

**Access to
Information Under
the Public
Information Act**

Unless authorized by the board, a member of the board may not, individually, act on behalf of the board. *Education Code 11.051(a-1)* [See BE regarding action by a majority of the board]

A board member may inspect, duplicate, or inspect and duplicate public information maintained by the district if the member is acting in their official capacity.

Public information requested under this provision shall be provided to the board member promptly and without charge. Promptly means as soon as possible under the circumstances, that is, within a reasonable time, without delay.

Gov't Code 552.401, .403(a)-(b), .221(a)

Redaction

If requested by the board member, public information requested under this provision that is confidential under law shall be redacted from the information provided to the board member without charge. *Gov't Code 552.403(c)*

**Attorney-Client
Privilege**

Information subject to attorney-client privilege is not subject to disclosure to a board member under this provision unless the attorney-client relationship upon which the privilege is based applies to the board member. A district shall inform the board member if information responsive to a request under this provision is withheld due to attorney-client privilege. *Gov't Code 552.403(d)*

**Confidentiality
Agreement**

A district that has been requested to provide information under this provision may request the board member who is receiving public information that is confidential under law to sign a confidentiality agreement that covers the information and requires that:

1. The information not be disclosed;
2. The information be labeled as confidential;
3. The information be kept securely; or
4. The number of copies made of the information or the notes taken from the information that implicate the confidential nature of the information be controlled, with all copies or notes that are not destroyed or returned remaining confidential and subject to the confidentiality agreement.

A district, by providing public information under Government Code Chapter 552, Subchapter K that is confidential or otherwise excepted from required disclosure under law, does not waive or affect the confidentiality of the information for purposes of state or federal

law or waive the right to assert exceptions to required disclosure of the information in the future.

Gov't Code 552.404

*Determination by
Attorney General*

A board member who has received a request to sign a confidentiality agreement may seek a decision about whether the information covered by the confidentiality agreement is confidential under law. A confidentiality agreement signed under Government Code 552.404 is void to the extent that the agreement covers information that is determined by the attorney general or a court not to be confidential under law.

The attorney general shall promptly render a decision determining whether the information covered by the confidentiality agreement is confidential under law not later than the 45th business day after the date the attorney general received the request.

Gov't Code 552.405(a), (c)

**Access to
Information Under
the Education Code**

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

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

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

A district shall provide a board member with information, documents, and records requested not later than the 20th business day after the date the district receives the request. The district may take a reasonable additional period of time, not to exceed the 30th business day after the date the district receives the request, to respond to a request if compliance by the 20th business day would be unduly burdensome given the amount, age, or location of the requested information. The district shall inform the board member of the reason for the delay and the date by which the information will be provided.

If a district does not provide requested information to a board member in the time required, the member may bring suit against the district for appropriate injunctive relief. A member who prevails in a suit is entitled to recover court costs and reasonable attorney's

fees. The district shall pay the costs and fees from the budget of the superintendent's office.

Confidential
Information

The district may withhold or redact information, a document, or a record requested by a board member to the extent that the item is excepted from disclosure or is confidential under the Public Information Act or other law [see GBA].

A board member shall maintain the confidentiality of information, documents, and records received from the district as required by the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. 1232g) and any other applicable privacy laws. [See FL]

Report of Requests

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

A district shall report annually to the Texas Education Agency not later than September 1 of each year:

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

Education Code 11.1512(c)–(f)

Access to Student
Records

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

Offenses Regarding
Records and
Information

A person commits an offense if the person:

1. Willfully destroys, mutilates, removes without permission as provided by Government Code Chapter 552 (Public Information Act), or alters public information; or
2. Distributes information considered confidential under the terms of Government Code Chapter 552.

Gov't Code 552.351, .352

[For information regarding the offenses of destruction or alienation of record and tampering with governmental record, see CPC(LEGAL). For information regarding misuse of official information, see BBFB(LEGAL).]

BOARD MEMBERS
AUTHORITY

BBE
(LEGAL)

**Visits to District
Facility**

A district shall create a policy on visits to a district campus or facility by a member of the board. *Education Code 11.1512(g)*

**Protections for
Legislative Activity**

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

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

Gov't Code 572.059

**Board Member
Immunities**

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

State Law
Immunities

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

Federal Law
Immunities

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