



**City of Dallas**

# **Texas Open Meetings Act (TOMA or the Act)**

**City Attorney's Office**

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# Open Meetings and Open Records Training



- State law requires elected officials to complete training on open records and open meetings within 90 days of taking the oath of office.
- Public Information Act Training  
<https://www.texasattorneygeneral.gov/open-government/governmental-bodies/pia-and-oma-training-resources/public-information-act-training>
- Open Meetings Act Training  
<https://www.texasattorneygeneral.gov/open-government/open-meetings-act-training>



# The Rule



- “Every regular, special, or called meeting or session of every governmental body shall be open to the public . . . .”
- TOMA’s requirements are mandatory for every governmental body.
- GOVERNMENTAL BODY means a municipal governing body (city council).
- MEETING means:
  - (1) a quorum of the members of a governmental body;
  - (2) where public business that the governmental body has authority to supervise or oversee is deliberated or discussed.
- DELIBERATE or DISCUSS means a verbal exchange that includes:
  - Receiving information; giving information; asking questions; receiving questions from any third party, including government employees; or debate among the body.



# Meeting



- Deliberation and discussion are synonymous for purposes of the Act.
- A verbal exchange clearly includes an exchange of spoken words, but it may also include an exchange of written materials or electronic mail.
- A quorum need not be established in real time.
- “Reply all” can create a quorum.
- Example: Quorum of a governmental body deliberating public business electronically (email, social media, etc.) or via telephone can be a meeting subject to the Act.



# Walking Quorums



When a commissioner:

- knowingly attempts to avoid complying with the Act by engaging in at least one communication among a series of communications about public business in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of the members.
- knew at the time the member engaged in the communication that the series of communications:
  - involved or would involve a quorum; and
  - would constitute a deliberation once a quorum of members engaged in the series of communications.



## Examples include:



- conducting secret deliberations;
- email communications;
- voting over the telephone; or
- deliberating through a series of closed meetings of members of less than a quorum.



# Notice Requirements



- The Act requires written notice of meetings. The Act provides:
  - A governmental body shall give written notice of the date, hour, place, and subject of each meeting held by the governmental body.
- Notice must be given at least 72 hours before a meeting and placed on the city's physical or electronic bulletin board at a place convenient to the public within city hall.
  - If the governmental entity maintains a website, notice must also be posted on that website.
  - Notice is required to be readily available during normal business hours.
- Notice must be sufficient to inform the public of the subject matter to be addressed during the meeting.





# Videoconference



- City officials, city staff, and members of the public may attend an open meeting by videoconference.
- The person presiding over the meeting must be present in a location open to the public.
- City officials, city staff, and members of the public must have both an audio and video feed available in order to participate remotely in an open meeting.
- A city official is considered absent for any portion of an open meeting where the audio or video feed is lost.





# Other Rules



- Governing body may not adjourn and start meeting again the same day.
- Governmental body must vote in public.
- No anonymous or secret ballots.
- What if we “forgot to post” an item?
  - It cannot be discussed, except to say: “Would staff please add this to the next agenda.”
- Limits on responding to questions during the open microphone period.



# Closed Meeting (Executive Session)



- If a closed meeting is allowed under the Act, a governmental body may NOT conduct a closed session unless:
  - a quorum first convenes in open session;
  - during which the presiding officer publicly announces that a closed meeting will be held; and
  - identifies the section under which the closed meeting will be held.
- The item must comply with the notice requirements.
- Closed meeting may be called for such matters as:
  - Attorney consultation (§ 551.071).
  - Deliberations about real estate (§ 551.072).
  - Economic development considerations (§ 551.087).
- Any vote regarding the closed session item must occur in open session.



# Closed Meeting: Who May Attend?



- Only a governmental body's members have a right to attend a closed meeting.
- Except that the governmental body's attorney must attend closed meetings under the attorney consultation exception.
- Although a governmental body may include others in a closed meeting if they are essential to the matter under consideration, or necessary for the full communication of attorney-client communications, it may not admit a person whose presence is against the interests of the governmental body.





- Governmental body must keep minutes or tape recording of the open meeting.
- Minutes must:
  - State subject of each deliberation; and
  - Indicate the vote, order, decision, or other act taken.
- Record of meeting must be available to the public.
- Public allowed to make audio/visual record of the open meeting, but governmental body may reasonably regulate manner and location.

