

Open Government: Open Meetings, Conflicts of Interest and Public Information

TML Region 12 Conference, May 16, 2025

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Today's Agenda



Open Meetings

- What constitutes a meeting
- Notice requirements
- Quorum considerations



Conflicts of Interest

- Identification methods
- Proactive approaches



Public Information

- Information subject to Act
- Procedures and remedies
- Important exceptions

Practical Approach to C o m p l i a n c e

C a s e - b y - C a s e A n a l y s i s

Today's presentation offers practical guidance. Factual situations are unique and require individual analysis.

Legal Resources

Legal citations and case law can be found in the OMA and PIA handbooks published by the Attorney General.

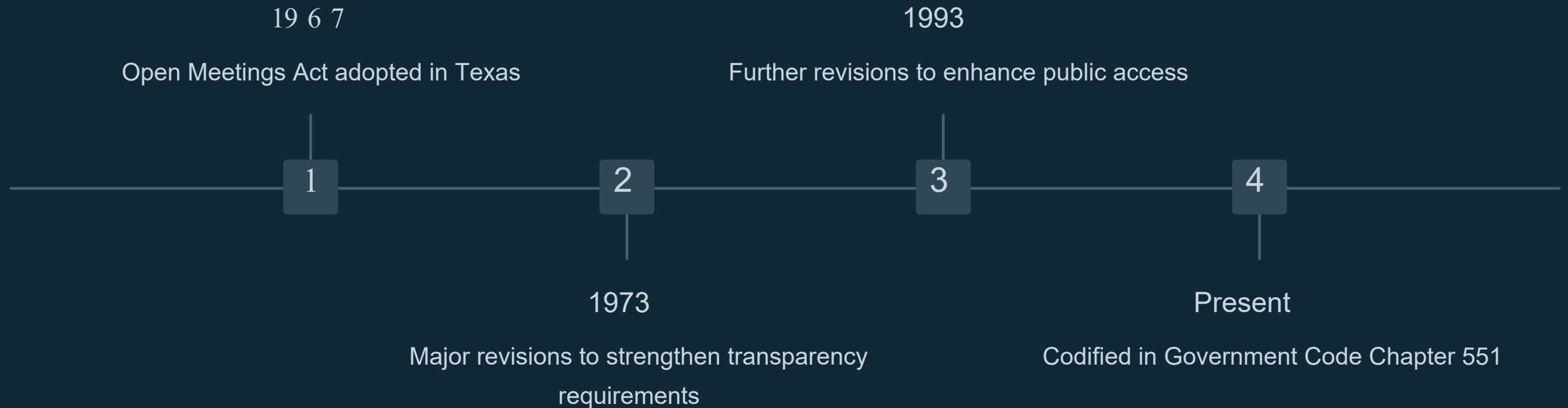
Compliance First

Proper understanding prevents litigation. Courts should be a last resort for ensuring compliance.





Open Meetings Act: Historical Context





Purpose of the Open Meetings Act

The Act safeguards the public's interest in knowing the workings of its governmental bodies. Public bodies should comply willingly, preventing citizens from resorting to courts.

- *Cox Enterprises, Inc. v. Board of Trustees of Austin Indep. Sch.*, 706 S.W.2d 956, 960 (Tex. 1986)



Transparency

Ensures government decisions happen in public view.



Accountability

Officials must justify decisions to constituents.



Public Trust

Fosters confidence in governmental operations.

Governmental Bodies Subject to Act



City Entities

Commissions, councils, and CDBG boards must comply with open meeting requirements.



Special Districts

TIRZ and other special governing boards fall under the Act's purview.



Economic Development

Economic development corporations must follow open meeting standards.

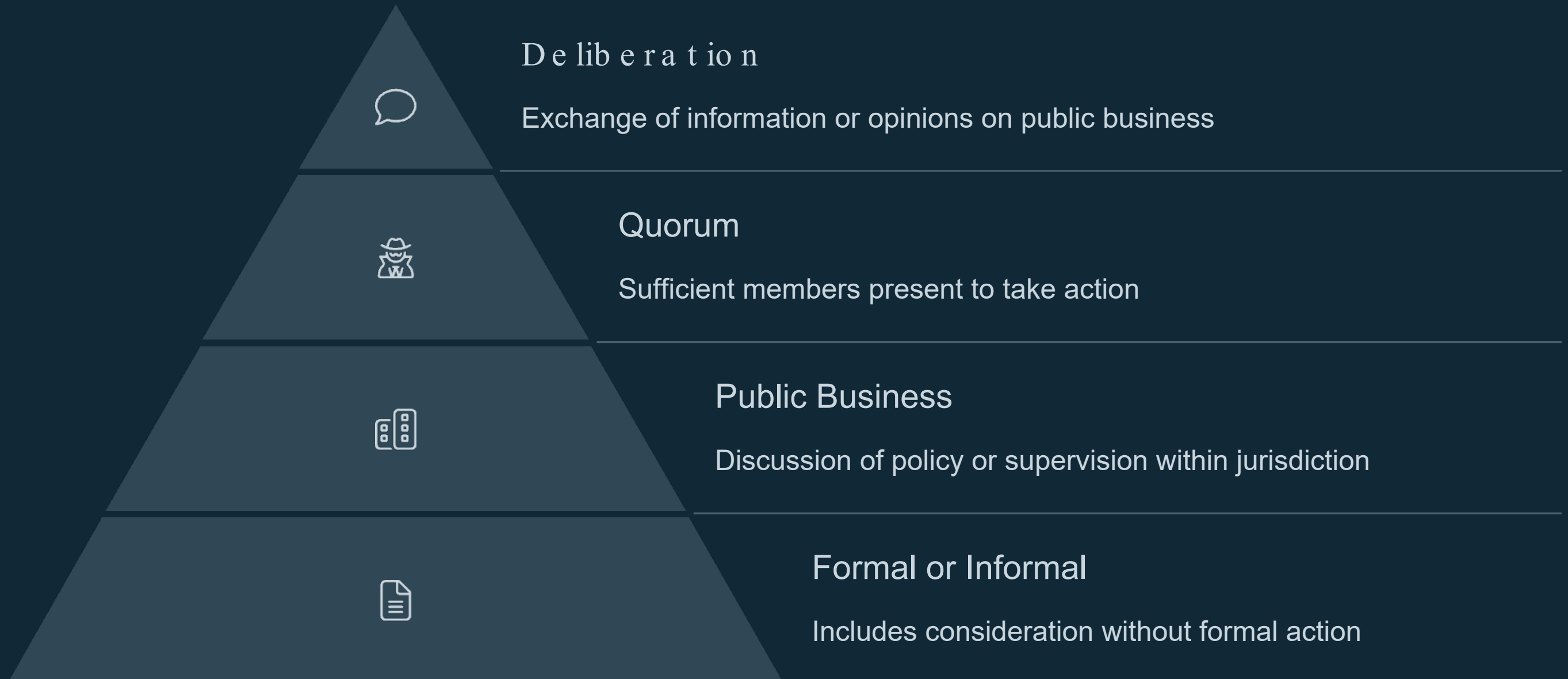


Advisory Boards

Some advisory boards, committees, and subcommittees require compliance.



What Constitutes a Meeting?

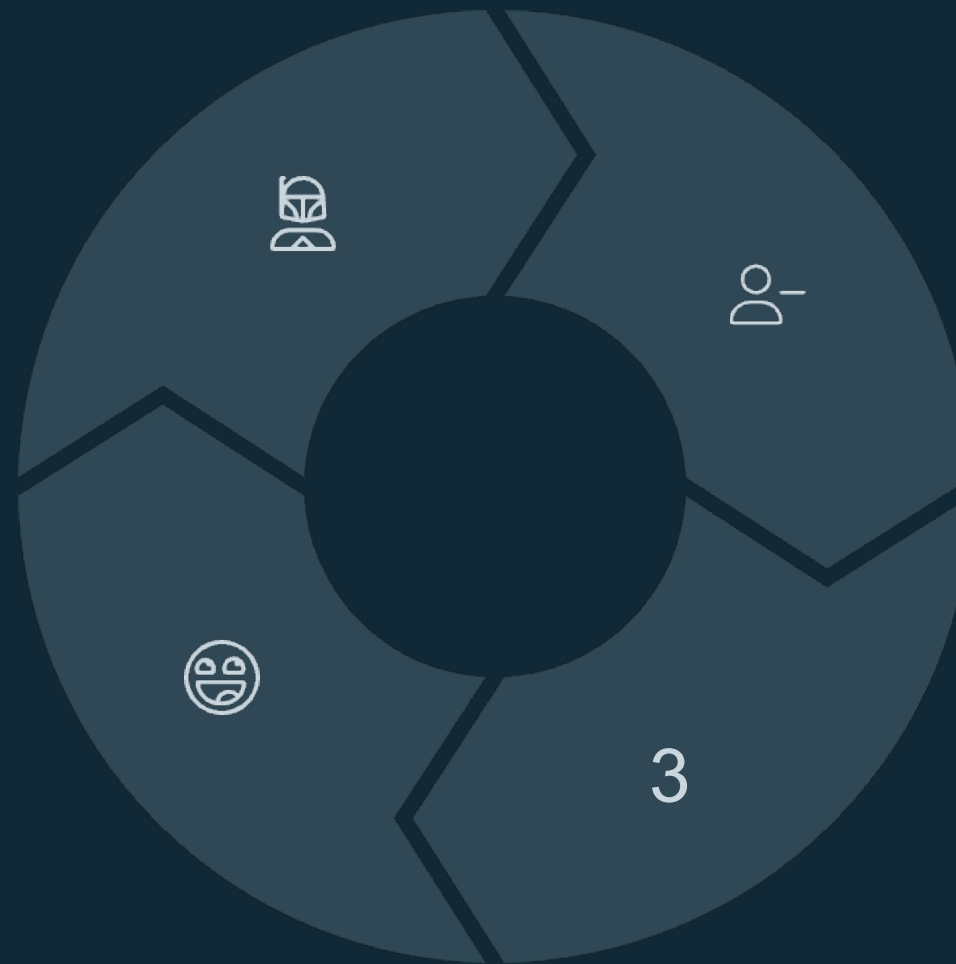


Walking Quorums

- A V i o l a t i o n

Member A meets
Member B
Discusses agenda item privately

Criminal Violation
Knowingly circumventing the Act
through secret deliberations



Member B meets
Member C

Shares discussion and builds
consensus

Member C meets
Member D

Achieves de facto quorum through
serial meetings



Permitted Gatherings Under the Act



Conventions & Workshops

Regional, state, or national gatherings for educational purposes are permitted.



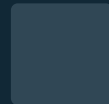
Ceremonial Events

Ribbon cuttings and similar ceremonial functions are exempted.



Press Conferences

Public announcements to media outlets don't constitute meetings.



Candidate Forums

Election-related appearances and debates are allowed without violation.

Social Functions and the Act



Key Limitations

No deliberation of public business may occur. Casual conversations must avoid official matters.

- Cannot discuss votes or positions
- Cannot strategize on upcoming decisions
- Cannot form consensus at social events

Permitted Social Interaction

Officials may attend the same social functions without violating the Act.

Mechanisms for Ensuring Openness



Proper Notice

Detailed meeting announcements accessible to the public



Open Meeting Procedures

Protocols ensuring public access and transparency



Closed Meeting Safeguards

Strict limitations on executive sessions



Broadcasting Requirements

Public access to proceedings via technology



Record Keeping

Documentation of all proceedings

Notice Requirements



72 -Hour Posting

Minimum time before meeting occurs, except for emergencies.



Accessible Location

Must be in city hall in area convenient to the public.



Website Posting

Digital notice required in addition to physical posting.



Subject Clarity

Public must be able to determine what topics will be discussed.





Emergency Meetings

Identify True Emergency

Must involve urgent public necessity or imminent threat to public health and safety.

Subject to judicial review if challenged.

Shortened Notice Period

Agenda may be posted just 2 hours prior to meeting.

Notice must clearly identify specific emergency.

Media Notification

News media must receive notice 1 hour before meeting.

Applies only to media who have requested notification.



Closed Meeting Exceptions

Legal Consultation

Discussions with attorneys about pending litigation or settlement negotiations.

Real Property

Deliberations about purchase, exchange, lease, or value of real property.

Personnel Matters

Discussion about appointment, employment, or dismissal of public officers or employees.

Economic Development

Negotiations regarding commercial or financial information from business prospects.

Closed means closed only essential personnel may attend.

Virtual Meeting Participation

Post-Pandemic Guidelines

Virtual participation is permissible but not mandatory for members.

- Chair must be physically present
- Public location must be provided
- Audio and video must function properly



Technical Requirements

Both audio and video must function properly for virtual participation to count toward quorum.

Civil Enforcement of the Act

Legal Standing
Liberally construed to allow citizen enforcement

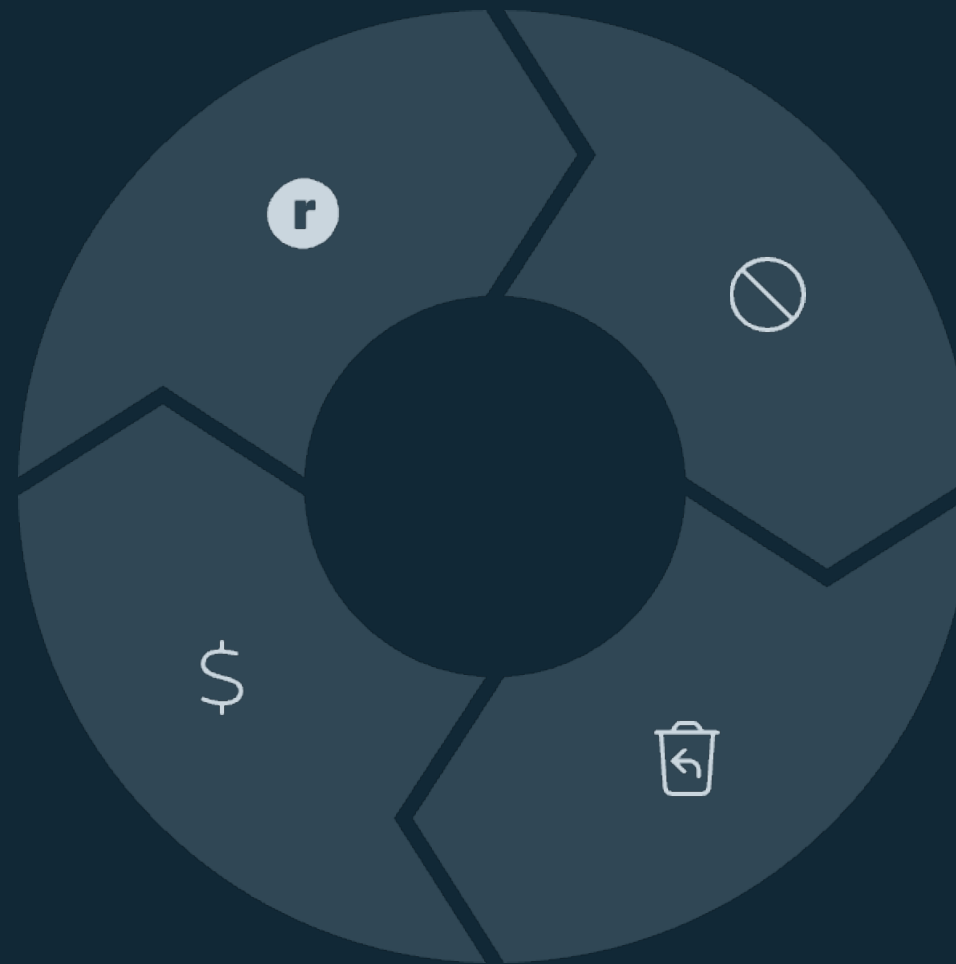
Financial Remedies
Back pay for employees improperly terminated

Preventive Remedies

Court orders to prevent or stop violations

Reversal of Actions

Invalidation of decisions made in violation



Criminal Enforcement of the Act

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Maximum Fine

For unauthorized closed meetings or walking quorums

6

Maximum Jail Time

Months of confinement possible for violations

\$2000

Certified Agenda Disclosure

Maximum fine for improper disclosure of executive session records

180

Days in Jail

Maximum sentence for disclosing confidential recordings



Case Study: Fort Worth Notice Violation

The Violation

Fort Worth failed to post physical agendas at City Hall from September 2021 to March 2022.

Online postings continued but weren't sufficient under the law.

The Consequences

Two meetings were canceled. All actions taken during this period required re ratification.

Created substantial legal uncertainty and administrative burden.

The Solution

City implemented digital kiosk in City Hall lobby for physical agenda display.

Updated procedures to ensure dual compliance with electronic and physical requirements.



RECUSING FROM VOTE



Conflicts of Interest: Legal Framework



State Law

Chapters 171 and 176 of the Local Government Code establish baseline requirements.



Local Regulations

City Charters and Ordinances may impose stricter standards.



Professional Ethics

Professional codes of conduct provide additional guidance.



Moral Compass

Your gut feeling should not be ignored when ethical questions arise.

Substantial Interest: Business Entities

Stock or Shares

10% or more of voting stock creates substantial interest.

Value Threshold

\$15,000 or 10% of fair market value of entity creates conflict.

Income Consideration

Funds exceeding 10% of gross income from previous year qualifies.



Substantial Interest: Real Property & Family

Property Interests

Equitable or legal ownership with fair market value of \$2,500 or more constitutes substantial interest.

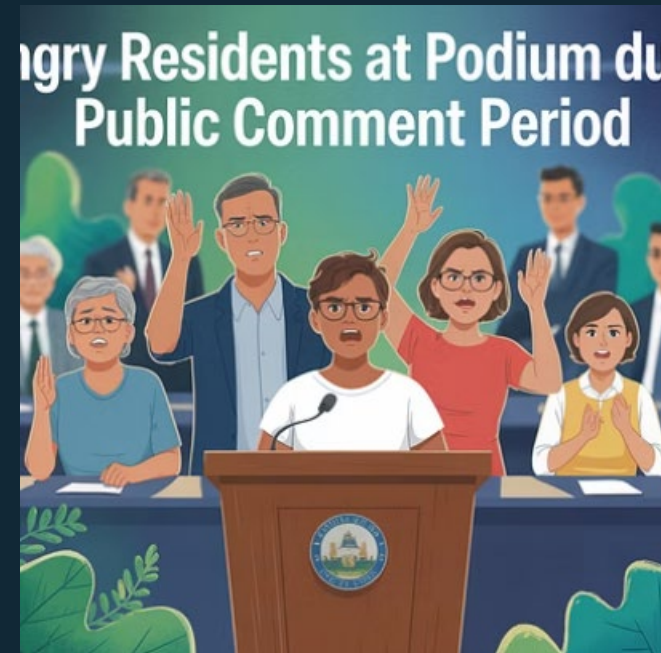
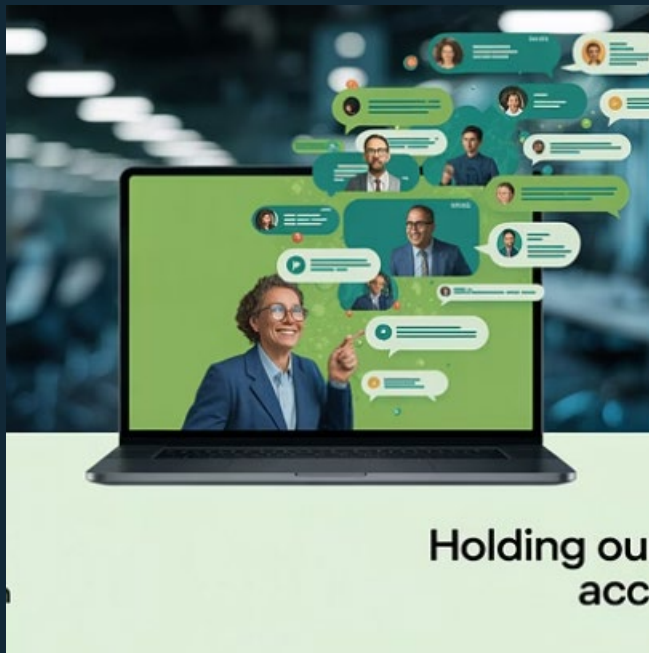
Property within 200 feet that would be affected differently from general public creates conflict.

Family Connections

Relatives of first degree have substantial interest under the law.

- Parents and children
- Siblings by blood or marriage
- Parents-in-law
- As defined in TGC 573.023

Perceived Conflicts of Interest



Perception matters in public service. Even when legal requirements are met, apparent conflicts can damage public trust.

Properly Disclosing Conflicts



File Affidavit

Complete conflict disclosure before vote



Disclose Nature

State extent of interest publicly



Abstain

Do not participate in vote



Leave Room

Exit during related deliberations

Texas Ethics Commission provides standardized forms at
<https://www.ethics.state.tx.us/forms/conflict/>



Public Information Act Overview



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Texas Public Information Act adopted to ensure government transparency.



Core Principle

Government is the servant, not the master, of the people.



Attorney General

Maintains uniformity in application, operation, and interpretation.



Availability

Information must be accessible during normal business hours.



Citizen Services.



**CITIZEN
SERVICES**

**Your city.
Your voice.**

Electronic Records & Social Media

Personal Devices

Subject to PIA if used for official business. No distinction between personal or employer issued devices.

Official Accounts

City department social media accounts fall under PIA requirements. All posts and interactions are covered.

Personal Accounts

Council members' personal accounts may be subject to PIA when used for government business.



'Connecting citizens,
Building trust'



Questions