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## **Title I. Administration**

### **Chapter 1. Board of Trustees**

#### **§ 1.001. Legal Status of Board of Trustees**

The general management and control of public free schools and high schools in each county, unless otherwise provided by law, shall be vested in a board of county school trustees.

**Texas Education Code § 17.01(a) (preserved)**

The county school trustees or county boards of education shall provide all information requested of them by the commissioner of education or any other person associated with the Central Education Agency; they shall also exercise all other functions conferred upon them by the statute and may perform any other act consistent with law for the promotion of education in the county.

**Texas Education Code § 17.31(a) (preserved)**

In those counties which have adopted or may hereafter adopt the county-unit system, the general management, supervision and control of the county-wide school district shall be vested in the county governing board as specified in Section 17.01 of this code.

**Texas Education Code § 18.06(a) (preserved)**

#### **§ 1.002. Powers and Duties of Board of Trustees**

The Board of Trustees, as a body corporate, governs and oversees the management of Dallas County Schools. The Board has various legal powers under Texas law:

- (a) To oversee the management of Dallas County Schools.
- (b) To adopt policies.
- (c) To adopt and file an annual budget.
- (d) To levy taxes and issue bonds.
- (e) To arrange for an audit of Dallas County Schools' fiscal accounts by a certified or public accountant holding a permit from the Texas State Board of Public Accountancy following the close of each fiscal year.
- (f) To appraise the Superintendent annually using a process and criteria developed by Dallas County Schools.

- (g) To receive bequests and donations or other moneys or funds coming legally into its hands.
- (h) To acquire and hold real and personal property.
- (i) To execute, perform, and make payments under contracts, which may include leases, leases with option(s) to purchase, or installment purchases, with any person for the use, acquisition, or purchases of any personal property, or the financing thereof. The contracts shall be on terms and conditions that are deemed appropriate by the Board in accordance with state law.
- (j) To exercise the right of eminent domain to acquire property.
- (k) To hold all rights and titles to county school property, whether real or personal.
- (l) To dispose of real or personal property that is no longer necessary for the operation of Dallas County Schools.
- (m) To sell minerals in land belonging to Dallas County Schools.
- (n) To adopt a policy providing for the employment and duties of Dallas County Schools personnel.
- (o) To request the assistance of the attorney general on any legal matter. Dallas County Schools must pay any costs associated with the assistance.

*See Texas Education Code §§ 11.151-55, 11.163, 17.01(a) (preserved), 17.21-22 (preserved), 18.06(a) (preserved), 18.25(b) (preserved), 21.354(c), 44.004, 44.005, 44.008(a), 45.001; Texas Local Government Code § 271.005*

### § 1.003. Contracts for Services

The Board may contract with a public or private entity to provide services.

*See Texas Education Code § 44.031; Texas Government Code ch. 791*

### § 1.004. Compensation and Reimbursement of Trustees

Each county school trustee or member of a county board of education shall be paid, for the time spent in attending meetings, \$6 per day, not to exceed \$72 in any one year, out of the state and county available school fund by warrants drawn on order of the county superintendent and signed by the president of the body, after approval of the account properly sworn to by the president.

*Texas Education Code § 17.09 (preserved)*

- (a) Trustees shall also receive \$19 per day for each day spent in one or more DCS

meetings, not to exceed \$228 in any one year, to cover a portion of their other reimbursable expenses.

- (b) Trustees shall be reimbursed for travel and attendance at regional, state, or national conventions, conferences, and workshops, that are approved by the Board to further the goals of Dallas County Schools.
- (c) Trustees shall be reimbursed for reasonable expenses incurred in conducting activities for Dallas County Schools.
- (d) The Board shall annually approve a budget for trustee travel expenses.

*Adopted 11/18/04; amended 12/14/06*

### **§ 1.005. Board Policies<sup>1</sup>**

- (a) Dallas County Schools is guided by written Board-adopted policies. These policies are binding on Dallas County Schools unless and until particular provisions are repealed, revised, or superseded by legislative, regulatory, or judicial action. No policy or regulation, or any portion thereof, shall be operative if it is found to be in conflict with applicable law.
- (b) Policy provisions are severable, such that if any portion of a policy or its application to any person or circumstance is found to be invalid, that invalidity shall not affect other provisions or applications of policy that can be given effect without the invalid provision or application.

*Adopted 11/18/04*

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<sup>1</sup>

The trustees may adopt rules and bylaws necessary to carry out the powers and duties provided by Subsection (b).

**Texas Education Code § 11.151(d)**

## Chapter 2. Election of Trustees

### § 2.001. Trustee Eligibility and Qualifications

County school trustees or members of county boards of education must meet the following qualifications:

- (1) They must be qualified voters of the county from which they are elected;
- (2) The four persons representing commissioners precincts must each reside in the precinct from which he is elected;
- (3) They must possess good moral character;
- (4) They must be able to read and speak the English language;
- (5) They must be persons of good education and in sympathy with the public free schools;
- (6) They must not be connected with the public schools of any district, either as an official or as an employee.

**Texas Education Code § 17.05 (preserved)**

*See also* Texas Election Code § 141.001(a)<sup>2</sup> and Texas Constitution art. XVI, § 14.<sup>3</sup>

2

To be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, 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 mentally incompetent by a final judgment of a court;
- (4) have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities;
- (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:

\* \* \*

- (B) for an independent candidate, the date of the regular filing deadline for a candidate's application for a place on the ballot;

(footnote continued on next page ...)

**§ 2.002. Composition of Board of Trustees**

In those counties with a population in excess of 350,000, the board of county school trustees shall consist of seven members, three of whom shall be elected from the county at large and one from each commissioners precinct. The trustees' first terms shall be fixed by lot, with two drawings to serve two years, two for four years, and three for six years. Thereafter, each member shall serve six years, with either two or three members elected every two years, the number depending upon that needed to bring the board to seven members.

**Texas Education Code § 17.02(b) (preserved)**

**§ 2.003. Trustee Elections**

Trustees are elected using the cumulative voting procedure described by Texas Education Code § 11.054.<sup>4</sup>

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(... footnote continued from previous page)

(C) for a write-in candidate, the date of the election at which the candidate's name is written in;

\* \* \*

(E) for an appointee to an office, the date the appointment is made; and

(6) satisfy any other eligibility requirements prescribed by law for the office.

**Tex. Election Code § 141.001(a)**

3

All civil officers shall reside within the State; and all district or county officers within their districts or counties, and shall keep their offices at such places as may be required by law; and failure to comply with this condition shall vacate the office so held.

**Texas Constitution art. XVI, § 14**

4

(a) The board of trustees of [a school district] that elects its trustees at large or at large by position may order that elections for trustees be held using the cumulative voting procedure described by this section.

(b) At an election at which more than one trustee position is to be filled, all of the positions that are to be filled at the election shall be voted on as one race by all the voters of the school district. Each voter is entitled to cast a number of votes equal to the number of positions to be filled at the election.

(c) A voter may cast one or more of the specified number of votes for any one or more candidates in any combination. Only whole votes may be cast and counted.

(footnote continued on next page ...)



Adopted 11/18/04

§ 2.004. Schedule of Terms<sup>5</sup>

The schedule on which the terms of the Trustee positions expire is as follows:

- (a) At Large (expires in 2015 and every succeeding 6 years).
- (b) At Large (expires in 2015 and every succeeding 6 years).
- (c) At Large (expires in 2013 and every succeeding 6 years).
- (d) Commissioner’s Precinct #1 (expires in 2011 and every succeeding 6 years).
- (e) Commissioner’s Precinct #2 (expires in 2013 and every succeeding 6 years).
- (f) Commissioner’s Precinct #3 (expires in 2013 and every succeeding 6 years).
- (g) Commissioner’s Precinct #4 (expires in 2011 and every succeeding 6 years).

Adopted 11/18/04

§ 2.005. Order for and Notice of Election

- (a) The following authority shall order an election:
  - (2) the governing body of a political subdivision ... that has elective offices, for the general election for those officers.

**Texas Election Code § 3.004(a)(2)**

(... footnote continued from previous page)

- (d) If a voter casts more than the number of votes to which the voter is entitled in the election, none of the voter’s votes may be counted in that election. If a voter casts fewer votes than entitled, all of the voter’s votes are counted in that election.
- (e) The candidates who are elected are those, in the number to be elected, receiving the highest numbers of votes.
- (f) If the board of trustees adopts an order requiring the use of cumulative voting, only the trustee positions that were scheduled to be elected at the election are filled through the use of cumulative voting.

**Texas Education Code § 11.054**

5

A board policy must state the schedule on which specific terms expire.

**Texas Education Code § 11.059(d)**

[A]n election ordered by an authority of a political subdivision shall be ordered not later than the 62nd day before election day.

**Texas Election Code § 3.005(a)**

See also Texas Election Code §§ 4.003,<sup>6</sup> 4.004,<sup>7</sup> & 4.005.<sup>8</sup>

6

(a) [Notice of an election ordered by an authority of a school district must be given by the following method]:

- (1) by publishing the notice at least once, not earlier than the 30th day or later than the 10th day before election day:
  - (A) in a newspaper published in the territory that is covered by the election and is in the jurisdiction of the authority responsible for giving the notice; or
  - (B) in a newspaper of general circulation in the territory if none is published in the jurisdiction of the authority responsible for giving the notice;

\* \* \*

(b) In addition to any other notice given for an election under Subsection (a), not later than the 21st day before election day, the authority responsible for giving notice of the election shall post a copy of the notice, which must include the location of each polling place, on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision that the authority serves. For each precinct that is combined to form a consolidated precinct under Section 42.008, not later than the 10th day before election day, the authority shall also post, at the polling place used in the preceding general election, notice of the precinct’s consolidation and the location of the polling place in the consolidated precinct. A notice posted under this subsection must remain posted continuously through election day.

**Texas Election Code § 4.003**

7

(a) The notice of a general or special election must state:

- (1) the nature and date of the election;
- (2) except as provided by Subsection (c), the location of each polling place;
- (3) the hours that the polls will be open; and
- (4) any other information required by other law.

\* \* \*

(d) If precincts are consolidated under Section 42.008, the notice must state which precincts have been combined to form each consolidated precinct in addition to the locations of the polling places in the consolidated precincts.

**Texas Election Code § 4.004**

8

(footnote continued on next page ...)

### § 2.006. Applications for Place on Ballot

A candidate's name may appear on the ballot only as an independent.

**Texas Election Code § 144.002**

A candidate's application for a place on the ballot that is required by this code must:

- (1) be in writing;
- (2) be signed and sworn to by the candidate and indicate the date that the candidate swears to the application;
- (3) be timely filed with the appropriate authority; and
- (4) include:
  - (A) the candidate's name;
  - (B) the candidate's occupation;
  - (C) the office sought, including any place number or other distinguishing number;
  - (D) an indication of whether the office sought is to be filled for a full or unexpired term if the office sought and another office to be voted on have the same title but do not have place numbers or other distinguishing numbers;
  - (E) a statement that the candidate is a United States citizen;
  - (F) a statement that the candidate has not been determined mentally incompetent by a final judgment of a court;

(... footnote continued from previous page)

(a) If notice of an election is given by publication, the authority responsible for giving the notice shall retain a copy of the published notice that contains the name of the newspaper and the date of publication.

\* \* \*

(d) The authority responsible for giving the election notice shall preserve the records required by this section for the period for preserving the precinct election records.

**Texas Election Code § 4.005**

- (G) a statement that the candidate has not been finally convicted of a felony from which the candidate has not been pardoned or otherwise released from the resulting disabilities;
- (H) the candidate’s date of birth;
- (I) the candidate’s residence address or, if the residence has no address, the address at which the candidate receives mail and a concise description of the location of the candidate’s residence;
- (J) the candidate’s length of continuous residence in the state and in the territory from which the office sought is elected as of the date the candidate swears to the application;
- (K) the statement: “I, \_\_\_\_\_, 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”; and
- (L) a statement that the candidate is aware of the nepotism law, Chapter 573, Government Code.

**Texas Election Code § 141.031**

[A]n application for a place on the ballot must be filed with the secretary of the political subdivision’s governing body ....

**Texas Election Code § 144.004**

See also Texas Election Code §§ 144.035<sup>9</sup> and 141.032.<sup>10</sup>

9

An application for a place on the ballot, including an accompanying petition, is public information immediately on its filing.

**Texas Election Code § 144.035**

10

- (a) On the filing of an application for a place on the ballot, the authority with whom the application is filed shall review the application to determine whether it complies with the requirements as to form, content, and procedure that it must satisfy for the candidate’s name to be placed on the ballot.
  - (b) [T]he review shall be completed not later than the fifth day after the date the application is received by the authority.
- \* \* \*

(footnote continued on next page ...)

§ 2.007. Candidate Withdrawal, Removal from Ballot, and Declaration of Ineligibility

A candidate ... may not withdraw from the election after 5:00 p.m. of the 53rd day before election day.

Texas Election Code § 145.092(b)

- (a) The name of a candidate shall be omitted from the ballot if the candidate:
  - (1) dies before the second day before the date of the deadline for filing the candidate’s application for a place on the ballot;
  - \* \* \*
  - (3) withdraws or is declared ineligible before 5:00 p.m. of the 53rd day before election day ....

Texas Election Code § 145.094(a)

- (a) Except for a judicial action in which a candidate’s eligibility is in issue, a candidate may be declared ineligible only as provided by this section.
  - \* \* \*
- (c) A candidate ... may be declared ineligible before the beginning of early voting by personal appearance by the authority with whom an application for a place on the ballot for the office sought by the candidate is required to be filed.
- (d) The presiding officer of the final canvassing authority for the office sought by a candidate may declare the candidate ineligible after the polls close on election day and ... before a certificate of election is issued.
  - \* \* \*

(... footnote continued from previous page)

- (d) A determination under this section that an application complies with the applicable requirements does not preclude a subsequent determination that the application does not comply ....
- (e) If an application does not comply with the applicable requirements, the authority shall reject the application and immediately deliver to the candidate written notice of the reason for the rejection.
- (f) This section does not apply to a determination of a candidate’s eligibility.

Texas Election Code § 141.032

- (f) A candidate may be declared ineligible only if:
  - (1) the information on the candidate's application for a place on the ballot indicates that the candidate is ineligible for the office; or
  - (2) facts indicating that the candidate is ineligible are conclusively established by another public record.
- (g) When presented with an application for a place on the ballot or another public record containing information pertinent to a candidate's eligibility, the appropriate authority shall promptly review the record. If the authority determines that the record establishes ineligibility as provided by Subsection (f), the authority shall declare the candidate ineligible.
- (h) If a candidate is declared ineligible after the deadline for omitting an ineligible candidate's name from the ballot, the authority making the declaration shall promptly certify in writing the declaration of ineligibility to the canvassing authority for the election.
- (i) If a candidate is declared ineligible, the authority making the declaration shall promptly give written notice of the declaration of ineligibility to the candidate.

**Texas Election Code § 145.003**

### § 2.008. Write-In Candidates

- (a) In an election for trustees of [a school district], a write-in vote may not be counted for a person unless that person has filed a declaration of write-in candidacy with the secretary of the board of trustees in the manner provided for write-in candidates in the general election for state and county officers.
- (b) [A] declaration of write-in candidacy must be filed not later than 5 p.m. of the fifth day after the date an application for a place on the ballot is required to be filed.

**Texas Education Code § 11.056; see Texas Election Code §§ 144.006(a), 146.023(a)**

A declaration may not be filed earlier than the 30th day before the date of the regular filing deadline.

**Texas Election Code § 146.025(a)**

A declaration of write-in candidacy filed by mail is considered to be filed at the time of its receipt by the appropriate authority.

**Texas Election Code § 146.025(c)**

See also Texas Election Code §§ 146.023,<sup>11</sup> 146.0301,<sup>12</sup> and 146.030.<sup>13</sup>

11

- (c) A candidate may not file a declaration of write-in candidacy for more than one office. If a person files more than one declaration of write-in candidacy in violation of this subsection, each declaration filed subsequent to the first one filed is invalid.
- (d) A declaration of write-in candidacy is public information immediately on its filing.

**Texas Election Code § 146.023**

12

- (a) A write-in candidate may not withdraw from the election after the 67th day before election day.
- (b) To withdraw from the election, a write-in candidate must file a written withdrawal request, signed and acknowledged by the candidate, with the authority with whom the candidate's declaration of write-in candidacy is required to be filed.
- (c) A withdrawal request filed by mail is considered to be filed at the time of its receipt by the appropriate authority.
- (d) A candidate's name shall be omitted from the list of write-in candidates if the candidate withdraws on or before the 67th day before election day.
- (e) Not later than the day after the date the withdrawal request is received, the appropriate authority shall deliver a written notice of the withdrawal of any candidate previously certified ... to the same authority to whom the certification was delivered.

**Texas Election Code § 146.0301**

13

- A write-in candidate may not be certified for placement on the list of write-in candidates if:
- (1) the information on the candidate's declaration of write-in candidacy indicates that the candidate is ineligible for the office;
  - (2) facts indicating that the candidate is ineligible are conclusively established by another public record;
  - (3) the candidate is determined ineligible by a final judgment of a court;
  - (4) the candidate's declaration of write-in candidacy is invalid for the office under Section 146.023(c); or
  - (5) the certifying authority learns that the candidate's name is to be omitted from the list under Section 146.0301.

**Texas Election Code § 146.030**

§ 2.009. Campaign Funds

Each candidate and each political committee shall appoint a campaign treasurer as provided by this chapter.

Texas Election Code § 252.001

A campaign treasurer appointment must be in writing and include:  
(1) the campaign treasurer’s name;  
(2) the campaign treasurer’s residence or business street address;  
(3) the campaign treasurer’s telephone number; and  
(4) the name of the person making the appointment.

Texas Election Code § 252.002(a)

An individual must file a campaign treasurer appointment for the individual’s own candidacy with: ...  
  
\* \* \*  
  
(3) the clerk or secretary of the governing body of the political subdivision ....

Texas Election Code § 252.005(3)

See also Texas Election Code § 252.004.<sup>14</sup>

§ 2.010. Political Advertising and Campaign Communications

(a) A person may not knowingly cause to be published, distributed, or broadcast political advertising<sup>15</sup> containing express advocacy that does not indicate in the advertising:

14

An individual may appoint himself or herself as campaign treasurer.

Texas Election Code § 252.004

15

“Political advertising” means a communication supporting or opposing a candidate for nomination or election to a public office or office of a political party, a political party, a public officer, or a measure that:

(footnote continued on next page ...)



- (1) that it is political advertising; and
- (2) the full name of:
  - (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.
- (b) Political advertising that is authorized by a candidate, an agent of a candidate, or a political committee filing reports under this title shall be deemed to contain express advocacy.
- (c) A person may not knowingly use, cause or permit to be used, or continue to use any published, distributed, or broadcast political advertising containing express advocacy that the person knows does not include the disclosure required by Subsection (a). A person is presumed to know that the use of political advertising is prohibited by this subsection if the commission notifies the person in writing that the use is prohibited. A person who learns that political advertising signs, as defined by Section 255.007, that have been distributed do not include the disclosure required by Subsection (a) or include a disclosure that does not comply with Subsection (a) does not commit a continuing violation of this subsection if the person makes a good faith attempt to remove or correct those signs. A person who learns that printed political advertising other than a political advertising sign that has been distributed does not include the disclosure required by Subsection (a) or includes a disclosure that does not comply with Subsection (a) is not required to attempt to recover the political advertising and does not commit a continuing violation of this subsection as to any previously distributed political advertising.
- (d) This section does not apply to:
  - (1) tickets or invitations to political fund-raising events;

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(... footnote continued from previous page)

- (a) in return for consideration, is published in a newspaper, magazine, or other periodical or is broadcast by radio or television; or
- (b) appears in a pamphlet, circular, flier, billboard or other sign, bumper sticker, or similar form of written communication.

**Texas Election Code § 251.001(16)**

- (2) campaign buttons, pins, hats, or similar campaign materials; or
  - (3) circulars or flyers that cost in the aggregate less than \$500 to publish and distribute.
- (e) A person who violates this section is liable to the state for a civil penalty in an amount determined by the commission not to exceed \$4,000.

**Texas Election Code § 255.001**

See also Texas Election Code §§ 255.003,<sup>16</sup> 255.031,<sup>17</sup> 255.004,<sup>18</sup> 255.005(a),<sup>19</sup> 255.006,<sup>20</sup> and 255.007.<sup>21</sup>

16

An officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising.

**Texas Election Code § 255.003(a)**

17

- (a) An officer or employee of a state agency or political subdivision may not knowingly use or authorize the use of an internal mail system for the distribution of political advertising.
  - (b) Subsection (a) does not apply to:
    - (1) the use of an internal mail system to distribute political advertising that is delivered to the premises of a state agency or political subdivision through the United States Postal Service; or
    - (2) the use of an internal mail system by a state agency or municipality to distribute political advertising that is the subject of or related to an investigation, hearing, or other official proceeding of the agency or municipality.
  - (c) A person who violates this section commits an offense. An offense under this section is a Class A misdemeanor.
  - (d) In this section:
    - (1) “Internal mail system” means a system operated by a state agency or political subdivision to deliver written documents to officers or employees of the agency or subdivision.
- \* \* \*

**Texas Election Code § 255.031**

18

- (a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person enters into a contract or other agreement to print, publish, or broadcast political advertising that purports to emanate from a source other than its true source.

(footnote continued on next page ...)

(... footnote continued from previous page)

(b) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person knowingly represents in a campaign communication that the communication emanates from a source other than its true source.

**Texas Election Code §§ 255.004(a)-(b)**

19

(a) A person commits an offense if, with intent to injure a candidate or influence the result of an election, the person misrepresents the person’s identity or, if acting or purporting to act as an agent, misrepresents the identity of the agent’s principal, in political advertising or a campaign communication.

**Texas Election Code § 255.005(a)**

20

(a) A person commits an offense if the person knowingly enters into a contract or other agreement to print, publish, or broadcast political advertising with the intent to represent to an ordinary and prudent person that a candidate holds a public office that the candidate does not hold at the time the agreement is made.  
(b) A person commits an offense if the person knowingly represents in a campaign communication that a candidate holds a public office that the candidate does not hold at the time the representation is made.  
(c) For purposes of this section, a person represents that a candidate holds a public office that the candidate does not hold if:  
(1) the candidate does not hold the office that the candidate seeks; and  
(2) the political advertising or campaign communication states the public office sought but does not include the word “for” in a type size that is at least one-half the type size used for the name of the office to clarify that the candidate does not hold that office.  
(d) A person other than an officeholder commits an offense if the person knowingly uses a representation of the state seal in political advertising.

**Texas Election Code §§ 255.006(a)-(d)**

21

(b) A person commits an offense if the person:  
(1) knowingly enters into a contract to print or make a political advertising sign that does not contain the notice required by Subsection (a); or  
(2) instructs another person to place a political advertising sign that does not contain the notice required by Subsection (a).

\* \* \*

(footnote continued on next page ...)

**§ 2.011. Canvass and Certification of Election**

[E]ach local canvassing authority shall convene to conduct the local canvass at the time set by the canvassing authority’s presiding officer not earlier than the eighth day or later than the 11th day after election day.

**Texas Election Code § 67.003(a)**

- (a) After the completion of a canvas, the presiding officer of the local canvassing authority shall prepare a certificate of election for each candidate who is elected to an office for which the official result is determined by that authority’s canvas.
  - (b) A certificate of election must contain:
    - (1) the candidate’s name;
    - (2) the office to which the candidate is elected;
    - (3) a statement of election to an unexpired term, if applicable;
    - (4) the date of the election;
    - (5) the signature of the officer preparing the certificate; and
    - (6) any seal used by the officer preparing the certificate to authenticate documents that the officer executes or certifies.
- \* \* \*
- (e) The authority preparing a certificate of election shall promptly deliver it to the person for whom it is prepared ....
  - (f) A certificate of election may not be issued to a person who has been declared ineligible to be elected to the office.

**Texas Election Code § 67.016**

See also Texas Election Code § 212.0331.<sup>22</sup>

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(... footnote continued from previous page)

(e) In this section, “political advertising sign” means a written form of political advertising designed to be seen from a road but does not include a bumper sticker.

**Texas Election Code § 255.007**

**§ 2.012. Oath of Office**

All elected trustees or members of a county board of education must take the official oath of office and file same with the county clerk.

**Texas Education Code § 17.06 (preserved)**

Trustees shall also file their official oaths with the President of the Board of Trustees.

*See also* Texas Constitution art. XVI, § 1.<sup>23</sup>

**§ 2.013. Consideration of Other Business on Date of Canvass or Swearing-In**

If the canvass of an election or the swearing-in of newly-elected trustees occurs on the same day as a meeting of the Board for the purpose of considering other business, the canvass and the swearing-in shall occur prior to the consideration of any other business by the Board.

*Adopted 8/9/07*

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(... footnote continued from previous page)

- (a) The submission of a recount petition delays the issuance of a certificate of election and qualification for the office involved in the recount pending completion of the recount.
- (b) A candidate may not qualify for an office involved in a recount before completion of the recount.
- (c) This section does not affect a candidate who has received a certificate of election and qualified for an office before the submission of a recount petition involving the office.

**Texas Election Code § 212.0331**

23

- (a) All elected and appointed officers, before they enter upon the duties of their offices, shall take the following Oath or Affirmation: “I, \_\_\_\_\_, do solemnly swear (or affirm), that I will faithfully execute the duties of the office of \_\_\_\_\_ of the State of Texas, and will to the best of my ability preserve, protect, and defend the Constitution and laws of the United States and of this State, so help me God.”
- (b) All elected or appointed officers, before taking the Oath or Affirmation of office prescribed by this section and entering upon the duties of office, shall subscribe to the following statement: “I, \_\_\_\_\_, do solemnly swear (or affirm) that I have not directly or indirectly paid, offered, promised to pay, contributed, or promised to contribute any money or thing of value, or promised any public office or employment for the giving or withholding of a vote at the election at which I was elected or as a reward to secure my appointment or confirmation, whichever the case may be, so help me God.”

**Texas Constitution art. XVI, § 1**

### Chapter 3. Board Officers

#### § 3.001. Board Officers

Each board of county school trustees or county board of education shall be organized as follows: A president shall be elected by the trustees or members of the board from their number at the regular meeting in May of each year. A vice president may be elected in the same manner as the president. The county superintendent shall act as secretary.

**Texas Education Code § 17.07 (preserved)**

#### § 3.002. President of the Board of Trustees

The President of the Board of Trustees shall:

- (a) Receive the oaths of office from newly elected Trustees.
- (b) Execute all mineral conveyances, subject to approval by the Board of Trustees.<sup>24</sup>
- (c) Execute all property conveyances, subject to approval by the Board of Trustees.<sup>25</sup>
- (d) Preside at all meetings of the Board of Trustees.
- (e) Appoint all committees, subject to approval by the Board of Trustees.
- (f) Call all special meetings of the Board of Trustees.

24

After adoption of a resolution [by majority vote of the board of trustees], the president of the board of trustees may execute an oil or gas lease or sell, exchange, and convey the minerals. The mineral deed or lease must recite the approval of the resolution of the board authorizing the sale.

**Texas Education Code § 11.153(c)**

25

The president of the board of trustees shall execute a deed to the purchaser of the property reciting the resolution of the board of trustees authorizing the sale.

**Texas Education Code § 11.154(b)**

The president of the board of trustees shall execute a deed transferring ownership of the real property and improvements to the municipality, county, state agency, or nonprofit organization.  
....

**Texas Education Code § 11.1541(b)**

- (g) Sign all legal documents, warrants, vouchers, and reports, except that this authority may be delegated to the Superintendent.
- (h) Decide all questions of order in accordance with Robert's Rules of Order, Newly Revised, Board policy, and applicable law.
- (i) Perform all customary duties of the office of president, and other duties as may be required by law or by the Board of Trustees.

*Adopted 11/18/04; amended 11/19/09*

### **§ 3.003. Vice President of the Board of Trustees**

The Vice-President of the Board of Trustees shall:

- (a) Perform the duties of the President of the Board of Trustees in the absence or incapacity of the President.
- (b) Perform other duties as may be required by law or by the Board of Trustees.

*Adopted 11/18/04*

### **§ 3.004. Secretary of the Board of Trustees**

- (a) The county superintendent shall act as secretary of the county school trustees or county board of education. He shall keep in a well bound book, which shall be open to public inspection, a true and correct record of the proceedings of the county governing board.
- (b) He shall keep an accurate record of the term of office of each common school district and county school trustee or county board member and shall furnish the county judge at least 60 days prior to the date of their election the number of trustees or board members to be elected in each district or precinct or in the county at large.
- (c) He shall conduct all correspondence of the board, receive all reports required by the board, and see that all such reports are in proper form, complete and accurate.
- (d) He shall have the right to advise on any question under consideration by the board, but shall have no vote.

**Texas Education Code § 17.55 (preserved); see Texas Education Code § 17.07 (preserved)**

The Secretary of the Board of Trustees shall:

- (a) Provide appropriate notices of Board meetings.

- (b) Countersign all warrants for Dallas County Schools' money drawn upon the depository by order of the Board of Trustees.
- (c) Sign or counter-sign, as appropriate, all legal documents.
- (d) Perform other duties as may be required by the Board of Trustees.

*Adopted 11/18/04*



## Chapter 4. Meetings of the Board of Trustees

### § 4.001. Board Meetings

- (a) The County school trustees or county boards of education shall hold meetings once each quarter on the first Monday in August, November, February, and May, or as soon thereafter as is practicable. Such meetings may likewise be held on the first Monday each month, or as soon thereafter as is practicable.
- (b) Additional meetings may be called by the president or at the instance of any two trustees or members of the county board of education and the county superintendent.
- (c) The meeting place shall be at the county seat in the office of the county superintendent.
- (d) A majority of the trustees or board members shall constitute a quorum to transact business. All questions shall be decided by majority vote.

**Texas Education Code § 17.08 (preserved)**

*See also* Texas Government Code § 312.015.<sup>26</sup>

### § 4.002. Notice of Meetings

A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.

**Texas Government Code § 551.041**

A county governmental body shall post notice of each meeting on a bulletin board at a place convenient to the public in the county courthouse.

**Texas Government Code § 551.049**

A school district shall post notice of each meeting on a bulletin board at a place convenient to the public in the central administrative office of the district.

**Texas Government Code § 551.051**

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<sup>26</sup>

A majority of a board or commission established under law is a quorum unless otherwise specifically provided.

**Texas Government Code § 312.015**

The notice of a meeting of a governmental body must be posted in a place readily accessible to the general public at all times for at least 72 hours before the scheduled time of the meeting, except [for emergency meetings as described below].

**Texas Government Code § 551.043**

See also Texas Government Code §§ 551.052,<sup>27</sup> 551.045,<sup>28</sup> 551.047,<sup>29</sup> and 551.056.<sup>30</sup>

27

- (a) A school district shall provide special notice of each meeting to any news media that has:
  - (1) requested special notice; and
  - (2) agreed to reimburse the district for the cost of providing the special notice.
- (b) The notice shall be by telephone or telegraph.

**Texas Government Code § 551.052**

28

- (a) In an emergency or when there is an urgent public necessity, the notice of a meeting or the supplemental notice of a subject added as an item to the agenda for a meeting for which notice has been posted in accordance with this subchapter is sufficient if it is posted for at least two hours before the meeting is convened.
- (b) An emergency or an urgent public necessity exists only if immediate action is required of a governmental body because of:
  - (1) an imminent threat to public health and safety; or
  - (2) a reasonably unforeseeable situation.
- (c) The governmental body shall clearly identify the emergency or urgent public necessity in the notice or supplemental notice under this section.
- (d) A person who is designated or authorized to post notice of a meeting by a governmental body under this subchapter shall post the notice taking at face value the governmental body's stated reason for the emergency or urgent public necessity.

**Texas Government Code § 551.045**

29

- (a) The presiding officer of a governmental body, or the member of a governmental body who calls an emergency meeting of the governmental body or adds an emergency item to the agenda of a meeting of the governmental body, shall notify the news media of the emergency meeting or emergency item as required by this section.
- (b) The presiding officer or member is required to notify only those members of the news media that have previously:
  - (1) filed at the headquarters of the governmental body a request containing all pertinent information for the special notice; and

(footnote continued on next page ...)

§ 4.003. Meeting Agendas

- (a) The Board President and the Superintendent shall prepare the agenda for Board meetings. Either the Board President or the Superintendent may place any item on the agenda.
- (b) Agenda items submitted by Board members shall normally come through the Board Committee process for inclusion on the agenda, but items requested by three Board members shall be placed directly on the Board agenda. The deadline for submitting items for inclusion on the agenda is noon of the seventh calendar day before regular meetings and noon of the fifth calendar day before special meetings, except in cases of emergencies.
- (c) Requests by members of the general public to place items on the agenda may be considered by the Board President and the Superintendent.
- (d) The Superintendent may place items on the agenda for any Board committee meeting.
- (e) All board and committee agendas and minutes will be posted on the DCS website for meetings occurring after June 1, 2003.

(... footnote continued from previous page)

- (2) agreed to reimburse the governmental body for the cost of providing the special notice.
- (c) The presiding officer or member shall give the notice by telephone or telegraph.

**Texas Government Code § 551.047**

30

- (a) This section applies only to a governmental body ... that maintains an Internet website or for which an Internet website is maintained. This section does not apply to a governmental body described by Section 551.001(3)(D).
- (b) In addition to the other place at which notice is required to be posted by this subchapter, the following governmental bodies ... must also concurrently post notice of a meeting on the Internet website of the governmental body ...:  

\* \* \*
- (3) a school district;  

\* \* \*
- (d) The validity of a posted notice of a meeting or an agenda by a governmental body ... subject to this section that made a good faith attempt to comply with the requirements of this section is not affected by a failure to comply with a requirement of this section that is due to a technical problem beyond the control of the governmental body ....

**Texas Government Code § 551.056**

See also Texas Government Code § 551.056(c).<sup>31</sup>

Adopted 11/8/04; amended 8/25/05

**§ 4.004. Open Meetings**

Regular, special or called meetings of a governmental body shall be open to the public, except as provided in this chapter.

**Texas Government Code § 551.002**

[Open Meetings Act exceptions include:

Private consultation with the Board’s attorney to seek advice about pending or contemplated litigation or a settlement offer, or on a matter in which the duty of the attorney under ethical rules clearly conflicts with the Open Meetings Act (Texas Government Code § 551.071);

Deliberation regarding the purchase, exchange, lease, or value of real property if deliberation in an open meeting would have a detrimental effect on the position of Dallas County Schools in negotiations with a third person (Texas Government Code § 551.072);

Deliberation of a negotiated contract for a prospective gift or donation to Dallas County Schools if deliberation in an open meeting would have a detrimental effect on the position of Dallas County Schools in negotiations with a third person (Texas Government Code § 551.073);

Deliberation of the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee; or to hear a complaint or charge against an officer or employee, unless the officer or employee requests a public hearing (Texas Government Code § 551.074);

Deliberation of the deployment, or specific occasions for implementation, of security personnel or devices (Texas Government Code § 551.076);

31

The following governmental bodies ... must also concurrently post the agenda for the meeting on the Internet website of the governmental body ...:

\* \* \*

(3) a school district that contains all or part of the area within the corporate boundaries of a municipality with a population of 48,000 or more;

**Texas Government Code § 551.056(c)**

Deliberation in a case involving discipline of a public school child, unless an open hearing is requested in writing by a parent or guardian of the child (Texas Government Code § 551.082);

Deliberation in a case in which a complaint or charge is brought against an employee of the school district by another employee and the complaint or charge directly results in a need for a hearing, unless an open hearing is requested in writing by the employee against whom the complaint or charge is brought (Texas Government Code § 551.082);

Deliberation regarding a matter regarding a public school student if personally identifiable information about the student<sup>32</sup> will necessarily be revealed by the deliberation, unless an open meeting about the matter is requested in writing by a parent or guardian of the student or by the student if the student has attained 18 years of age (Texas Government Code § 551.0821);

Deliberation regarding 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 under a consultation agreement authorized by Texas Education Code § 13.901 (Texas Government Code § 551.083); and

Exclusion of a witness from an investigatory hearing during the examination of another witness in the investigation (Texas Government Code § 551.084).]

#### § 4.005. Closed Sessions

If a closed meeting is allowed under this chapter, a governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by this chapter and during which the presiding officer publicly:

- (1) announces that a closed meeting will be held; and

<sup>32</sup>

“Directory information” (as defined in the federal Family Education Rights and Privacy Act of 1974, 20 U.S.C. § 1232g) about a public school student is considered to be personally identifiable information about the student for purposes of this exception only if a parent or guardian of the student, or the student if the student has attained 18 years of age, has informed the school board, the school district, or a school in the school district that the directory information should not be released without prior consent.

(2) identifies the section or sections of this chapter under which the closed meeting is held.

**Texas Government Code § 551.101**

A final action, decision, or vote on a matter deliberated in a closed meeting under this chapter may only be made in an open meeting that is held in compliance with the notice provisions of this chapter.

**Texas Government Code § 551.102**

See also Texas Government Code §§ 551.103<sup>33</sup> and 551.104.<sup>34</sup>

**§ 4.006. Meeting Location**

Unless otherwise provided in the meeting notice, Board meetings shall be held at the Dallas County Schools’ Board Room, 612 North Zang Blvd., Dallas, Texas 75208.<sup>35</sup>

33

(a) A governmental body shall either keep a certified agenda or make a tape recording of the proceedings of each closed meeting, except for a private consultation permitted under Section 551.071.

(b) The presiding officer shall certify that an agenda kept under Subsection (a) is a true and correct record of the proceedings.

(c) The certified agenda must include:

- (1) a statement of the subject matter of each deliberation;
- (2) a record of any further action taken; and
- (3) an announcement by the presiding officer at the beginning and the end of the meeting indicating the date and time.

(d) A tape recording made under Subsection (a) must include announcements by the presiding officer at the beginning and the end of the meeting indicating the date and time.

**Texas Government Code § 551.103**

34

(a) A government body shall preserve the certified agenda or tape recording of a closed meeting for at least two years after the date of the meeting. If an action involving the meeting is brought within that period, the governmental body shall preserved the certified agenda or tape while the action is pending.

\* \* \*

(c) The certified agenda or tape of a closed meeting is available for public inspection and copying only under a court order issued under Subsection (b)(3).

**Texas Government Code § 551.104**

*Adopted 11/18/04*

**§ 4.007. Meetings by Telephone Conference Call or Video Conference Call**

- (a) Except as otherwise provided by this subchapter, this chapter does not prohibit a governmental body from holding an open or closed meeting by telephone conference call.
- (b) A meeting held by telephone conference call may be held only if:
  - (1) an emergency or public necessity exists within the meaning of Section 551.045 of this chapter; and
  - (2) the convening at one location of a quorum of the governmental body is difficult or impossible; or
  - (3) the meeting is held by an advisory board.
- (c) The telephone conference call meeting is subject to the notice requirements applicable to other meetings.
- (d) The notice of the telephone conference call meeting must specify as the location of the meeting the location where meetings of the governmental body are usually held.
- (e) Each part of the telephone conference call meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting as the location of the meeting and shall be tape-recorded. The tape recording shall be made available to the public.
- (f) The location designated in the notice as the location of the meeting shall provide two-way communication during the entire telephone conference call meeting and the identification of each party to the telephone conference shall be clearly stated prior to speaking.

**Texas Government Code § 551.125**

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(... footnote continued from previous page)

35

Dallas County Schools interprets Texas Education Code § 17.08(c) (preserved) (meetings must be held “at the county seat in the office of the county superintendent”) to require only that meetings be held at Dallas County Schools headquarters, which must be within the City of Dallas.

- (a) Except as otherwise provided by this section, this chapter does not prohibit a governmental body from holding an open or closed meeting by videoconference call.
- (b) A meeting may be held by video conference call only if a quorum of the governmental body is physically present at one location of the meeting, except as provided by Subsection (c).

\* \* \*

- (d) A meeting held by videoconference call is subject to notice requirements applicable to other meetings in addition to the notice requirements prescribed by this section.
- (e) The notice of the meeting to be held by videoconference call must specify as a location of the meeting the location where a quorum of the governmental body will be physically present and specify the intent to have a quorum present at that location, except that the notice of a meeting to be held by videoconference call under Subsection (c) must specify as a location of the meeting each location where a majority of the quorum of the governmental body will be physically present and specify the intent to have a majority of the quorum of the governmental body present at that location. In addition, the notice of the meeting must specify as a location of the meeting each other location where a member of the governmental body who will participate in the meeting will be physically present during the meeting. Each of the locations shall be open to the public during the open portions of the meeting.
- (f) Each portion of a meeting held by videoconference call that is required to be open to the public shall be visible and audible to the public at each location specified under Subsection (e).
- (g) The governmental body shall make at least an audio recording of the meeting. The recording shall be made available to the public.
- (h) Each location specified under Subsection (e) shall have two-way communication with each other location during the entire meeting. Each participant in the videoconference call, while speaking, shall be clearly visible and audible to each other participant and, during the open portion of the meeting, to the members of the public in attendance at a location of the meeting.
- (i) The Department of Information Resources by rule shall specify minimum standards for audio and video signals at a meeting held by videoconference call. The quality of the audio and video signals perceptible at each location of the meeting must meet or exceed those standards.
- (j) The quality of the audio and video signals perceptible by the public at each location of the meeting must:



- (1) meet or exceed the quality of the audio and video signals perceptible by the members of the governmental body participating in the meeting; and
  - (2) be of sufficient quality so that members of the public at each location of the meeting can observe the demeanor and hear the voice of each participant in the open portion of the meeting.
- (k) Without regard to whether a member of the governmental body is participating in a meeting from a remote location by videoconference call, a governmental body may allow a member of the public to testify at a meeting from a remote location by videoconference call.

Texas Government Code § 551.127

#### § 4.008. Public Participation at Meetings

At meetings of the Board of Trustees, a person may address the Board in accordance with the following rules.

- (a) Registration of Speakers.
  - (1) A person wishing to address the Board during a public hearing may register with the secretary, but is not required to do so.
  - (2) A person wishing to address the Board concerning voting items which are not the subject of a public hearing, or during an open microphone period, must first register with the secretary.
  - (3) A person registering to speak must provide the following information: name, residence address, daytime telephone number, the subject matter to be presented, and whether the subject is on the current Board meeting agenda.
  - (4) A person may register either in person or by telephone.
  - (5) The earliest a person may register for an upcoming Board meeting is 8:15 a.m. of the next regular business day following the previous board meeting.
  - (6) A person may register for a Board meeting until that meeting is initially called to order.
- (b) Speaker Rules. In order that the Board may properly consider each matter brought to it by citizens, speakers must observe the following rules.
  - (1) Only one person may approach the microphone at any one time. Only the person at the microphone will be allowed to speak.
  - (2) There will be no substitutions or pooling of speakers.

- (3) Speakers must address their comments to the presiding officer rather than individual trustees or staff. Speakers may not refer to a trustee by name.
  - (4) Speakers may file copies of their remarks or supporting information with the secretary. The secretary will make the information available to the Board and Superintendent if requested.
  - (5) A person who addresses the Board concerning a voting item or during a public hearing must limit remarks to the specific subject matter being voted on or being considered by the board in that public hearing.
  - (6) Dallas County citizens will be allowed to speak before nonresidents.
  - (7) Speakers do not have to register to speak during a public hearing; however, speakers who have registered will be heard prior to those who have not registered.
- (c) Time Limits on Voting Items. The length of time a person will be allowed to speak on voting items will be determined according to the following rules.
- (1) A person who registers to speak on a voting item which is not the subject of a public hearing will be called on at the time the item is considered by the Board. A person who registers to speak on multiple voting items must speak on all items at the time the first item for which the speaker is registered is considered by the Board. Speakers will have a maximum of three minutes to speak regardless of the number of voting items they wish to address. The presiding officer may determine the order in which speakers are called. The order in which speakers are called is not required to be in the order that items appear on the agenda, nor are all speakers on a particular item required to be called at the same time. If an item is deferred from a Board agenda, a speaker who signed up to speak on the item may not be heard until the item is actually considered by the Board.
  - (2) The presiding officer may impose more restrictive time limits on voting items that are not the subject of public hearings, but for which a large number of persons register to speak.
  - (3) For public hearings, each speaker will have a maximum of three minutes to speak. The presiding officer may impose more restrictive time limits on public hearings at which a large number of persons intend to speak.
- (d) Closed Public Hearings. A person will not be permitted to address the board during the consideration of an item on which a public hearing has been held by the Board if the public hearing has been closed.
- (e) Open Microphone. The Board will provide an opportunity for citizens to present concerns or address issues that are not matters for consideration listed on a posted meeting agenda during an “open microphone” period at Board meetings, sub-

ject to the following rules.

- (1) The Board will hear speakers on any matter, including an agenda item, during a ten-minute open microphone period at the beginning of each Board meeting. The speakers will be called in the order in which they registered to speak with the secretary. Whenever a person fails to speak when his or her name is called, the name of the next speaker registered for the initial open microphone period will be called, until either ten minutes have elapsed or all of the names have been called. An open microphone period will also be provided after the Board has concluded its agenda, at which time all speakers not heard earlier in the meeting may speak. A person who registers to speak during the open microphone period at the beginning of a Board meeting, but who fails to speak when called upon, waives his or her right to speak at the meeting.
  - (2) Each speaker may speak only once. The length of time a person will be allowed to speak during an open microphone period is three minutes, except that a person speaking when the ten-minute initial open microphone period expires must immediately conclude his or her remarks. If a large number of speakers register for the open microphone period, the presiding officer may, with the concurrence of a majority of the Board, impose more restrictive time limits in order to allow the maximum number of persons to speak.
  - (3) The order in which speakers will be called will be determined by the presiding officer, except that persons who have not spoken at a board meeting in the past 45 days will be called first.
- (f) **Interaction Between Speakers and Trustees or Staff.** If a speaker's comments relate to a specific item on the posted agenda, trustees may ask factual questions or make a brief acknowledgement of the speaker. The speaker will have one minute to respond. More time may be granted to the speaker for a response at the discretion of the presiding officer or by a nondebatable motion approved by the Board. Trustees will refrain from debate during time allotted to speakers unless a specific time is granted by the president or by a nondebatable motion approved by the Board.<sup>36</sup>

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36

- (a) If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:
  - (1) a statement of specific factual information given in response to the inquiry; or
  - (2) a recitation of existing policy in response to the inquiry.

(footnote continued on next page ...)

- (g) Use of Interpreters. Whenever it is necessary for a speaker to use an interpreter to translate his or her comments to the Board, the time required for the translation will not be counted against the designated time allotted for the speaker to address the Board.

*Adopted 11/18/04; amended 2/16/06*

**§ 4.009. Period of Silence and Pledge of Allegiance**

- (a) Each meeting of the Board of Trustees will include a one-minute period of silence. During this period of silence, those present at the meeting may, as they choose, reflect, pray, meditate, or engage in any other silent activity that is not likely to interfere with or distract another person. The presiding officer shall ensure that each person present at the meeting remains silent and does not act in a manner that is likely to interfere with or distract another person.
- (b) The period of silence will occur after the meeting is called to order, but before any other item of business is taken up.
- (c) Following the period of silence, the presiding officer will lead those present, or will invite another person to lead those present, in the Pledge of Allegiance to the flag of the United States.
- (d) No person present at the meeting may be required, encouraged, or coerced to engage in or refrain from prayer or meditation during the period of silence. No person present at the meeting may be required or coerced to participate in or refrain from participating in the Pledge of Allegiance.
- (e) The purpose of the period of silence and Pledge of Allegiance is to assist Board members and other participants in the meeting to compose their minds and focus their attention on the best interests of DCS and the public and the effect on such interests of the business to be conducted at the meeting. The period of silence is not a religious observance or activity.

*Adopted 9/24/09*

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(... footnote continued from previous page)

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|---|
| <p>(b) Any deliberation of or decision about the subject of the inquiry shall be limited to a proposal to place the subject on the agenda for a subsequent meeting.</p> |
|---|

**Texas Government Code § 551.042**

## Chapter 5. Ethics and Conflicts of Interest

### § 5.001. Relatives of Trustees

A public official may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

- (1) the individual is related to the public official within a degree described by Section 573.002; or
- (2) the public official holds the appointment or confirmation authority as a member of a state or local board, the legislature, or a court and the individual is related to another member of that board, legislature, or court within a degree described by Section 573.002.

**Texas Government Code § 573.041**

[T]his chapter applies to relationships within the third degree by consanguinity or within the second degree by affinity.

**Texas Government Code § 573.002<sup>37</sup>**

The Superintendent shall not appoint or hire an individual to a position in Dallas County Schools which is to be directly or indirectly compensated from public funds, if the individual is related to a trustee within the third degree by consanguinity or within the second degree by affinity, without a majority vote of the Board members not related to the individual within a prohibited degree.

*See also* Texas Government Code § 573.062.<sup>38</sup>

37

This includes the following relationships: child; child's spouse; grandchild; grandchild's spouse; great-grandchild; parent; parent's spouse; grandparent; grandparent's spouse; great-grandparent; sibling; sibling's spouse; uncle or aunt; uncle's or aunt's spouse; nephew or niece; nephew's or niece's spouse; spouse; spouse's child; spouse's grandchild; spouse's parent; spouse's grandparent; and spouse's sibling.

**See Texas Government Code § 573.021**

38

(a) A nepotism prohibition prescribed by Section 573.041 ... does not apply to an appointment, confirmation of an appointment, or vote for an appointment or confirmation of an appointment of an individual to a position if:

(footnote continued on next page ...)

Adopted 11/18/04

**§ 5.002. Trustee’s Authorization to Pay Prohibited**

A trustee may not approve an account or draw or authorize the drawing of a warrant or order to pay compensation to an ineligible individual if the trustee knows the individual is ineligible.

Adopted 11/18/04

**§ 5.003. Relatives of Superintendent**

A public official<sup>39</sup> may not appoint, confirm the appointment of, or vote for the appointment or confirmation of the appointment of an individual to a position that is to be directly or indirectly compensated from public funds or fees of office if:

(... footnote continued from previous page)

- (1) the individual is employed in the position immediately before the election or appointment of the public official to whom the individual is related in a prohibited degree; and
- (2) that prior employment of the individual is continuous for at least:
  - (A) 30 days, if the public official is appointed;
  - (B) six months, if the public official is elected at an election other than the general election for state and county officers; or
  - (C) one year, if the public official is elected at the general election for state and county officers.
- (b) If, under Subsection (a), an individual continues in a position, the public official to whom the individual is related in a prohibited degree 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 individual if that action applies only to the individual and is not taken regarding a bona fide class or category of employees.

**Texas Government Code § 573.062**

39

If, under the employment policy, the board of trustees delegates to the superintendent the final authority to select district personnel:

- (1) the superintendent is a public official for purposes of Chapter 573, Government Code, only with respect to a decision made under that delegation of authority;

**Texas Education Code § 11.1513(f)**

(1) the individual is related to the public official within a degree described by Section 573.002 ....

**Texas Government Code § 573.041(1)**

[T]his chapter applies to relationships within the third degree by consanguinity or within the second degree by affinity.

**Texas Government Code § 573.002<sup>40</sup>**

The Superintendent shall not appoint or employ an individual to a position in Dallas County Schools that is to be directly or indirectly compensated from public funds, if the Superintendent is related to the individual to be appointed within the third degree by consanguinity or within the second degree by affinity.

*Adopted 11/18/04*

**§ 5.004. Conflicts of Interest of Trustees**

(a) If a local public official<sup>41</sup> has a substantial interest in a business entity<sup>42</sup> or in real property, the official shall file, before a vote or decision on any matter involving the business entity or the real property, an affidavit stating the nature and extent of the interest and shall abstain from further participation in the matter if:

(1) in the case of a substantial interest in a business entity the action on the matter will have a special economic effect on the business entity that is distinguishable from the effect on the public, or

<sup>40</sup>See n.37 for a list of the prohibited family relationships.

<sup>41</sup>

“Local public official” means a member of the governing body or another officer, whether elected, appointed, paid, or unpaid, of any district (including a school district) ... who exercises responsibilities beyond those that are advisory in nature.

**Texas Local Government Code § 171.001(1)**

<sup>42</sup>

“Business entity” means a sole proprietorship, partnership, firm, corporation, holding company, joint-stock company, receivership, trust, or any other entity recognized by law.

**Texas Local Government Code § 171.001(2)**

- (2) in the case of a substantial interest in real property, it is reasonably foreseeable that an action on the matter will have a special economic effect on the value of the property, distinguishable from its effect on the public.
- (b) The affidavit must be filed with the official record keeper of the governmental entity.
- (c) If a local public official is required to file and does file an affidavit under Subsection (a), the official is not required to abstain from further participation in the matter requiring the affidavit if a majority of the members of the governmental entity of which the official is a member is composed of persons who are likewise required to file and who do file affidavits of similar interests on the same official action.

**Texas Local Government Code § 171.004**

- (a) For purposes of this chapter, a person has a substantial interest in a business entity if:
  - (1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or
  - (2) funds received by the person from the business entity exceed 10 percent of the person’s gross income for the previous year.
- (b) A person has a substantial interest in real property if the interest is an equitable or legal ownership with a fair market value of \$2,500 or more.
- (c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

**Texas Local Government Code § 171.002**

**§ 5.005. Form of Trustee’s Affidavit of Conflict of Interest**

**DISCLOSURE OF SUBSTANTIAL INTEREST IN A BUSINESS ENTITY**

STATE OF TEXAS           §  
   §  
 COUNTY OF DALLAS       §

I, (name), as a Trustee of the Dallas County Schools Board of Trustees, make this affidavit and hereby on oath state the following:



I, or a person related to me, have a substantial interest in a business entity or in real property, as those terms are defined in Local Government Code sections 171.001-171.002, that would experience a special economic effect distinguishable from its effect on the public by a vote or decision of the board for which it is reasonably foreseeable that the Board’s action will have a special economic effect on the value of the property distinguishable from its effect on the public.

The business entity or real property is:

(name and address of business or description of property)

(“I” or [name of relative and relationship]) (have/has) a substantial interest in this business entity or real property for the following reasons:

*[Check all that apply]*

- Ownership of 10% or more of the voting stock or shares of the business entity.
- Ownership of 10% or more of the fair market value of the business entity.
- Ownership of \$15,000 or more of the fair market value of the business entity.
- Funds received from the business exceed 10% of (my/her/his) gross income for the previous year.
- Real property is involved and (I/he/she) (have/has) an equitable or legal ownership with a fair market value of at least \$2,500.

Upon the filing of this affidavit with the Secretary of the Board of Trustees, I affirm that I shall abstain from participation in any decision involving this business entity or real property, unless permitted according to Local Government Code Section 171.009.

Signed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.

(S E A L)

Notary Public in and for the State of Texas

Name: \_\_\_\_\_  
(printed or typed)

My Commission expires: \_\_\_\_\_

Adopted 11/18/04

**§ 5.006. Dual Office Holding**

- (a) No person shall hold or exercise at the same time, more than one civil office of emolument, except that of Justice of the Peace, County Commissioner, Notary Public and Postmaster, [various present and retired members of the Armed Forces – see constitution for details], and the officers and directors of soil and water conservation districts, unless otherwise specially provided herein. Provided, that nothing in this Constitution shall be construed to prohibit [various present and retired members of the Armed Forces – see constitution for details], and officers of the State soil and water conservation districts, from holding at the same time any other office or position of honor, trust or profit, under this State or the United States, or from voting at any election, general, special or primary in this State when otherwise qualified.
- (b) State employees or other individuals who receive all or part of their compensation either directly or indirectly from funds of the State of Texas and who are not State officers, shall not be barred from serving as members of the governing bodies of school districts, cities, towns, or other local governmental districts. Such State employees or other individuals may not receive a salary for serving as members of such governing bodies, except that:
  - (1) a schoolteacher, retired schoolteacher, or retired school administrator may receive compensation for serving as a member of a governing body of a school district ....

\* \* \*
- (c) It is further provided that a nonelective State officer may hold other nonelective offices under the State or the United States, if the other office is of benefit to the State of Texas or is required by the State or Federal law, and there is no conflict with the original office for which he receives salary or compensation.
- (d) No member of the Legislature of this State may hold any other office or position of profit under this State, or the United States, except as a notary public if qualified by law.

**Texas Constitution art. XVI, § 40**

A person may not hold two incompatible offices or positions in two different governmental entities or in the same governmental entity if the duties might conflict or be detrimental to the public interest.

*See Thomas v. Abernathy County Line Independent School District,  
290 S.W. 152 (Tex. Comm’n App. 1927, judgm’t adopted)*

### § 5.007. Board Self-Monitoring of Dual Office Holding

The Board of Trustees should carefully review the qualifications of all trustees on a regular basis to insure that no trustee by virtue of occupying another office or employment with a political subdivision of the State of Texas or the United States Government or its agencies is by law disqualified to act or by virtue of the duties of each position has a conflict of interest. Each trustee must bring to the attention of the President of the Board of Trustees any other office he holds with any political subdivision of a state or federal government.

*Adopted 11/18/04*

### § 5.008. Restrictions on Gifts

- (a) A person commits an offense if he intentionally or knowingly offers, confers, or agrees to confer on another, or solicits, accepts, or agrees to accept from another:
- (1) any benefit as consideration for the recipient's decision, opinion, recommendation, vote, or other exercise of discretion as a public servant, party official, or voter;
  - (2) any benefit as consideration for the recipient's decision, vote, recommendation, or other exercise of official discretion in a judicial or administrative proceeding;
  - (3) any benefit as consideration for a violation of a duty imposed by law on a public servant or party official, or
  - (4) any benefit that is a political contribution as defined by Title 15, Election Code, or that is an expenditure made and reported in accordance with Chapter 305, Government Code, if the benefit was offered, conferred, solicited, accepted, or agreed to pursuant to an express agreement to take or withhold a specific exercise of official discretion if such exercise of official discretion would not have been taken or withheld by for the benefit; notwithstanding any rule of evidence or jury instruction allowing factual inferences in the absence of certain evidence, direct evidence of the express agreement shall be required in any prosecution under this subdivision.
- (b) It is no defense to prosecution under this section that a person whom the actor sought to influence was not qualified to act in the desired way whether because he had not yet assumed office or he lacked jurisdiction or for any other reason.
- (c) It is no defense to prosecution under this section that the benefit is not offered or conferred or that the benefit is not solicited or accepted until after:

- (1) the decision, opinion, recommendation, vote, or other exercise of discretion has occurred; or
  - (2) the public servant ceases to be a public servant.
- (d) It is an exception to the application of Subdivisions (1), (2), and (3) of Subsection (a) that the benefit of a political contribution as defined by Title 15, Election Code, or an expenditure made and reported in accordance with Chapter 305, Government Code.

**Texas Penal Code §§ 36.02(a)-(d)**

A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions of governmental commits an offense if he solicits, accepts, or agrees to accept any benefit from a person the public servant knows is interested in or likely to become interested in any contract, purchase, payment, claim, or transaction involving the exercise of his discretion.

**Texas Penal Code § 36.08(d)**

- (a) Sections 36.08 (Gift to Public Servant) ... does not apply to:
- (1) a fee prescribed by law to be received by a public servant or any other benefit to which the public servant is lawfully entitled or for which he gives legitimate consideration in a capacity other than as a public servant;
  - (2) a gift or other benefit conferred on account of kinship or a personal, professional, or business relationship independent of the official status of the recipient; or
  - (3) a benefit to a public servant required to file ... a report under Title 15, Election Code, that is derived from a function in honor or appreciation of the recipient if:
    - (A) the benefit and the source of any benefit in excess of \$50 is reported in the statement; and
    - (B) the benefit is used solely to defray the expenses that accrue in the performance of duties or activities in connection with the office which are nonreimbursable by the state or political subdivision;
  - (4) a political contribution as defined by Title 15, Election Code;

\* \* \*

- (6) an item with a value of less than \$50, excluding cash or a negotiable instrument as described by Section 3.104, Business & Commerce Code; or
  - (7) an item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity.
- (b) Section 36.08 (Gift to Public Servant) does not apply to food, lodging, transportation, or entertainment accepted as a guest and, if the donee is required by law to report those items, reported by the donee in accordance with that law.

**Texas Penal Code §§ 36.10(a)-(b)**

- (a) A public servant commits an offense if the public servant solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide by for the public servant’s official position or duties.
- (b) This section does not prohibit a public servant from accepting transportation and lodging expenses in connection with a conference or similar event in which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent that those services are more than merely perfunctory, or from accepting meals in connection with such an event.

**Texas Penal Code §§ 36.07(a)-(b)**

See also Texas Penal Code § 36.01(3).<sup>43</sup>

**§ 5.009. Relationships with Vendors**

- (a) A local government officer<sup>44</sup> shall file a conflicts disclosure statement with respect to a person described by Section 176.002(a) if:

<sup>43</sup>

“Benefit” means anything reasonably regarded as pecuniary gain or pecuniary advantage, including benefit to any other person in whose welfare the beneficiary has a direct and substantial interest.

**Texas Penal Code § 36.01(3)**

<sup>44</sup>

“Local government officer” means:

(footnote continued on next page ...)

- (1) the person has contracted with the local governmental entity<sup>45</sup> or the local governmental entity is considering doing business with the person; and
- (2) the person:
  - (A) has an employment or other business relationship with the local government officer or a family member<sup>46</sup> of the officer that results in the officer or family member receiving taxable income; or
  - (B) has given to the local government officer or a family member of the officer one or more gifts, other than gifts of food, lodging, transportation, or entertainment accepted as a guest, that have an aggregate value of more than \$250 in the 12-month period preceding the date the officer becomes aware that:
    - (i) a contract described by Subdivision (1) has been executed; or
    - (ii) the local governmental entity is considering doing business with the person.

(... footnote continued from previous page)

- (A) a member of the governing body of a local governmental entity; or
- (B) a director, superintendent, administrator, president, or other person designated as the executive officer of the local governmental entity.

**Texas Local Government Code § 176.001(4)**

45

“Local governmental entity” means a ... school district ....

**Texas Local Government Code § 176.001(3)**

46

“Family member” means a person related to another person within the first degree by consanguinity or affinity, as described by Subchapter B, Chapter 573, Government Code.

**Texas Local Government Code § 176.001(2)**

This includes the following relationships: child; child’s spouse; parent; parent’s spouse; spouse; spouse’s child; and spouse’s parent.

**See Texas Government Code § 573.021**

- (b) A local government officer shall file the conflicts disclosure statement with the records administrator of the local governmental entity not later than 5 p.m. on the seventh business day after the date on which the officer becomes aware of the facts that require the filing of the statement under Subsection (a).
- (c) A local government officer commits an offense if the officer knowingly violates this section. An offense under this subsection is a Class C misdemeanor.
- (d) It is a defense to prosecution under Subsection (c) that the person filed the required conflicts disclosure statement not later than the seventh business day after the date the person received notice of the violation.

**Texas Local Government Code § 176.003**

- (a) This chapter applies to a person who:
  - (1) contracts or seeks to contract for the sale or purchase of property, goods, or services with a local governmental entity; or
  - (2) is an agent of a person described by Subdivision (1) in the person’s business with a local governmental entity.
- (b) A person is not subject to the disclosure requirements of this chapter if the person is:
  - (1) a state, a political subdivision of a state, the federal government, or a foreign government; or
  - (2) an employee of an entity described by Subdivision (1), acting in the employee’s official capacity.

**Texas Local Government Code § 176.002**

The superintendent of a school district may not receive any financial benefit for personal services performed by the superintendent for any business entity that conducts or solicits business with the district. Any financial benefit received by the superintendent for performing personal services for any other entity, including a school district, open-enrollment charter school, regional education service center, or public or private institution of higher education, must be approved by the board of trustees on a case-by-case basis in an open meeting. For purposes of this subsection, the receipt of reimbursement for a reasonable expense is not considered a financial benefit.

**Texas Education Code § 11.201(e)**

*See also* Policy 10.005(b).

**§ 5.010. Employment of Former Trustee**

- (f) DCS will not employ a current or former trustee until that trustee has been out of office for at least six years.
- (g) DCS will not contract with a current or former trustee or a business entity in which a current or former trustee has a substantial ownership interest (as defined in Tex. Local Gov't Code § 171.002(a)(1))<sup>47</sup> until that trustee has been out of office for at least six years.
- (h) This policy is effective for individuals hired or contracts made after the date of its passage, but does not apply to the renewal of an employment contract or other contract made before the date of its passage.

*Adopted 1/26/06*

**§ 5.011. Trustee Disclosure, Ethics, and Confidentiality Briefing.**

Newly elected trustees will receive a briefing on their disclosure, ethics, and confidentiality obligations. Attendance is not mandatory, but is strongly encouraged. Topics may be presented in a single session or divided among multiple sessions. Topics will include:

- (a) Disclosure of vendor relationships as required by Texas Local Government Code chapter 176;
- (b) Conflict of interest rules as set forth in Texas Local Government Code chapter 171;
- (c) Anti-nepotism rules as set forth in Texas Government Code chapter 573;
- (d) Gift restrictions as imposed by Texas Penal Code chapter 36;
- (e) Prohibitions on abuse of office as imposed by Texas Penal Code chapter 39;

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<sup>47</sup>

(a) For purposes of this chapter, a person has a substantial interest in a business entity if:

- (1) the person owns 10 percent or more of the voting stock or shares of the business entity or owns either 10 percent or more or \$15,000 or more of the fair market value of the business entity; or

\* \* \*

(c) A local public official is considered to have a substantial interest under this section if a person related to the official in the first degree by consanguinity or affinity, as determined under Chapter 573, Government Code, has a substantial interest under this section.

**Texas Local Government Code § 171.002**



- (f) Attorney-client privilege;
- (g) The Texas Public Information Act;
- (h) The Texas Open Meetings Act; and
- (i) Related DCS policies.

*Adopted 4/21/11*

## Chapter 6. Board of Trustees: Internal Organization

### § 6.001. Authority of Trustees

- (a) Trustees as individuals shall not exercise authority over Dallas County Schools, its property, or its employees. Except for appropriate duties and functions of the Board President, an individual trustee may act on behalf of the Board only with the express authorization of the Board. Without such authorization, no individual member may commit the Board on any issue.<sup>48</sup>
- (b) An individual trustee, acting in his or her official capacity, shall have the right to seek information pertaining to DCS fiscal affairs, business transactions, governance, and personnel matters, including information that properly may be withheld from members of the general public in accordance with the Texas Public Information Act. Each trustee must maintain the confidentiality of all confidential information so disclosed.<sup>49</sup>
- (c) An individual trustee shall not have access to confidential student records unless the member is acting in his or her official capacity and has a legitimate educational interest in the records. The trustee must maintain the confidentiality of any records so disclosed.
- (d) If employees, parents, students, or other members of the public bring concerns or complaints to an individual trustee, he or she shall refer them to the Superintendent or another appropriate administrator, who shall proceed according to the applicable complaint policy. Compliance with the Board's policy for public complaints does not impede a citizen's right to participate in the public comment session of a regular Board meeting.

*Adopted 11/18/04*

48

It is axiomatic that local governing bodies are entities and that the members can perform no valid act except as a body at meetings properly convened and conducted.

*Toyah ISD v. Pecos-Barstow ISD,*  
466 S.W.2d 377, 380 (Tex. Civ. App.—San Antonio 1971, no writ)

49

Individual Trustees, in their official capacity as public officers entrusted with governing and overseeing the management of Dallas County Schools, have an inherent right of access to records maintained by Dallas County Schools, under Board policies for orderly access.

*See Op. Tex. Att'y Gen. No. JM-119 (1983)*

**§ 6.002. Immunity of Trustees**

- (a) A professional employee of a school district<sup>50</sup> is not personally liable for any act that is incident to or within the scope of the duties of the employee’s position of employment and that involves the exercise of judgment or discretion on the part of the employee’s position of employment and that involves the exercise of judgment or discretion on the part of the employee, except in circumstances in which a professional employee uses excessive force in the discipline of students or negligence resulting in bodily injury to students.
- (b) This section does not apply to the operation, use, or maintenance of any motor vehicle.
- (c) In addition to the immunity provided under this section and under other provisions of state law, an individual is entitled to any immunity and any other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (20 U.S.C. Section 6731 et seq.), as amended. Nothing in this subsection shall be construed to limit or abridge any immunity or protection afforded an individual under state law. For purposes of this subsection, “individual” includes a person who provides services to private schools, to the extent provided by federal law.

**Texas Education Code § 22.0511**

The liability of a professional employee of a school district or of an individual that is entitled to any immunity and other protections afforded under the Paul D. Coverdell Teacher Protection Act of 2001 (20 U.S.C. section 6731 et seq.), as amended, for an act incident to or within the scope of duties of the employee’s position of employment may not exceed \$100,000. The limitation on liability provided by this subsection does not apply to any attorney’s fees or court costs that may be awarded against the professional employee under Section 22.0517.

**Texas Education Code § 22.0515**

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50

In this subchapter, “professional employee of a school district” includes:

\* \* \*

(5) a member of the board of trustees of an independent school district; . . .

**Texas Education Code § 22.051(a)(5)**

- (c) To protect the independence of state and local officers acting in a legislative capacity, a state or local officer, whether elected or appointed, including a member of the governing body of a school district ..., 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 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:
    - (A) the officer’s action relating to a legislative measure; or
    - (B) the substance, effects, or potential effects of a legislative measure.

**Texas Government Code § 572.059(c)**

See also Texas Education Code § 22.051(b),<sup>51</sup> 22.0513,<sup>52</sup> and 22.0514.<sup>53</sup>

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51

The statutory immunity provided by this subchapter is in addition to and does not preempt the common law doctrine of official and governmental immunity.

**Texas Education Code § 22.051(b)**

52

- (a) Not later than the 90<sup>th</sup> day before the date a person files a suit against a professional employee of a school district, the person must give written notice to the employee of the claim, reasonably describing the incident from which the claim arose.
- (b) A professional employee of a school district against whom a suit is pending who does not receive written notice, as required by Subsection (a), may file a plea in abatement not later than the 30<sup>th</sup> day after the date the person files an original answer in the court in which the suit is pending.
- (c) The court shall abate the suit if the court, after a hearing, finds that the person is entitled to an abatement because notice was not provided as required by this section.

(footnote continued on next page ...)

**§ 6.003. Board Committees**

- (a) The Board may from time to time, as it deems necessary, create committees to facilitate the efficient operation of the Board.
- (b) A committee that includes one or more trustees and has supervision or control over public business or public policy is subject to the Open Meetings Act when it meets to discuss that public business or policy.
- (c) Although a committee that includes less than a quorum of trustees is not subject to the Open Meetings Act if it serves a purely advisory function, with no power to supervise or control public business, it is the policy of Dallas County Schools that all committee meetings will observe the requirements of the Open Meetings Act whether required by law to do so or not. This policy does not preclude informal communication between two committee members in person, by telephone, or by electronic mail as long as the purpose of such communication is not to circumvent the Open Meetings Act.
- (d) The President may appoint special committees as necessary to fulfill specific assignments. These committees may include DCS personnel and citizens. The function of committees shall be fact-finding, deliberative, and advisory, but not administrative. Special committees shall report their findings to the Board and shall be dissolved upon completion of the assigned task or vote of the Board.
- (e) The Superintendent shall be an *ex officio* member of all Board committees.

*Adopted 11/18/04; amended 8/25/05*

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(... footnote continued from previous page)

(d) An abatement under Subsection (c) continues until the 90<sup>th</sup> day after the date that written notice is given to the professional employee of a school district as provided by Subsection (a).

**Texas Education Code § 22.0513**

53

A person may not file suit against a professional employee of a school district unless the person has exhausted the remedies provided by the school district for resolving the complaint.

**Texas Education Code § 22.0514**

§ 6.004. Resignation, Vacancies, and Removal from Office

i. Resignation

- (a) To be effective, a public officer’s resignation or an officer-elect’s declination must be in writing and signed by the officer or officer-elect and delivered to the appropriate authority for acting on the resignation or declination. The authority may not refuse to accept a resignation.
- (b) If the authority to act on a resignation or declination is a body, the resignation or declination may be delivered to the presiding officer of the body or to its clerk or secretary.

**Texas Election Code § 201.001**

If an officer submits a resignation, whether to be effective immediately or at a future date, a vacancy occurs on the date the resignation is accepted by the appropriate authority or on the eighth day after the date of its receipt by the authority, whichever is earlier.

**Texas Election Code § 201.023**

ii. Vacancies

Any vacancy on a board of county school trustees ... shall be filled for the unexpired portion of the term by the remaining trustees or trustees.

**Texas Education Code §§ 11.301, 17.04 (preserved)**

All officers within this State shall continue to perform the duties of their offices until their successors shall be duly qualified.

**Texas Constitution art. XVI, § 17**

All civil officers shall reside within the State; and all district or county officers within their districts or counties, and shall keep their offices at such places as may be required by law; and failure to comply with this condition shall vacate the office so held.

**Texas Constitution art. XVI, § 14**

iii. *Removal from Office*

[C]ounty officers, may be removed by the Judges of the District Courts for incompetency, official misconduct, habitual drunkenness, or other causes defined by law, upon the cause therefor being set forth in writing and the finding of its truth by a jury.

**Texas Constitution art. V, § 24**

The district judge may, under this subchapter, remove from office:

\* \* \*

- (14) a county officer<sup>54</sup> ... whose office is created under the constitution or other law of this state.

**Texas Local Government Code § 87.012**

(a) An officer may be removed for:

- (1) incompetency;
- (2) official misconduct;<sup>55</sup> or
- (3) intoxication on or off duty caused by drinking an alcoholic beverage.

(b) Intoxication is not a ground for removal if it appears at the trial that the intoxication was caused by drinking an alcoholic beverage on the direction and prescription of a licensed physician practicing in this state.

**Texas Local Government Code § 87.013**

*See also* Texas Local Government Code § 87.031.<sup>56</sup>

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A school district trustee is considered a county officer for purposes of the statutes governing removal from office.

*See Tovar v. Board of Trustees*, 994 S.W.2d 756, 759 (Tex. App. – Corpus Christi 1999, pet. denied)

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“Official misconduct” means intentional, unlawful behavior relating to official duties by an officer entrusted with the administration of justice or the execution of the law. The term includes an intentional or corrupt failure, refusal, or neglect of an officer to perform a duty imposed on the officer by law.

**Texas Local Government Code § 87.011(3)**

**§ 6.005. Board Attorney**

- (f) The Board shall retain one or more attorneys or law firms to serve as Dallas County Schools' legal counsel and representatives in matters requiring legal services. Services to be performed by the attorney or law firm and reasonable compensation to be paid shall be set forth in the contract between the Board and each attorney or law firm.
- (g) Staff requests for legal advice shall normally be submitted through the Superintendent. Individual trustees shall normally channel legal inquiries through the Superintendent or Board President, as appropriate, when advice or information from legal counsel is sought. When deemed appropriate by the administration or upon request of the Board, a report of legal advice received shall be presented to the Board.

*Adopted 11/18/04*

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(... footnote continued from previous page)

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- (a) The conviction of a county officer by a petit jury for any felony or for a misdemeanor involving official misconduct operates as an immediate removal from office of that officer.
- (b) The court rendering judgment in such a case shall include an order removing the officer in the judgment.

**Texas Local Government Code § 87.031**



## Chapter 7. Superintendent

### § 7.001. Authority and Duties of Superintendent

- (a) The superintendent is the educational leader and the chief executive officer of the school district.

\* \* \*

- (d) The duties of the superintendent include:

- (1) assuming administrative responsibility and leadership for the planning, organization, operation, supervision, and evaluation of the education programs, services, and facilities of the district and for the annual performance appraisal of the district's staff;
- (2) ... assuming administrative authority and responsibility for the assignment, supervision, and evaluation of all personnel of the district other than the superintendent;
- (3) overseeing compliance with the standards for school facilities established by the commissioner under Section 46.008;
- (4) initiating the termination or suspension of an employee or the non-renewal of an employee's term contract;
- (5) managing the day-to-day operations of the district as its administrative manager, including implementing and monitoring plans, procedures, programs, and systems to achieve clearly defined and desired results in major areas of district operations;
- (6) preparing and submitting to the board of trustees a proposed budget as provided by Section 44.002 and rules adopted under that section, and administering the budget;
- (7) preparing recommendations for policies to be adopted by the board of trustees and overseeing the implementation of adopted policies;
- (8) developing or causing to be developed appropriate administrative regulations to implement policies established by the board of trustees;

\* \* \*

- (10) organizing the district's central administration;

\* \* \*

- (12) ensuring:

- (A) adoption of a student code of conduct as required under Section 37.001 and enforcement of that code of conduct; and
- (B) adoption and enforcement of other student disciplinary rules and procedures as necessary;
- (13) submitting reports as required by state or federal law, rule, or regulation;
- (14) providing joint leadership with the board of trustees to ensure that the responsibilities of the board and superintendent team are carried out; and
- (15) performing any other duties assigned by action of the board of trustees.

**Texas Education Code § 11.201**

See also Texas Education Code § 17.61 (preserved).<sup>57</sup>

- (a) The Superintendent shall perform all acts that do not require formal action by the Board of Trustees.
- (b) The Superintendent is delegated all authority to hire, fire, evaluate, promote, demote, appoint, employ, change status, and change compensation of all employees.<sup>58</sup>
- (c) The Superintendent shall define the qualifications, duties, and responsibilities of all positions and shall ensure that job descriptions are current and accessible to employees and supervisors.
- (d) The Superintendent is delegated authority to execute contracts necessary for the operation of Dallas County Schools, unless otherwise prohibited by law or by

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<sup>57</sup>

The county superintendents are empowered to administer oaths necessary in transacting any business relating to school affairs, but they shall receive no compensation therefor.

**Texas Education Code § 17.61 (preserved)**

<sup>58</sup>

- (a) The board of trustees of each ... school district shall adopt a policy providing for the employment and duties of district personnel. The employment policy must provide that:
  - (1) the superintendent has sole authority to make recommendations to the board regarding the selection of all personnel other than the superintendent, except that the board may delegate final authority for those decisions to the superintendent; . . .

**Texas Education Code § 11.1513(a)(1)**

board action.

- (e) In addition to any duties specified in the Superintendent's contract or required by law, the Superintendent's duties shall include the following:
  - (1) Serve as liaison between the Board and staff.
  - (2) Accurately prepare and submit in a timely manner any and all reports required by the Board, the Texas Education Agency, any other federal or state agencies, and any records subpoenaed by a court of law.
  - (3) Ensure that funds are expended in accordance with the approved budget.
  - (4) Hire, fire, evaluate, promote, denote, appoint, employ, change status, and change compensation of all employees, except the Superintendent.
  - (5) Direct and supervise all financial accounting and ensure that funds are expended legally and controlled effectively.
  - (6) Monitor Dallas County Schools' property, casualty, and workers' compensation loss experience to ensure that appropriate risk management and loss control strategies are employed.
  - (7) Recommend and ensure equitable administration of student transportation discipline policies, including discipline agreements with each school district served.
  - (8) Represent Dallas County Schools' activities involving other school systems, institutions, agencies, and professional or community groups.
  - (9) Prepare Board agendas and meeting materials in cooperation with the Board President.
  - (10) Attend and participate in all meetings of the Board, except when excluded from closed meetings, such as when the Board wants to discuss privately the Superintendent's contract or evaluation.
  - (11) Keep the Board continuously informed on issues, needs, and operations of Dallas County Schools.
  - (12) Interpret Board policies to the staff and community and implement them accordingly.
  - (13) Serve as custodian of all minutes and records of the Board.
  - (14) Communicate with Dallas County Schools' attorneys on matters in litigation or potential litigation, except as otherwise directed by the Board.
  - (15) Perform related duties assigned by action of the Board.

- (f) Any authority delegated to the Superintendent under this policy may be sub-delegated by the Superintendent unless sub-delegation is expressly prohibited by law or by action of the Board. Any sub-delegation of authority to execute contracts must be to a subordinate at the Assistant Superintendent level or higher.

*Adopted 11/18/04; amended 11/15/12, 1/31/13*

**§ 7.002. Qualifications of Superintendent**

An elective or appointive county superintendent must be a person of educational attainments, good moral character, and executive ability. He must hold a permanent, provisional, or professional teacher’s certificate.

**Texas Education Code § 17.48 (preserved)**

*See also Texas Education Code § 17.49 (preserved).<sup>59</sup>*

**§ 7.003. Superintendent’s Contract of Employment**

[B]efore a [superintendent] may be employed under a term contract, the [superintendent] must be employed under a probationary contract for the period provided by Subchapter C [see subchapter for details].

**Texas Education Code § 21.202(a)**

Once a [superintendent] has completed the probationary contract period, the term of a contract ... may not exceed five school years.

**Texas Education Code § 21.205**

- (a) A term contract must be in writing and must include the terms of employment prescribed by this subchapter.
- (b) The board of trustees may include in the contract other provisions that are consistent with this subchapter.
- (c) Each contract under this subchapter is subject to approval by the board of trustees.

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The county superintendent ... shall take the official oath of office and shall give bond in the sum of \$1,000, conditioned upon the faithful performance of his duties and payable to and approved by the county governing board of the county ....

**Texas Education Code § 17.49 (preserved)**

- (d) The board of trustees shall provide each [superintendent] with a copy of the [superintendent's] contract with the school district and, on the [superintendent's] request, a copy of the board's employment policies. If the district has an Internet website, the district shall place the board's employment policies on that website.
- (e) A [superintendent] does not have a property interest in a contract beyond its term.

**Texas Education Code § 21.204**

**§ 7.004. Non-Renewal, Termination, or Suspension of Superintendent's Contract**

*i. Non-Renewal*

- (a) The board of trustees of a school district may choose to not renew the employment of a superintendent employed under a term contract, effective at the end of the contract period. If a majority of the board of trustees determines that the term contract of the superintendent should be considered for nonrenewal, the board shall give the superintendent written notice, containing reasonable notice of the reason for the proposed nonrenewal, not later than the 30th day before the last day of the contract term.
- (b) If the board of trustees fails to give notice of the proposed nonrenewal within the time specified by Subsection (a), the board of trustees shall employ the superintendent in the same professional capacity for the following school year.
- (c) If the superintendent, not later than the 15th day after receiving notice of the board's proposed action, does not request a hearing with the board of trustees under Section 21.207, the board of trustees shall:
  - (1) take the appropriate action; and
  - (2) notify the superintendent in writing of the action not later than the 30th day after the date the board sends the notice of the proposed nonrenewal.
- (d) The board of trustees shall adopt policies that establish reasons for nonrenewal. This section does not prohibit a board of trustees from discharging a superintendent for good cause during the term of a contract.

(e) A superintendent employed under a term contract may leave the employment of the district at the end of a school year without penalty by filing a written resignation with the board of trustees. The resignation must be addressed to the board and filed not later than the 45th day before the first day of instruction of the following school year. A superintendent may resign, with the consent of the board of trustees, at any other time.

**Texas Education Code § 21.212**

The following are reasons for non-renewal of the Superintendent’s term contract:

- (a) Reasons specified in contract of employment;
- (b) Good cause as determined by the Board of Trustees, which is defined as failure to meet the accepted standards of conduct for the profession as generally recognized and applied in similar school districts in Texas.

*See also* Texas Education Code §§ 21.207,<sup>60</sup> 21.208(b),<sup>61</sup> and 21.209.<sup>62</sup>

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- (a) If the [superintendent] desires a hearing after receiving notice of the proposed nonrenewal, the [superintendent] shall notify the board of trustees in writing not later than the 15th day after the date the [superintendent] receives the notice of the proposed action. The board shall provide for a hearing to be held not later than the 15th day after the date the board receives the request for a hearing unless the parties agree in writing to a different date. The hearing must be closed unless the [superintendent] requests an open hearing.
- (b) The hearing must be conducted in accordance with rules adopted by the board. The board may use the process established under Subchapter F.
- (c) At the hearing, the [superintendent] may:
  - (1) be represented by a representative of the [superintendent’s] choice;
  - (2) hear the evidence supporting the reason for nonrenewal;
  - (3) cross-examine adverse witnesses; and
  - (4) present evidence.

**Texas Education Code § 21.207**

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If the [superintendent] requests a hearing, following the hearing the board of trustees shall:

- (1) take the appropriate action to renew or not renew the [superintendent’s] contract; and
- (2) notify the [superintendent] in writing of that action not later than the 15th day after the date on which the hearing is concluded.

**Texas Education Code § 21.208(b)**

Adopted 11/18/04

ii. Termination

- (a) The board of trustees may terminate a term contract and discharge a [superintendent] at any time for:
  - (1) good cause as determined by the board; or
  - (2) a financial exigency that requires a reduction in personnel.

Texas Education Code § 21.211(a)

iii. Suspension

- (b) For a good cause, as determined by the board, the board of trustees may suspend a [superintendent] without pay for a period not to extend beyond the end of the school year:
  - (1) pending discharge of the [superintendent]; or
  - (2) in lieu of terminating the [superintendent].
- (c) A [superintendent] who is not discharged after being suspended without pay pending discharge is entitled to back pay for the period of suspension.

Texas Education Code §§ 21.211(b) & (c)

§ 7.005. Appraisal of Superintendent

The Superintendent shall be appraised at least once each year.<sup>63</sup> The Board shall consider the following objectives:

(... footnote continued from previous page)

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A [superintendent] who is aggrieved by a decision of a board of trustees on the nonrenewal of the [superintendent's] term contract may appeal to the commissioner for a review of the decision of the board of trustees .... The commissioner may not substitute the commissioner's judgment for that of the board of trustees unless the board's decision was arbitrary, capricious, unlawful, or not supported by substantial evidence.

Texas Education Code § 21.209

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(footnote continued on next page ...)

- (a) Clarify to the Superintendent his or her role, as seen by the Board.
- (b) Clarify to Board members the Superintendent’s role, according to the Board’s written criteria, as expressed in the Superintendent’s job description and Dallas County Schools’ goals and objectives.
- (c) Foster an early understanding among new Board members of the evaluation process and the Superintendent’s current performance objectives and priorities.
- (d) Develop and sustain a harmonious working relationship between the Board and the Superintendent.
- (e) Ensure administrative leadership for excellence in Dallas County Schools.

*Adopted 11/18/04*

**§ 7.006. Administrative Procedures**

- (a) The Superintendent and administrative staff shall be responsible for developing and enforcing procedures for the operation of Dallas County Schools. Procedures must be consistent with Board Policy and law and shall be designed to promote the achievement of DCS goals and objectives.<sup>64</sup>
- (b) These procedures shall constitute the administrative regulations of Dallas County Schools and shall consist of guides, handbooks, and forms, as well as other documents defining standard operating procedure and designated “Regulations” or “Superintendent’s Directives.”
- (c) All administrative regulations shall be under the direction of the Superintendent; variations from defined procedures shall be with the prior approval of the Super-

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(... footnote continued from previous page)

[T]he employment policies adopted by a board of trustees must require a written evaluation of each [superintendent] at annual or more frequent intervals. The board must consider the most recent evaluations before making a decision not to renew a [superintendent’s] contract if the evaluations are relevant to the reason for the board’s action.

**Texas Education Code § 21.203(a)**

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The duties of the superintendent include:

\* \* \*

(8) developing or causing to be developed appropriate administrative regulations to implement policies established by the board of trustees;

**Texas Education Code § 11.201(d)(8)**



intendent. In case of conflict between the administrative regulations and Policy, Policy shall prevail.

- (d) Administrative regulations may be amended at any time by the Superintendent or by designated staff, with the prior approval of the Superintendent.
- (e) The official copy of all documents constituting administrative regulations shall be kept in the Superintendent's office, and the Superintendent or designee shall be responsible for their accuracy. If discrepancies occur among different copies of administrative regulations distributed throughout Dallas County Schools, the official copy shall be regarded as authoritative.
- (f) All administrative regulations, including manuals, guides, handbooks, and forms, shall be kept up-to-date and shall be made accessible to staff and the public as required by the Texas Public Information Act.

*Adopted 11/18/04*