

**TARRANT REGIONAL WATER DISTRICT  
BOARD GOVERNANCE POLICIES**

These Board Governance Policies are intended to provide guidelines for Board activities so that the respective roles of the Board, staff and public are memorialized and clarified. The conflict of interest and ethics provisions supplement and do not replace the Board Ethics Policy dated January 1, 1990, revised October 1, 1996 and February 9, 2001.

**BOARD AUTHORITY**

The Board is responsible for the management of all of the affairs of the District. TEX. WATER CODE § 49.057 However, the Board may delegate to the General Manager full authority to manage and operate the affairs of the District subject only to orders of the Board. TEX. WATER CODE § 49.056 The General Manager may, among other duties, supervise and control access to and activities upon District facilities.

The Board may act only by majority vote of the members present at an open meeting held in compliance with Government Code Chapter 551, at which a quorum of the Board is present and voting.

**TRANSACTIONING  
BUSINESS**

When a proposal is presented to the Board, a discussion shall be held and a decision reached. Although there may be dissenting votes, which are a matter of public record, each Board decision shall be an action by the whole Board binding upon each member.

**INDIVIDUAL  
AUTHORITY FOR  
COMMITTING THE  
BOARD**

Board members as individuals shall not exercise authority over the District, its property, or its employees. Except for appropriate duties and functions of the Board President, an individual member 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. No individual member may waive or disclose any privilege, confidential information or right available to the Board, including any privileges or confidentiality which may apply to litigation, to real property matters, to matters concerning the awarding of contracts, or purchasing of equipment or materials.

A Board member may not exert pressure of any kind on the General Manager or staff members to bring about the retention, promotion, or dismissal of any employee or consultant of the District. If a Board member does attempt to exert such pressure, the General Manager is instructed and obligated to bring the matter to the attention of the Board.

**DIRECTION TO  
COUNSEL**

The District’s counsel reports to the Board as a whole. Requests for specific legal research and/or formal opinions of counsel must be requested by the President or a majority of the Board.

**AUTHORITY OF  
PRESIDENT**

The President of the Board is the chief executive officer of the District, presides at all meetings of the Board, and shall execute all documents on behalf of the District unless the Board authorizes the General Manager or other employee of the District to execute a document or documents on behalf of the District. TEX. WATER CODE § 49.054 The President shall generally be authorized to represent the District at official functions, to submit items for and approve the agendas for Board meetings, and to create Board committees and appoint Board members to serve on Board committees.

**EXCEPTIONS FOR  
CLOSED MEETINGS**

The Board may conduct a closed meeting as authorized by the Texas Open Meetings Act or other applicable law.

**PROCEDURES FOR  
CLOSED MEETINGS**

If a closed meeting is allowed, the Board shall not conduct the closed meeting unless a quorum of the Board first convenes in an open meeting for which proper notice has been given and the presiding officer has publicly announced that a closed meeting will be held and has identified the section or sections of the Open Meetings Act or other applicable law under which the closed meeting is held. TEX. GOV’T CODE § 551.101

A Board member shall not participate in a portion of a closed meeting involving any litigation that such Board member has pending against the District. Tex. Atty Gen. Op. JM-1004 (1989)

No person shall attend a portion of a closed meeting when the individual’s interests on a topic are adverse to the District’s. Tex. Atty Gen. Op. No. JC-0506 (2002)

If the Board elects to post notices of Board committee meetings, these procedures shall be modified appropriately to apply to such meetings.

PUBLIC COMMENT

The Board will allow each member of the public who desires to address the Board regarding an item on an agenda for an open meeting of the Board to address the Board regarding the item at the meeting before or during the Board's consideration of the item. The timing of such comments (whether before or during consideration of the item) shall be in the discretion of the President. In addition, the Board may provide a forum at regular Board meetings for members of the public to comment on matters not on the agenda. Generally, all comments shall be limited to three (3) minutes, or six (6) minutes if such comments are provided through a translator, unless extended by the President. In response to an inquiry from a member of the public at a meeting, the Board may either provide a statement of specific factual information or recite existing policy. TEX. GOV'T CODE § 551.042 Any deliberation 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. *Id.*

AGENDAS

The President or any two Board members may request the inclusion of a particular item on the agenda of an open meeting.

VOTE FOR FINAL ACTION

A final action, decision, or vote on a matter deliberated in a closed meeting shall be made only in an open meeting for which proper notice has been given. TEX. GOV'T CODE § 551.102

CERTIFIED AGENDA

The Board shall keep a certified agenda of the proceedings of each closed meeting. The certified agenda must include a statement of the subject matter of each deliberation, a record of any further action taken, and an announcement by the presiding officer at the beginning and end of the closed meeting indicating the date and time. The presiding officer shall certify that a certified agenda is a true and correct record of the proceedings. TEX. GOV'T CODE § 551.10

Closed meetings may not be recorded by any person except by a majority vote of the Board.

PRESERVATION

The Board shall preserve the certified agenda of a closed meeting for at least two years after the date of the meeting. If a legal action involving the meeting is brought within that period, the Board shall preserve the certified agenda while the action is pending. TEX. GOV'T CODE § 551.104(a)

**PUBLIC ACCESS**

A certified agenda of a closed meeting is available for public inspection and copying only under a court order issued as a result of litigation involving an alleged violation of the Open Meetings Act. TEX. GOV'T CODE § 551.104(b), (c)

**BOARD ACCESS**

A member of the Board, acting in his or her official capacity, may review the certified agenda of a closed meeting but may not receive, remove nor copy the certified agenda. TEX. ATTY GEN. OP. JC-0120 (1999)

**PROHIBITIONS**

No Board member shall participate in a closed meeting knowing that a certified agenda of the closed meeting is not being made. TEX. GOV'T CODE § 551.145

No individual, corporation, or partnership shall without lawful authority disclose to a member of the public the certified agenda of a meeting that was lawfully closed to the public. TEX. GOV'T CODE § 551.146

No Board member shall knowingly call or aid in calling or organizing a closed meeting that is not permitted under the Open Meetings Act, close or aid in closing a regular meeting to the public except as permitted under the Open Meetings Act, or participate in a closed meeting that is not permitted under the Open Meetings Act. TEX. GOV'T CODE § 551.144(a)

**INDIVIDUAL ACCESS TO INFORMATION**

An individual Board member, acting in his or her official capacity, shall have the right to information pertaining to District fiscal affairs, business transactions, and governance, including information that properly may otherwise be withheld from members of the general public in accordance with the Texas Public Information Act, subject to these policies and applicable law.

**REQUESTS FOR RECORDS**

Individual Board members seeking access to records in their official capacity shall request access to records from the General Manager, or in his absence, the Assistant General Manager or their designee(s).

If a Board member seeks information as a member of the public under the Texas Public Information Act, the request shall so state, be in writing, and be directed to the District's acting Public Information Officer. The deadlines, exceptions and exemptions of the Public Information Act shall apply to such requests.

Individual Board members shall not direct or require District employees to prepare reports derived from an analysis of information in existing District records or to create a new record compiled from information in existing District records. Directives to staff regarding the preparation of reports shall be by Board action.

#### CONFIDENTIALITY

When there are competing confidentiality or security concerns, the Board may establish reasonable procedures or limitations to preserve confidentiality.

If a member of the Board requests access to records which may be confidential, staff shall direct such requests to the General Counsel for review. Individual records responsive to the request shall first be reviewed by the General Counsel and marked as "Confidential." Records so marked may be reviewed by the requesting Board member, but copies may not be released, or their contents disclosed, without the approval of the Board. The reviewing Board member is required to maintain the records in the same manner they were maintained by the District. TEX. ATTY GEN. OP. OR 2006-03805 (2006)

At the time Board members are provided access to confidential records or to reports compiled from such records, the General Manager, other District employee, or General Counsel shall advise them of their responsibility to comply with confidentiality requirements.

#### RESPONSIBILITY FOR RECORDS

A person, including a Board member, commits a criminal offense if the person:

1. Knowingly or intentionally destroys, conceals, removes, or otherwise impairs the verity, legibility, or availability of a District record in contravention of Local Government Code Chapter 202. TEX. LOCAL GOV'T CODE § 202.008; TEX. PENAL CODE § 37.10
2. Willfully destroys, mutilates, alters, or removes public information without permission as provided by Government Code Chapter 552 (Public Information Act). TEX. GOV'T CODE § 552.351
3. Distributes information considered confidential under the Public Information Act. TEX. GOV'T CODE § 552.352

RESTRICTIONS OF  
PUBLIC SERVANTS –  
PENAL CODE

“Public servant” shall mean a person elected, selected, appointed, employed, or otherwise designated as one of the following, even if the person has not yet qualified for office or assumed his or her duties:

1. An officer, employee, or agent of government; or
2. A candidate for nomination or election to public office.

TEX. PENAL CODE §§ 1.07(a)(41)(A), (E)

Prohibited activities are covered by, but are not limited to, the following:

BRIBERY

A public servant shall not intentionally or knowingly offer, confer, agree to confer on another, solicit, accept, or agree to accept a benefit:

- a. As consideration for the public servant’s decision, opinion, recommendation, vote, or other exercise of discretion as a public servant.
- b. As consideration for a violation of a duty imposed on the public servant by law.
- c. That is a political contribution as defined by Title 15 of the Election Code or an expenditure made and reported as a lobbying expense in accordance with Government Code, Chapter 305, 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 but for the benefit.

“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.

TEX. PENAL CODE § 36.01(3), § 36.02

ILLEGAL GIFTS

A public servant who exercises discretion in connection with contracts, purchases, payments, claims, or other pecuniary transactions shall not solicit, accept, or agree to accept any benefit from a person the public servant knows is interested in or likely to become interested in any such transactions. TEX. PENAL CODE §§ 1.07(41)(A), (E), § 36.08(d)

A public servant who receives an unsolicited benefit that the public servant is prohibited from accepting under this section may donate the benefit to a governmental entity that has the authority to accept the gift or may donate the benefit to a recognized tax exempt charitable organization formed for educational, religious, or scientific purposes. TEX. PENAL CODE § 36.08(i)

## EXCEPTIONS

“Illegal gifts to public servants” does not apply to:

- a. 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 or she gives legitimate consideration in a capacity other than as a public servant;
- b. 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;
- c. A benefit to a public servant required to file a statement under Government Code Chapter 572 or a report under Election Code Title 15 that is derived from a function in honor or appreciation of the recipient if:
  - (1) The benefit and the source of any benefit in excess of \$50 is reported in the statement; and
  - (2) 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;
- d. A political contribution as defined by Election Code Title 15;
- e. An item with a value of less than \$50, excluding cash or a negotiable instrument as described by Business and Commerce Code § 3.104;
- f. An item issued by a governmental entity that allows the use of property or facilities owned, leased, or operated by the governmental entity;
- g. Transportation and lodging expenses or meals in connection with a conference or similar event at which the public servant renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory; or

- h. 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.

TEX. PENAL CODE § 36.10(a)-(b)

HONORARIA AND EXPENSES

A public servant commits a Class A misdemeanor offense if he or she solicits, accepts, or agrees to accept an honorarium in consideration for services that the public servant would not have been requested to provide but for his or her official position or duties. However, a public servant is not prohibited from accepting transportation and lodging expenses or meals in connection with a conference or similar event in which he or she renders services, such as addressing an audience or engaging in a seminar, to the extent those services are more than merely perfunctory. TEX. PENAL CODE § 36.07

ABUSE OF OFFICE

A public servant shall not, with intent to obtain a benefit or with intent to harm or defraud another, intentionally or knowingly violate a law relating to the office or misuse District property, services, personnel, or any other thing of value belonging to the District, that has come into his or her custody by virtue of his or her office or employment. TEX. PENAL CODE § 39.02(a)

“Law relating to the office” means a law that specifically applies to a person acting in the capacity of a public servant and that directly or indirectly imposes a duty on the public servant or governs the conduct of the public servant. TEX. PENAL CODE § 39.01(1)

“Misuse” means to deal with property contrary to:

- a. An agreement under which the public servant holds the property;
- b. A contract of employment or oath of office of a public servant;
- c. A law, including provisions of the General Appropriations Act specifically relating to government property, that prescribes the manner of custody or disposition of the property; or
- d. A limited purpose for which the property is delivered or received.

TEX. PENAL CODE § 39.01(2)



CONFLICT OF INTEREST

If a Board member has a substantial interest in a business entity or in real property, as defined by Local Government Code Chapter 171, the Board member shall file with the official record keeper of the Board, 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 on the matter if the Board action will have a special economic effect on the business entity or the value of the property that is distinguishable from its effect on the public.

If a Board member is required to file and does file an affidavit under this section, the Board member is not required to abstain from further participation in the matter at issue if a majority of the Board is likewise required to file and does file affidavits of similar interest on the same official action.

TEX. LOC. GOV'T CODE ANN. §§ 171.002, .004

NEPOTISM

Except as provided by law, a public official (as defined by Chapter 573, Government Code) may not appoint a person to a position that is to be directly or indirectly compensated from public funds or fees of office if:

- a. The person is related to the public official by blood (consanguinity) within the third degree or by marriage (affinity) within the second degree; or
- b. The person is related to another member of the board by blood or marriage within a prohibited degree.

TEX. GOV'T CODE §§ 573.002, .041; ATTY. GEN. OP. JC-184 (2000)

PROTECTIONS FOR ACTING ON A LEGISLATIVE MEASURE

A 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.

TEX. GOV'T CODE § 572.059

STATEMENT OF  
ETHICS

Members of the Board shall adhere to the following ethical standards:

1. Attend all duly scheduled Board meetings and committee meetings insofar as possible, and become informed concerning issues to be considered at those meetings.
2. Communicate to other Board members and the General Manager expressions of public reaction to Board policies and programs.
3. Inform oneself about current issues by individual study and through participation in programs providing needed information.
4. Support the employment of those persons best qualified to serve as staff, and insist on a regular and impartial evaluation of all staff.
5. Avoid being placed in a position of conflict of interest, and refrain from using the Board position for personal or partisan gain.
6. Take no private action that will compromise the Board or staff, and respect the confidentiality of information that is privileged or confidential.
7. Bring about desired changes through legal and ethical procedures, upholding and enforcing all applicable statutes, regulations, and court decisions pertaining to water control and improvement districts.
8. Work with other Board members to establish effective Board policies and to delegate authority for the administration of the District to the General Manager.
9. Work with other Board members to establish effective policies and practices prohibiting unlawful discrimination, including conduct that constitutes sexual harassment.

10. Endeavor to make policy decisions only after full discussion at publicly held Board meetings.
11. Render all decisions based on the available facts and independent judgment, and refuse to surrender that judgment to other individuals or special interest groups.
12. Encourage the free expression of opinion by all Board members, and seek systematic communications between and among the Board, staff, and all elements of the community.