



**Office of the Attorney General
State of Texas**

February 26, 1996

DAN MORALES
ATTORNEY GENERAL

Mr. Kenneth H. Ashworth
Commissioner
Texas Higher Education Coordinating Board
P.O. Box 12788
Austin, Texas 78711

Letter Opinion No. 96-016

Re: Notice requirements for a single
institution of higher education under the
Open Meetings Act, Government Code
chapter 551 (ID# 36005)

Dear Mr. Ashworth:

You ask for an interpretation of an amendment to the Open Meetings Act enacted by House Bill 1664 of the Seventy-fourth Legislature. Act of May 9, 1995, 74th Leg., R.S., ch. 209, 1995 Tex. Sess. Law Serv. 1952. This bill added section 551.055 to chapter 551, Government Code, to read as follows:

In addition to providing any other notice required by this subchapter,¹ the governing board of a single institution of higher education:

- (1) shall post notice of each meeting at the county courthouse of the county in which the meeting will be held;
- (2) shall publish notice of a meeting in a student newspaper of the institution if an issue of the newspaper is published between the time of the posting and the time of the meeting; and
- (3) may post notice of a meeting at another place convenient to the public. [Footnote added.]

You wish to know whether the notice requirement set out in Government Code section 551.055 applies to junior colleges. You specifically ask what the phrase "single institution of higher education" means. You also ask whether this phrase includes a public junior college as defined in section 61.003(2) of the Texas Education Code, that is, a junior college that the commissioner of higher education has certified to the state comptroller as having complied with the standards, rules, and regulations prescribed by the Coordinating Board, Texas Colleges and Universities. See Educ. Code § 61.063.

¹Section 551.055 is part of subchapter C of chapter 551 of the Government Code, which establishes notice requirements for meetings subject to the Open Meetings Act.

The answers to your questions may be found in the legislative history of House Bill 1664 and in other provisions of the Open Meetings Act. The bill analysis for House Bill 1664 states as follows:

Currently, the governing board of an institution of higher education is only required to post notice of their meeting with the Secretary of State's office in Austin seventy-two hours before the event. The Texas Register prints the dates and times of these meetings. However, the print date is often after the meeting has occurred, thus people in the vicinity of the institution are not informed in a timely manner of the meetings.

House Comm. on Higher Education, Bill Analysis, H.B. 1664, 74th Leg., R.S. (1995).

The Open Meetings Act requires institutions of higher education with statewide jurisdiction to post notice in the secretary of state's office in Austin for seventy-two hours before the meeting. Gov't Code §§ 551.041, .043-.044, .048. Notices of open meetings filed with the secretary of state are published in the Texas Register pursuant to section 2002.011 of the Government Code. Texas public junior colleges are two-year institutions primarily serving their local taxing districts and service areas. Educ. Code § 130.0011. The trustees of a junior college district are considered to be trustees of a school district for purposes of the Open Meetings Act. Attorney General Opinion JM-340 (1985) at 3; *see* Gov't Code § 551.001(3)(E) (defining "governmental body" to include "a school district board of trustees"). A junior college district must post notice of each meeting according to the requirements for school districts, "on a bulletin board at a place convenient to the public in the central administrative office of the district." Gov't Code § 551.051. Since a junior college district is considered a school district for purposes of the Open Meetings Act, and not an institution of higher education with statewide jurisdiction, it is not subject to section 551.055 of the Government Code.

As introduced, House Bill 1664 applied to the governing board "of an institution of higher education." The senate sponsor of the bill, Senator Haywood, was concerned about a particular institution, Texas Woman's University, but the bill as introduced caused concern to representatives of university systems. Hearing on H.B. 1664 Before the Senate Education Comm., 74th Leg., R.S. (Apr. 24, 1995) (statement of Senator Armbrister) (tape available from Legislative Reference Library). Accordingly, the Senate amended House Bill 1664 to apply to the governing board "of a single institution of higher education." *See* S.J. of Tex., 74th Leg., R.S. 1742 (1995) (committee amendment no. 1 offered by Senator Haywood). Thus, a "single institution of higher education" in section 551.055 of the Government Code refers to a state institution of higher education that is not part of a university system, such as Texas Woman's University, which section 61.003 describes as a "[p]ublic senior college or university." *See* Educ. Code § 61.003(3)-(4). A

“single institution of higher education” does not include a junior college as defined in section 61.003(2) of the Texas Education Code.²

S U M M A R Y

The meetings of a junior college district board of trustees are not subject to the notice requirement in section 551.055 of the Government Code.

Yours very truly



Susan L. Garrison
Assistant Attorney General
Opinion Committee

²In the event that a junior college district is subject to section 551.055 of the Government Code, you ask how a junior college district with multiple colleges and multiple student newspapers should give notice. Because we have concluded that a junior college district is not subject to this provision, we need not address this question.