make available an archived copy on an existing Internet site. The open-enrollment charter school is not required to establish a separate Internet site.

2. Any archived recording must be:

- a. made available 7 days after the date the recording was made; and
- b. maintained on the internet for not less than 2 years from the date the recording was made.

Tex. Gov't Code §551.128; 85th Leg., R.S. HB 523



TCSA Model Board Policy Series

500.040. Texas Public Information Act

500.040 TEXAS PUBLIC INFORMATION ACT

A. Applicability and Availability

1. The boards of both an open-enrollment charter holder and an open-enrollment charter school are considered governmental bodies for purposes of the Texas Public Information Act, [Chapter 552 of the Texas Government Code](#) ("PIA").
2. Any requirement in the PIA, or another law that concerns the availability of information that applies to a school district, the board of trustees of a school district, or public school students applies to an open-enrollment charter school, the boards of both a charter holder and charter school, or students attending an open-enrollment charter school.
3. Public information is available to the public at a minimum during the normal business hours of the school.

[Tex. Educ. Code §12.1051](#); [Tex. Gov't Code §552.021](#).

B. Categories of Public Information

The following categories of information are public information and not exempt from required disclosure unless they are confidential under another law. This is not an exhaustive list:

1. A complete report, audit, evaluation, or investigation made of, for, or by the school, except certain law enforcement and prosecutorial information as provided by [Tex. Gov't Code §552.108](#);
2. The name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of the school;
3. Information in an account, voucher, or contract relating to the receipt or expenditure of public or other funds;
4. The name of each official and the final record of voting on all proceedings of the school's board;
5. All working papers, research material, and information used to estimate the need for or expenditure of public funds by the school, on completion of the estimate;
6. A description of the school's organization and where, from whom, and how the public may obtain information, submit information or requests, and obtain decisions;
7. A statement of the general course and method by which the school functions are channeled and determined, including the nature and requirements of all formal and informal policies and procedures;
8. Any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of the official

business of the school, including an electronic communication in the form of an e-mail, Internet posting, text message, instant message, or other electronic communication.

9. Information that is written, produced, collected, assembled, or maintained (including electronic communications described above) by an individual officer or employee of the school in the officer's or employee's official capacity and the information pertains to official business of the school.
10. Information the board of the school has a right of access to or the board spends or contributes public money for the purpose of writing, producing, collecting, assembling or maintaining the information.
11. A rule of procedure, a description of forms available or the places at which forms may be obtained, and instructions relating to the scope and content of all papers, reports, or examinations;
12. All final opinions and orders issued in the adjudication of cases;
13. A policy statement or interpretation adopted or issued by the school;
14. Administrative staff manuals and instructions to staff that affect a member of the public;
15. Information regarded as open to the public under an agency's policies;
16. Information that is in a bill for attorney's fees and that is not privileged under the attorney-client privilege;
17. Information that is also contained in a public court record; and
18. A settlement agreement to which a school is a party.

[Tex. Gov't Code §552.022.](#)

C. Information Exempted from Disclosure

1. Confidential by Law
Information considered confidential by other law, either constitutional, statutory, or by judicial decision is exempted from disclosure.
 - a. Military personnel information is confidential, including but not limited to name, rank, awards, and decorations.

[Tex. Gov't Code § 437.232; 84th Leg., R.S. HB 2152](#)

2. Confidentiality of Personal Information

- a. Each current or former employee or official of the school shall choose whether to allow public access to the information in the school's custody that relates to the person's home address, home telephone number, emergency contact information, or social security number, or that reveals whether the person has family members.
- b. Each current and former employee and official shall state that person's choice as to disclosure to the main personnel officer of the school in a signed writing not later than the 14th day after the date on which:
 - i. The employee begins employment with the school;
 - ii. The official is elected or appointed; or
 - iii. The former employee or official ends services with the school.
- c. If the employee, official, or former employee or official fails to specify his or her choice, the information is subject to public access. However, the employee or official may open or close public access to the information at any time by making a written request to the main personnel officer.

[Tex. Gov't Code §552.024.](#)

3. Educational Records

The PIA does not require the release of information contained in education records. Education records may only be released in accordance with the Family Educational Rights and Privacy Act.

Personal information considered confidential may be redacted prior to releasing information under the PIA without requesting an Attorney General's opinion.

[Tex. Gov't Code §552.026 and 552.114. 84th Leg., R.S. HB 4046](#)

4. Personnel Files

Information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, is exempted from disclosure. This includes transcripts from an institution of higher education maintained in the personnel file. However, information regarding the degree obtained or the curriculum on a transcript is not exempted from disclosure.

[Tex. Gov't Code §552.102.](#)

5. Current or Pending Litigation

Information is exempted from disclosure if it relates to litigation to which the school is or may be a party, or to which an officer or employee of the school, as a consequence of the person's office or employment, is or may be a party. The exemption applies only if the litigation is pending or reasonably anticipated at the time the school's public

information officer receives the public information request.

Tex. Gov't Code §552.103.

6. Competition or Bidding

Information that, if released, would give advantage to a competitor or bidder is exempt from disclosure.

Tex. Gov't Code §552.104.

7. Real or Personal Property

Information is exempted from public disclosure that relates to the location of real or personal property for a public purpose prior to the public announcement of the project. Also, information related to appraisals or purchase price of real or personal property for a public purpose prior to the formal award of contracts for the property is exempted from disclosure.

Tex. Gov't Code §552.105.

8. Certain Legal Matters

Information that the school's attorney is prohibited from disclosing because of a duty to the school under the Texas Rules of Civil Evidence, the Texas Rules of Criminal Evidence, or the Texas Disciplinary Rules of Professional Conduct, or information prohibited from public disclosure by a court order;

Tex. Gov't Code §552.107.

9. Trade Secrets; Certain Commercial or Financial Information

A trade secret obtained from a person and privileged or confidential by statute or judicial decision and commercial or financial information for which it is demonstrated based on specific factual evidence that disclosure would cause substantial competitive harm to the person from whom the information was obtained is exempted from disclosure.

Tex. Gov't Code §552.110.

10. Memoranda

Memoranda or letters that would not be available by law to a party in litigation with the school is exempted from disclosure.

Tex. Gov't Code §552.111.

11. Student Records

Information from a student record is exempted from disclosure unless it is requested by:

- a. Educational institution personnel;

- b. The student involved or the student's parent, legal guardian, or spouse; or
- c. A person conducting a child abuse investigation required by the Texas Family Code.

Tex. Gov't Code §552.114.

12. Audit Working Papers

Certain audit working papers are exempted from disclosure.

Tex. Gov't Code §552.116.

13. Test Items

A test item developed by a school is exempted from disclosure.

Tex. Gov't Code §552.122.

14. Library Records

A record of the school library that identifies or serves to identify a person who requested, obtained, or used a library material or service unless the record is disclosed because:

- a. The library determines that disclosure is reasonably necessary for the operation of the library and the record is not confidential under another law; or
- b. Other law requires the disclosure of the information.

Tex. Gov't Code §552.124.

15. Name of Applicant for Superintendent

The name of an applicant for the position of superintendent is exempted from disclosure, except that the board must give public notice of the name or names of the finalists being considered for the position at least 21 days before the date of the meeting at which a final action or vote is to be taken on the employment of the person.

Tex. Gov't Code §552.126.

16. Certain Motor Vehicle Records

Information described by this section may be released only if, and in the manner, authorized by Chapter 730, Transportation Code.

- a. Information relating to a motor vehicle operator's or driver's license or permit issued by an agency of Texas or another state or country;
- b. A motor vehicle title or registration issued by an agency of Texas or another state or county; or
- c. a personal identification document issued by an agency of Texas or another state or

country or a local agency authorized to issue an identification document.

Tex. Gov't Code §552.130(a)-(b).

17. The Informer's Privilege: Certain Information Held by a School

- a. A student/former student or an employee/former employee who has furnished a report of another person's possible violation of criminal, civil, or regulatory law to the school or the proper regulatory enforcement authority may have information that would reveal his or her identity exempted from disclosure.

Tex. Gov't Code §552.135.

18. Credit Card, Debit Card, and Access Device Numbers

- a. A credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a charter holder/school is confidential.

Tex. Gov't Code §552.136.

19. Certain E-Mail Addresses

- a. With some exceptions, an email address of a member of the public that is provided for the purpose of communicating electronically with the charter holder/school is confidential.

Tex. Gov't Code §552.137.

20. Information Related to Security or Infrastructure Issues for Computers

- a. Information is confidential if it is information that relates to computer network security, or to the design, operation, or defense of a computer network.
- b. Information may be disclosed to a bidder if the charter holder/school determines that providing the information is necessary for the bidder to provide an accurate bid.

Tex. Gov't Code §552.139.

21. Certain Investments

- a. Certain charter holder/school investment information is not public information and is exempted from disclosure.

Tex. Gov't Code §552.143.

22. Social Security Numbers

- a. The social security number of a living person is exempted from disclosure, but the social security number is not confidential.
- b. A charter holder/school may redact the social security number of a living person from any information the charter holder/school publicly discloses without the

necessity of requesting a decision from the attorney general's office.

- c. The social security number of an employee of an open-enrollment charter school in the custody of the open-enrollment charter school is confidential.
- d. A school may not require an employee or former employee of the open-enrollment charter school to choose whether to allow public access to the employee's or former employee's social security number.

Tex. Gov't Code §552.024

23. Public Employee or Officer Personal Safety

- a. Information in the custody of the charter holder/school that relates to an employee or officer of the school is exempted from disclosure if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Tex. Gov't Code §552.151.

D. Officer for Public Information

- 1. The chief administrative officer is the officer for public information and each department head is an agent of the officer for public information purposes of complying with the PIA.
- 2. An officer for public information is responsible for the release of public information in compliance with the PIA.

Tex. Gov't Code §§552.201 - .202; §552.204.

3. General Duties for the Officer for Public Information:

- a. Make public information available for public inspection and copying;
- b. Carefully protect public information from deterioration, alteration, mutilation, loss, or unlawful removal;
- c. Repair, renovate, or rebind public information as necessary to maintain it properly; and
- d. Prominently display a sign that contains information about the rights of a requestor, the responsibilities of a charter holder/school, and the procedures for inspecting or obtaining a copy of public information.
 - i. The sign shall be displayed at one or more places in the administrative offices of the charter holder/school where it is plainly visible to:

- (1) Members of the public who request public information; and
- (2) Employees of the charter holder/school whose duties include receiving or responding to public information requests.

Tex. Gov't Code §552.203, §552.205.

E. Procedures Related to Access (Updated November 2017)

1. Policy

It shall be a policy of a charter holder/school to provide a suitable copy of public information within a reasonable time after the date on which the copy is requested.

Tex. Gov't Code §552.228.

2. Promulgation of Rules

A charter holder/school may promulgate reasonable rules of procedure under which public information may be inspected and copied efficiently, safely, and without delay. Rules promulgated cannot be inconsistent with PIA.

Tex. Gov't Code §552.230.

3. Prompt Production of Public Information

An officer for public information shall promptly produce public information for inspection, duplication, or both on application by any person to the officer. Promptly is defined by PIA as "as soon as possible under the circumstances, that is, within a reasonable time, without delay." If an officer cannot produce public information for inspection or duplication within 10 business days after the date the information is requested, the officer shall certify that fact in writing to the requestor and set a date and hour within a reasonable time when the information will be available.

An officer of public information complies with PIA when referring a requestor to the open-enrollment charter school's website if the information is identifiable and accessible.

Tex. Gov't Code §552.221; 84th Leg., R.S. HB 685

4. Permissible Inquiry by Charter Holder/School

Neither the officer for public information or the officer's agent may make an inquiry of a requestor except:

- a. To establish proper identification;
- b. To clarify the request if it is unclear; or
- c. If a large amount of information has been requested, the charter holder/school may discuss with the requestor how the scope of the request might be narrowed.

Tex. Gov't Code §552.222.

5. Uniform Treatment of Requests

All requests for information shall be treated uniformly without regard to the position or occupation of the requestor, the person on whose behalf the request is made, or the status of the individual as a member of the media. The officer for public information or the agent shall give to a requestor all reasonable comfort and facility for the full exercise of the rights granted under the PIA.

Tex. Gov't Code §552.223 - .224.

6. Requests that Require Manipulation or Programming of Data

- a. A charter holder/school must provide a written statement to a requestor if the charter holder/school determines:
 - i. That responding to a request for public information will require programming or manipulation of data; and that
 - (1) Compliance with the request is not feasible or will result in substantial interference with operations; or
 - (2) The information could be made available in the requested form only at a cost that covers the programming and manipulation of data.
- b. The written statement must include:
 - i. A statement that the information is not available in the requested form;
 - ii. A description of the form in which the information is available;
 - iii. A description of any contract or services that would be required to provide the information in the requested form;
 - iv. A statement of the estimated cost of providing the information in the requested form.
- c. The written statement shall be provided to the requestor within 20 days after the date of the charter holder/school's receipt of request. The charter holder/school has an additional 10 days to provide the statement if the charter holder/school gives written notice to the requestor, within 20 days after the date of receipt of the request, that the additional time is needed.
- d. Once the written statement is provided, the charter holder/school does not have any further obligation unless within 30 days the requestor states in writing to the charter holder/school that the requestor:

- i. Wants the charter holder/school to provide the information in the requested form according to the cost and time parameters set out in the written statement or according to other terms to which the requestor and the charter holder/school agree; or
 - ii. Wants the information in the form in which it is available.
- e. If a requestor does not timely respond to the written statement, the requestor is considered to have withdrawn the request for information.
- f. The officer for public information shall establish policies that assure the expeditious and accurate processing of requests for information that require programming or manipulation of data.
- g. A charter holder/school shall maintain a file containing all written statements issued under this section in a readily accessible location.
7. Limits
- a. A governmental body may set reasonable monthly and yearly limits on the amount of time personnel spend producing responding producing public information without recovering its costs attributable to tat personnel time.
 - i. A yearly limit may not be less than 36 hours per requestor; or
 - ii. A monthly limit may not be less than 15 hours per requestor.

F. Withdrawal of Email Requests (Updated November 2017)

A charter holder/school may consider an email request withdrawn if:

1. The charter holder/school responds to the same email address used in the original request or to an alternate email address provided by the requestor and the charter holder/school does not receive a response by the 61st day, the request is considered withdrawn.

Tex. Gov't Code §552.222; 84th Leg., R.S. HB 2134

2. The requestor fails to inspect or duplicate the public information in the offices of the governmental body on or before the 60th day after the date the information is made available.
3. The requestor fails to pay postage and any other applicable charges accrued under Subchapter F of the Chapter 552 of the Texas Government Code on or before the 60th day after the date the requestor is informed of the charges.

Tex. Gov't Code §552.221; 85th Leg., R.S. HB 3107

G. Repetitious Requests (Updated November 2017)

1. A charter holder/school that determines that a requestor has made a request for information for which the charter holder/school has previously furnished or made copies available to the requestor, the charter holder/school may either:
 - a. Furnish the information again in accordance with the request; or
 - b. Shall certify to the requester that the information was previously furnished. The certification must include:
 - i. A description of the information for which copies had been furnished or made available;
 - ii. The date the charter holder/school received the requestor's original request for that information;
 - iii. The date that the charter holder/school previously furnished or made available copies of the information to the requestor;
 - iv. A certification that no subsequent additions, deletions, or corrections have been made to that information; and
 - v. The name, title, and signature of the officer for public information or the officer's agent making the certification.

Tex. Gov't Code §552.232.

2. If a charter holder/school receives multiple requests in one calendar day from the same individual, the charter holder or school may treat the request as one single request for purposes of calculating cost. A charter may not combine multiple requests from separate individuals from the same organization.

Tex. Gov't Code §552.261; 85th Leg., R.S. HB 3107

3. If a requestor makes a second request, but has not withdrawn a previous request that the governmental body located and complied the response, and the governmental body provided a statement of the cost of the request that remains unpaid by the requestor, then the governmental body is not required to locate, comply, or produce copies of the newly requested information or prepare a cost statement until the requestor pays the cost of the previous request or withdraws the previous request.
 - a. If the governing body exceeds the time limits set by the governing body under 552.275(a), and provides the requestor with a written statement of the costs of the request, then the governmental body is not required to produce the information in response to the request, unless on or before the 10th days after the date the governmental body provided the written statement the requestor submits payment.

- b. This does not apply to a request that seeks information for dissemination by news medium or communication service provider.

Tex. Gov't Code 552.275; 85th Leg., R.S. HB 3107

H. Charges for Providing Copies of Public Information

1. Charges

- a. Charges for providing a copy of public information shall be an amount that reasonably includes all costs related to reproducing the public information, including costs of materials, labor, and overhead. If a request is 50 or fewer pages, the costs shall be limited to the charge for each page of the paper that is photocopied, unless to the pages to be photocopied are located in:

- i. Two or more buildings that are not physically connected to each other; or
- ii. A remote storage facility.

2. Charges That Include Cost of Labor

If a charge for providing a copy of public information includes costs of labor, the requestor may require the officer for public information or the officer's agent to provide the requestor with a written statement as to the amount of time that was required to produce and provide the copy.

- a. The statement must be signed by the officer for public information or the officer's agent and the officer's or the agent's name must be typed or legibly printed below the signature.
- b. A charge may not be imposed for providing this written statement to the requestor.

3. Charges in Excess of \$40

If charges will exceed \$40 the charter holder/school shall provide the requestor with a written itemized statement that details all estimated charges that will be imposed, including any allowable charges for labor or personnel costs. If there is an alternative less costly, the statement must include a notice that the requestor may contact the charter holder/school regarding the alternative method.

- 4. A charter school that receives a request to produce public information for inspection or publication or to produce copies of public information in response to a requestor who, within the preceding 180 days, has accepted but failed to pay written itemized statements of estimated charges from the charter school may require the requestor to pay the estimated charges for the request before the request is fulfilled.

Tex. Gov't Code §§552.261 - .2615.

I. Attorney General Decision

1. Requesting an Attorney General Decision

- a. Within ten days of receiving a request, if a charter holder/school wishes to withhold information from public disclosure it must ask for a decision from the Attorney General about whether the information is exempted from disclosure. The written statement should state that the charter holder/school considers the information to fall within one of the information categories exempted from disclosure.
2. Notice to Requestor
 - a. If the charter holder/school requests a decision from the Attorney General it must notify the requestor in writing, within ten days of receiving the request, that it wishes to withhold the requested information and has asked for a decision from the Attorney General. A copy of the written communication to the Attorney General, or a redacted version if it discloses the requested information, must accompany the notice.
3. Submitting Supportive Materials
 - a. Within 15 days after receiving the request for information, the charter holder/school must submit to the Attorney General:
 - i. written comments stating why the stated exemptions apply;
 - (1) These must also be sent to the requestor but must be redacted if they contain the requested information.
 - ii. A copy of the written request for information;
 - iii. A signed statement as to the date when the request for information was received by the charter holder/school or evidence sufficient to establish that date; and
 - iv. A copy of the specific information requested, or samples of the information if it is voluminous.
 4. Presumption that Information is Public
 - a. If the charter holder/school does not request an Attorney General decision in compliance with PIA and provide the requestor with the required information, the information requested is presumed subject to public disclosure unless there is a compelling reason to withhold the information.

Tex. Gov't Code §§552.301 - .302.

J. Criminal Violations

1. Destruction, Removal, or Alteration of Public Information

A person commits a misdemeanor offense, punishable by a fine of \$25 - \$4000 and/ or confinement in county jail for three days - 3 months, if the person willfully destroys, mutilates, removes without permission as provided by the PIA, or alters

public information.

Tex. Gov't Code §552.351.

2. Distribution or Misuse of Confidential Information

A person commits a misdemeanor offense, punishable by a fine not more than \$1000 and/or confinement in county jail for not more than six months, if the person distributes or misuses information considered confidential under the PIA.

Tex. Gov't Code §552.352.

3. Failure or Refusal of Officer for Public Information to Provide Access

An officer for public information, or the officer's agent, commits a misdemeanor offense, punishable by a fine of not more than \$1000 and/or confinement in county jail for not more than six months, if, with criminal negligence, the officer or agent fails or refuses to give access to public information to a requestor.

Tex. Gov't Code §552.353.



TCSA Model Board Policy Series

500.060. Records Management

500.060. RECORDS MANAGEMENT

A. Applicability

1. An open-enrollment charter school is considered a local government for purposes of Subtitle C, Title 6, Records Provisions Applying to More than One Type of Local Government of the Texas Local Government Code, and Subchapter J, Chapter 441, Libraries and Archives of the Texas Government Code. Therefore, the records of the open-enrollment charter school must be retained in accordance with these provisions.
2. Records of an open-enrollment charter school and records of a charter holder that relate to an open-enrollment charter school are government records for all purposes under state law.
3. Local government records created or received in the transaction of official business or the creation or maintenance of which were paid for by public funds are public property.
4. School records are subject to the Texas Public Information Act.

Tex. Educ. Code §12.1052; 19 Tex. Admin. Code §100.1203; Tex. Loc. Gov't Code §201.005, §201.009.

B. Definitions

1. "Commission" means the Texas State Library and Archives Commission.
2. "Director" and "Librarian" means the executive and administrative officer of the Texas State Library and Archives Commission.
3. "Record" means any document, paper, letter, book, map, photograph, sound or video recording, microfilm, magnetic tape, electronic medium, or other information recording medium, regardless of physical form or characteristic and regardless of whether public access to it is open or restricted under state law, created or received by the school or any of its officers or employees pursuant to law, including an ordinance, or in the transaction of public business.

Tex. Loc. Gov't Code §201.003.

C. Destruction of Records

1. A school may destroy a record if:
 - a. The record is listed on a records control schedule, and:
 - i. The retention period has expired; or
 - ii. It has been microfilmed or stored electronically as required by Chapters 204 and 205 of the Texas Local Government Code.

- b. The record appears on a list of obsolete records approved by the director and librarian; or
 - c. A destruction request is filed with and approved by the director and librarian.
2. If a record is the subject of litigation it cannot be destroyed until the litigation is resolved. Also, if the record has been requested subject to the Texas Public Information Act, it cannot be destroyed until the request is resolved.

Tex. Loc. Gov't Code §202.001 - .002.

D. Records Management

- 1. The governing body shall:
 - a. Establish, promote, and support an active and continuing program for the efficient and economical management of all school records;
 - b. Develop policies and procedures for the administration of the program under the direction of the records management officer;
 - c. Facilitate the creation and maintenance of records containing adequate documentation of the organization, functions, policies, decisions, procedures and essential transactions of the school and designed to furnish the information necessary to protect the legal and financial rights of the school, the state, and persons affected by the activities of the school;
 - d. Facilitate the identification and preservation of records that are of permanent value;
 - e. Facilitate the identification and protection of essential records;
 - f. Cooperate with the Commission in its conduct of statewide records management surveys;
 - g. Designate a records management officer by designating an individual or designating an office or position, the holder of which shall be the records management officer; and
 - i. The name, office, or position of the records management officer shall be entered on the minutes of the governing body.
 - ii. The name or the name and office or position of the records management officer shall be filed by the records management officer with the director and librarian within 30 days after the date of designation.
 - h. Establish a records management program to be administered by the records management officer. A copy of the order establishing the program shall be filed by the records management officer with the director and librarian within 30 days after

the date of its adoption.

Tex. Loc. Gov't Code §203.021; Tex. Loc. Gov't Code §203.025; Tex. Loc. Gov't Code §203.026.

2. Custodians of Records

Custodians of records shall:

- a. Cooperate with the records management officer in carrying out policies and procedures;
- b. Adequately document the transaction of government business and the services, programs, and duties for which the custodian and the custodian's staff are responsible; and
- c. Maintain the records in the custodian's care.

Tex. Loc. Gov't Code §203.022.

3. Records Management Officer

The records management officer shall:

- a. Assist in establishing and developing policies and procedures for a records management program for the school;
- b. Administer the records management program;
- c. In cooperation with the custodian of the records:
 - i. Prepare and file with the director and librarian the records control schedules. The retention period must be at least as long as those developed by the Commission.
 - (1) In lieu of filing a records control schedule, the records management officer may file with the director and librarian a written certification of compliance that the school has adopted records control schedules that comply with the minimum requirements established on records retention schedules issued by the Commission.
 - ii. Prepare or direct the preparation of request for authorization to destroy records not on an approved control schedule, of requests to destroy the originals of permanent records that have been microfilmed, and of electronic storage authorization requests.
- d. In cooperation with custodians, identify and take adequate steps to preserve records that are of permanent value;
- e. In cooperation with custodians, identify and take adequate steps to protect essential records;

- f. In cooperation with custodians, ensure that the maintenance, preservation, micro-filming, destruction, or other disposition of records is carried out in accordance with policies and procedures as well as laws and regulations;
- g. Disseminate to the governing body and custodians information concerning state laws, administrative rules, and the policies relating to records; and
- h. In cooperation with custodians, establish procedures to ensure that the handling of records in any context of the records management program by the records management officer or those under the officer's authority is carried out with due regard for:
 - i. The duties and responsibilities of custodians that may be imposed by law; and
 - ii. The confidentiality of information in records to which access is restricted by law.

Tex. Loc. Gov't Code §203.023; Tex. Loc. Gov't Code §203.041.

E. Maintained Within Texas

Records of the school shall be maintained physically within the State of Texas at all times, except that records stored electronically may be maintained outside of the State of Texas if such records remain accessible from within the State of Texas during normal business hours.

19 Tex. Admin. Code §100.1203(a)(3).

F. Records Maintained by a Management Company

A management company that provides, or did provide, any management services to a charter holder or charter school shall maintain all records related to its management services separately from any other records of the management company.

19 Tex. Admin. Code §100.1159(a).

G. Copy of Federal Reports

The Board of Directors must ensure that copies of all reports required by federal law, rule, or regulation are provided to the Texas Education Agency.

Tex. Educ. Code § 11.201(d); 84th Leg., R.S. HB 1706

