

**TEXAS
JUVENILE
JUSTICE
DEPARTMENT**

**Board Governance
and Policy Manual**

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Section I: INTRODUCTION

The governing board (the “board”) of the Texas Juvenile Justice Department (the “department”) has adopted this Board Governance and Policy Manual (the “manual”) to assist the board in the exercise of its duties and responsibilities and to serve the best interests of the department. The manual should be applied in a manner consistent with all applicable laws and the department’s enabling legislation, policies, and procedures. The manual provides a framework for the conduct of the board’s business and sets forth certain policies as issued by the board. In the event this manual conflicts with a law or formally adopted department rule, the law or rule controls. In the event this manual conflicts with an internal department policy, this manual controls.

The board may modify or make exceptions to the manual in its discretion and consistent with applicable laws as well as with its duties and responsibilities to the department. The manual will be distributed to all members and will be available for reference during all board meetings.

The board shall review and assess the adequacy of this manual at least once every two years and adopt any necessary changes.

This manual contains statutory references and board policy statements. Statutory references are identified by italics. Board policy statements are identified by a caption stating “Board Policy.”

Purpose of the Department

Reference: *Human Resources Code §201.002*

This title shall be construed to have the following public purposes:

- (1) *creating a unified state juvenile justice agency that works in partnership with local county governments, the courts, and communities to promote public safety by providing a full continuum of effective supports and services to youth from initial contact through termination of supervision; and*
- (2) *creating a juvenile justice system that produces positive outcomes for youth, families, and communities by:*
 - (A) *assuring accountability, quality, consistency, and transparency through effective monitoring and the use of system wide performance measures;*
 - (B) *promoting the use of program and service designs and interventions proven to be most effective in rehabilitating youth;*
 - (C) *prioritizing the use of community-based or family-based programs and services for youth over the placement or commitment of youth to a secure facility;*
 - (D) *operating the state facilities to effectively house and rehabilitate the youthful offenders that cannot be safely served in another setting; and*
 - (E) *protecting and enhancing the cooperative agreements between state and local county governments.*

Goals of the Department

Reference: *Human Resources Code §201.003*

The goals of the department and all programs, facilities, and services that are operated, regulated, or funded by the department are to:

- (1) *support the development of a consistent county-based continuum of effective interventions, supports, and services for youth and families that reduce the need for out-of-home placement;*
- (2) *increase reliance on alternatives to placement and commitment to secure state facilities, consistent with adequately addressing a youthful offender's treatment needs and protection of the public;*
- (3) *locate the facilities as geographically close as possible to necessary workforce and other services while supporting the youths' connection to their families;*
- (4) *encourage regional cooperation that enhances county collaboration;*
- (5) *enhance the continuity of care throughout the juvenile justice system; and*
- (6) *use secure facilities of a size that supports effective youth rehabilitation and public safety.*

Reference: *Human Resources Code §203.001(c)*

The board shall establish the mission of the department with the goal of establishing a cost-effective continuum of youth services that emphasizes keeping youth in their home communities while balancing the interests of rehabilitative needs with public safety. The board shall establish funding priorities for services that support this mission and that do not provide incentives to incarcerate youth.

Section II: BOARD SELECTION AND CRITERIA

Governance of Department

Reference: *Human Resources Code §202.001*

- (a) *The board is composed of the following 13 members appointed by the governor with the advice and consent of the senate:*
- (1) *one member who is a district court judge of a court designated as a juvenile court;*
 - (2) *three members who are members of a county commissioner's court;*
 - (3) *one prosecutor in juvenile court;*
 - (4) *one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes fewer than 7,500 persons younger than 18 years of age;*
 - (5) *one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes at least 7,500 but fewer than 80,000 persons younger than 18 years of age;*
 - (6) *one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes 80,000 or more persons younger than 18 years of age;*
 - (7) *one adolescent mental health treatment professional licensed under Subtitle B or I, Title 3, Occupations Code;*
 - (8) *one educator, as that term is defined by Section 5.001, Education Code; and*
 - (9) *three members of the general public.*
- (b) *Members serve staggered six-year terms, with the terms of four or five members expiring on February 1 of each odd-numbered year.*
- (c) *The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor.*
- (d) *The governor shall make appointments to the board without regard to the race, color, disability, sex, religion, age, or national origin of the appointees.*
- (e) *A member appointed under Subsections (a)(1)-(6) may not hold office in the same county or judicial district as another member appointed under those subsections.*

Restrictions on Board Membership and Employment

Reference: *Human Resources Code §202.002*

- (a) *A person may not be a public member of the board if the person or the person's spouse:*
- (1) *is employed in the field of criminal or juvenile justice;*
 - (2) *is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the department;*
 - (3) *owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the department; or*
 - (4) *uses or receives a substantial amount of tangible goods, services, or money from the department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.*

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- (b) *A person may not be a board member and may not be a department employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.), if:*
 - (1) *the person is an officer, employee, or paid consultant of a Texas trade association in the field of criminal or juvenile justice; or*
 - (2) *the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of criminal or juvenile justice.*
- (c) *A person may not be a board member or act as the general counsel to the board or the department if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the department.*
- (d) *In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.*

Provisions Applicable to Judicial Members

Reference: *Human Resources Code §202.003*

- (a) *A judge's place on the board becomes vacant when the judge ceases to hold a judicial office.*
- (b) *A judge's service on the board is an additional duty of office.*
- (c) *At the time of appointment to the board, a judge must be a judge of:*
 - (1) *A court designated as a juvenile court; or*
 - (2) *A court that is one of several courts that rotate being the juvenile court.*

Removal of Board Members

Reference: *Human Resources Code §202.004*

- (a) *It is a ground for removal from the board if a member:*
 - (1) *does not have at the time of taking office the qualifications required by Sections 202.001 and 202.003;*
 - (2) *does not maintain during service on the board the qualifications required by Sections 202.001 and 202.003;*
 - (3) *is ineligible for membership under Section 202.002;*
 - (4) *cannot, because of illness or disability, discharge the member's duties for a substantial part of the term; or*
 - (5) *is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.*
- (b) *The validity of an action of the board is not affected by the fact that the action is taken when a ground for removal of a board member exists.*
- (c) *If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest-ranking officer of the board, who shall then notify the governor and the attorney general that a potential ground for removal exists.*

Board Member Recusal

Reference: *Human Resources Code §202.005*

- (a) *A chief juvenile probation officer who is a board member shall avoid the appearance of a conflict of interest by not voting or participating in any decision by the board that solely benefits or penalizes or otherwise solely impacts the juvenile probation department over which the chief juvenile probation officer has authority. The chief juvenile probation officer may not vote or render any decisions regarding matters of abuse and neglect presented to the board regarding the chief juvenile probation officer's department.*
- (b) *The board may adopt recusal requirements in addition to those described by Subsection (a), including requirements that are more restrictive than those described by Subsection (a).*

--- Board Policy ---

- (1) In addition to the recusal requirements set forth in Human Resources Code §202.005(a), it is the policy of the board that the following board members shall recuse themselves under the following circumstances due to the appearance of a conflict of interest:
 - (A) A board member who is a chief juvenile probation officer, judge, prosecutor, or member of a commissioner's court shall not vote or participate in any decision by the board in relation to an appeal of an executive director decision filed by the member or any official representing a county, probation department, or facility over which the member has jurisdiction.
 - (B) A board member who is a member of a juvenile board shall not vote or participate in any decision by the board in relation to discipline of an employee under the jurisdiction of that juvenile board.
 - (C) Any board member who determines that a personal, private, or public interest impairs or may impair the member's independence of judgment in a decision before the board shall not vote or participate in the decision.
- (2) Any board member shall recuse himself/herself from a pending decision on a majority vote of the members present at the meeting.

Reimbursement

Reference: *Human Resources Code §202.007*

A board member is not entitled to compensation for service on the board but is entitled to reimbursement for actual and necessary expenses incurred in performing official duties as a board member.

Section III: BOARD MEMBER TRAINING

Reference: *Human Resources Code §202.006*

- (a) *A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that complies with this section.*
- (b) *The training program must provide the person with information regarding:*
 - (1) *the legislation that created the department;*
 - (2) *the programs, functions, rules, and budget of the department;*
 - (3) *the results of the most recent formal audit of the department;*
 - (4) *the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and*
 - (5) *any applicable ethics policies adopted by the department or the Texas Ethics Commission.*
- (c) *A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.*

--- Board Policy ---

In addition to the training described above, a board member must complete:

- (1) a training program relating to the Public Funds Investment Act within six months after initial appointment to the board; and
- (2) an ethics-related continuing education course within six months after reappointment to the board.

Section IV: BOARD CONDUCT

--- Board Policy ---

Board Member Duties

- (1) All members of the board stand in a fiduciary relationship to the department. As fiduciaries, members must act honestly, in good faith, and in the best interests of the department.
- (2) Members will be held to strict standards of honesty, integrity, and loyalty. A member shall not put personal interests ahead of the best interests of the department.
- (3) Members must avoid situations where their personal interests will conflict with their responsibilities to the department. Members must comply with requirements relating to standards of conduct and conflicts of interest as set forth in Government Code Chapter 572.
- (4) Each member must:
 - (A) disclose to TJJJD's contracts director all actual and potential conflicts of interest known to the member with respect to any contract with a private vendor or any bid for the purchase of goods or services from a private vendor;
 - (B) ensure he/she does not have a financial interest, as defined in Government Code §2261.252, in any private vendor that has contracted with TJJJD; and
 - (C) annually sign a certification form provided by TJJJD relating to all conflicts of interest involving agency contracts.
 - (D) On or before April 30th of each year, each member must file a financial statement with the Texas Ethics Commission. The financial statement must include an account of the financial activity of the member, the member's spouse, and the member's dependent children if the member had actual control over that activity for the preceding calendar year. The financial statement must comply with requirements of Government Code §§572.022 – 572.0252.
 - (E) A member who becomes aware of alleged criminal activity involving the department, including but not limited to reports of abuse, neglect, or exploitation of youth, or waste, fraud, or abuse involving state resources, has a legal duty to immediately report the matter to the department's Office of Inspector General.
 - (F) In recognition of the time and expense involved in preparation for board meetings, each member shall promptly respond to requests from department staff regarding travel arrangements and promptly notify department staff if the member will not be able to attend the meeting.

Attendance

- (1) Regular attendance at board meetings is of great importance to the functions and operations of the board. As some absences by members are unavoidable, the following guidelines shall be used for determining whether an absence from a meeting will be considered excused or unexcused.
 - (A) Excused absences include: family emergency, illness of board members or their families, scheduled hospital and medical appointments, weather, natural disasters, and certain conflicting meetings or scheduled travel.
 - (B) In order for an absence to be excused, the board member must notify the board chair at least seven days in advance of the meeting to be missed. If the reason for the absence is not known at least seven days in advance, the notification must occur as soon as practicable after the board member becomes aware that he or she will be unable to attend. If no notice is provided, the absence will be considered unexcused unless it was impossible to provide the notice.
- (2) As per Human Resources Code Section 202.004, absences may be excused only by a majority vote of the board members in attendance at the meeting. The board chair may request documentation of the reason for the absence to enable the board members to determine if the absence should be excused.

Confidentiality

- (1) Pursuant to Chapter 58, Family Code, members must maintain the confidentiality of information about the youth served by the department or otherwise involved in the juvenile justice system in Texas. The board shall also adhere to other applicable confidentiality requirements under state or federal law.
- (2) It is recognized that the role of members may include representing the department in the community. However, such representations must be respectful of and consistent with the member's duty of confidentiality.
- (3) Every board member shall respect the confidentiality of information about the department regardless of the source of the confidential information.
- (4) A member is in breach of his/her duties with respect to confidentiality when information is used or disclosed for purposes other than those identified by the board or the department.
- (5) Confidential youth information may not be discussed in open committee meetings or open meetings of the board. Any references to individual youth during an open meeting must be in the form of non-identifying information (e.g., Youth A, Youth B).

Board Spokesperson

- (1) Only the chair or his/her designee may speak on behalf of the board. The executive director, the director of communications, or their designees may speak on behalf of the department.
- (2) No member shall make representations on behalf of the board unless authorized by the chair or the board. When so authorized, the board member's representations must be consistent with the accepted positions and policies of the board.

Media Contact and Public Discussion

News media contact and responses and public discussion of the board's affairs should be made only through the board's authorized spokespersons. Any member who is questioned by news reporters or other media representatives should refer such individuals to the appropriate representatives of the board or the department.

Inquiries from Governor's Office or Legislature

- (1) Members may respond to inquiries from the Office of the Governor or a member of the Legislature. Any such contacts related to department business must be disclosed to the board.
- (2) When interacting with members of the Legislature, board members must use caution not to endorse or oppose any legislation or take any other action that would constitute lobbying. If a member of the Legislature requests documents related to department business, the board member will coordinate the production of such documents with the department's legislative liaison.

Public Speaking Engagements

- (1) Board members are encouraged to accept invitations to speak at community events and other public forums. Members are expected to ensure that presentations accurately reflect board and department policies and activities. Members should coordinate any presentation materials through the department's communications office.
- (2) Pursuant to Penal Code §36.07, members may not solicit, accept, or agree to accept an honorarium in consideration for services the member would not have been requested to provide but for the member's official position or duties with the board. Members are not prohibited from accepting transportation and lodging expenses in connection with a conference or similar event in which the member addresses the audience or engages in a seminar, to the extent the services are more than merely perfunctory, or from accepting meals in connection with such an event.

Respectful Conduct

- (1) It is recognized that members bring to the board diverse backgrounds, skills, and experience and that members will not always agree with one another on all issues.
- (2) All debates shall take place in an atmosphere of mutual respect and courtesy.
- (3) The authority of the chair must be respected by all members.

Board Solidarity

- (1) Members acknowledge that properly authorized board actions must be supported by all members.
- (2) The board speaks with one voice. Members may disagree with a decision of the board but are expected to abide by and support the implementation of any action duly approved by majority vote.

Obtaining Advice of Counsel

Requests to obtain outside opinions or advice regarding matters before the board may be made through the chair.

Abuse of Office – Criminal Offense

Reference: Penal Code §39.02

- (a) *A public servant commits an offense if, with intent to obtain a benefit or with intent to harm or defraud another, he intentionally or knowingly:*
 - (1) *violates a law relating to the public servant's office or employment; or*
 - (2) *misuses government property, services, personnel, or any other thing of value belonging to the government that has come into the public servant's custody or possession by virtue of the public servant's office or employment.*

Reference: Penal Code §39.03

- (a) *A public servant acting under color of his office or employment commits an offense if he:*
 - (1) *intentionally subjects another to mistreatment or to arrest, detention, search, seizure, dispossession, assessment, or lien that he knows is unlawful;*
 - (2) *intentionally denies or impedes another in the exercise or enjoyment of any right, privilege, power, or immunity, knowing his conduct is unlawful; or*
 - (3) *intentionally subjects another to sexual harassment.*

Section V: BOARD POWERS AND DUTIES

Division of Responsibilities

Reference: Human Resources Code §203.001

- (a) *The board is the governing body of the department and is responsible for the operations of the department.*
- (b) *The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the department.*
- (c) *The board shall establish the mission of the department with the goal of establishing a cost-effective continuum of youth services that emphasizes keeping youth in their home communities while balancing the interests of rehabilitative needs with public safety. The board shall establish funding priorities for services that support this mission and that do not provide incentives to incarcerate youth.*

--- Board Policy ---

- (1) Policy is generally defined as a recommended course of action, a guiding principle, or a procedure that is established to guide current and future decision making.
- (2) The board is responsible for reviewing and approving all policies and for making rules appropriate for accomplishing the department's functions.
- (3) The board delegates to the executive director the responsibility for the adoption of the following:
 - (A) policies necessary for the proper accomplishment of the department's functions relating to state-operated facilities; and
 - (B) policies relating to the department's personnel.
- (4) The board reserves the right to require board approval for any policy, including but not limited to those listed in Appendix A. The board will hold management accountable for performance.
- (5) Several types of policies may be adopted by the board, including:
 - (A) **Ends policies.**

Policies that establish broad organizational ends, such as the mission statement and long-range vision.
 - (B) **Authority and limitations policies.**

Policies establishing the authority of, and setting limitations on, management (e.g., maximum spending authority without consulting the board.)
 - (C) **Board management processes.**

Policies establishing how the board carries out certain responsibilities and how it works with management, such as policies describing the executive director's evaluation and compensation process, strategic planning process, budget process, and financial planning and oversight process.
 - (D) **Standards.**

Policies articulating standards affecting the board, management, or the department as a whole (e.g., conflict of interest, code of conduct.)
 - (E) **Externally required.**

Policies that must be approved by the governing board because they are required by statute or accreditation/regulatory bodies. These policies may also fit within one of the categories above.

Board Responsibilities

(1) **Oversee Management of the Department.**

The principal responsibility of the members is to oversee the management of the department and, in so doing, serve the best interests of the department. This responsibility includes:

- (A) Reviewing and approving the department's biennial legislative appropriations request (LAR), annual operating budget, and other fundamental operating, financial, or other department plans, strategies, and objectives.
- (B) Reviewing periodic updates regarding performance measures submitted by the chief financial officer or designee.
- (C) Evaluating the performance of the department and its senior executives and recommending appropriate disciplinary action, including removal, when warranted.
- (D) Evaluating whether department resources are used only for appropriate business purposes.

- (E) Establishing an environment that promotes timely and effective disclosure (including robust and appropriate controls, procedures, and incentives), fiscal accountability, high ethical standards, and compliance with all applicable laws and regulations.
- (F) Reviewing and approving material transactions and commitments entered outside the scope of the ordinary course of business.
- (G) Developing a governance structure that allows and encourages the board to fulfill its responsibilities.
- (H) Providing advice and assistance to the department's senior executives.
- (I) Evaluating the overall effectiveness of the board and its committees.
- (J) Ensuring adherence to the state financial assistance contract and other fiscal requirements.

(2) **Exercise Business Judgment.**

In discharging their fiduciary duties of care, loyalty, and candor, members are expected to exercise their business judgment to act in what they reasonably believe to be the best interests of the department.

(3) **Make Necessary Delegations of Authority.**

To ensure the department is able to carry out its routine financial responsibilities, the board makes the following delegations of authority:

- (A) The executive director is authorized to designate staff members to have signatory authority for payment documents, such as travel, construction, and purchase vouchers.
- (B) The following staff members are authorized to approve settlement offers involving claims or lawsuits against the department:
 - (i) the general counsel for amounts up to \$2,500;
 - (ii) the executive director for amounts over \$2,500 up to \$50,000. Any settlement offers over \$50,000 require board approval.
- (C) The business operations manager is authorized to approve the installation of:
 - (i) vending machines in buildings or on properties that are owned or leased by TJJD and that are not served by a vendor operating under the supervision of the Texas Commission for the Blind or its successor agency; and
 - (ii) pay phones in buildings or on properties that are owned or leased by TJJD.

(4) **Manage Endowment Funds.**

In its role as trustee for the Parrie Haynes trust and John Wende trust, the board must administer endowment funds held by these trusts. The board delegates the fiscal management of these funds to the executive director and appoints the staff member serving as the lead general ledger accountant as the investment officer to manage these funds.

(5) **Understand the Department and its Operations.**

Members have an obligation to become and remain informed about the department and its operations, including the following:

- (A) The principal operational and financial objectives, strategies, and plans of the department.
- (B) The effectiveness of agency operations and objectives and the financial condition of the department.
- (C) The factors that determine the department's success.
- (D) The risks and challenges that affect the department's operations and future decisions.

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(6) **Ensure Effective Systems Exist.**

Members are responsible for ensuring that effective systems are in place for the periodic and timely reporting to the board on important matters concerning the department, including the following:

- (A) Current business and financial performance, the degree of achievement of approved objectives, and the need to address forward-planning issues.
- (B) Future business prospects and forecasts, including actions, facilities, personnel, and financial resources required to achieve agency goals.
- (C) Financial statements, with appropriate segment or divisional breakdowns.
- (D) Adoption, implementation, and monitoring of compliance programs to assure the department's compliance with law and agency policies.
- (E) Material litigation and governmental and regulatory matters.
- (F) Responding, where appropriate, to communications received from the public.
- (G) Periodically reviewing the integrity of the department's internal control and management information systems.
- (H) Carrying out functions set forth in department policy, as outlined in Appendix A, and reviewing such policies to ensure efficiency.

Access to Evidence, Issuing Subpoenas, and Administering Oaths

Reference: *Human Resources Code §203.008*

- (a) *In this section, "evidence" means any record, book, paper, document, data, or other evidence maintained by electronic or other means.*
- (b) *The department may issue a subpoena requiring the attendance of a witness or the production of evidence that the department considers necessary for the investigation of:*
 - (1) *abuse, neglect, or exploitation allegations;*
 - (2) *complaints;*
 - (3) *financial and programmatic audits of juvenile probation programs, services, and facilities, including juvenile justice alternative education programs; or*
 - (4) *any other matter under the authority of the department, including a determination of treatment under Section 244.005.*
- (c) *The department may issue a subpoena under Subsection (b) only if the subpoena is signed by:*
 - (1) *the presiding officer of the board or, if the presiding officer is unavailable, the presiding officer's designee; and*
 - (2) *at least two other members of the board, including a board member who is a judge.*
- (d) *A hearings examiner appointed by the department may issue a subpoena requiring the attendance of a witness or the production of any record, book, paper, or document the hearings examiner considers necessary for a determination of treatment under Section 244.005. The hearings examiner may sign a subpoena.*
- (e) *Any peace officer, department investigator, other department official, or person authorized under Article 24.01, Code of Criminal Procedure, may serve the subpoena in the same manner that similar process in a court of record having original jurisdiction of criminal actions is served.*
- (f) *A subpoena under this section shall be served and witness fees and mileage paid as in civil cases in the district court in the county to which the witness is called, unless the proceeding for which the service or payment is made is under Chapter 2001, Government Code, in which case the service or payment shall be made as provided in that chapter. Witnesses subpoenaed at the instance of the department shall be paid their fees and mileage by the department out of funds appropriated for that purpose.*
- (g) *On application of the department, a court of record having original jurisdiction of criminal actions may compel the attendance of a witness, the production of material, or the giving of testimony before the department, by an attachment for contempt or in the same manner as the court may otherwise compel the production of evidence.*

- (h) *The presiding officer or a member of the board may administer an oath to a witness in attendance before the department or before an authorized representative of the department.*
- (i) *If a witness in attendance before the department or before an authorized representative refuses without reasonable cause to be examined or answer a legal or pertinent question, or to produce evidence when ordered by the department, the department may apply to the district court for a rule or order returnable in not less than two or in more than five days, directing the witness to show cause before the judge why the witness should not be punished for contempt. The department may apply to the district court of any county where the witness is in attendance, on proof by affidavit of the fact, unless the order of contempt is sought under Chapter 2001, Government Code, in which case the department shall apply to a district court of Travis County, as provided by that chapter. On return of the order, the judge hearing the matter shall examine the witness under oath and the witness shall be given an opportunity to be heard. If the judge determines that the witness has refused, without reasonable cause or legal excuse, to be examined or answer a legal or pertinent question, or to produce evidence that the witness was ordered to bring or produce, the judge may immediately find the witness in contempt of court.*
- (j) *The department shall be granted access at any reasonable time to any evidence that is related to any matter the department or executive director considers necessary to administer the department's functions, powers, and duties.*

Advisory Council on Juvenile Services

Reference: *Human Resources Code §203.0081*

- (a) *The advisory council on juvenile services consists of:*
 - (1) *the executive director of the department or the executive director's designee;*
 - (2) *the director of probation services of the department or the director's designee;*
 - (3) *the director of state programs and facilities of the department or the director's designee;*
 - (4) *the executive commissioner of the Health and Human Services Commission or the commissioner's designee;*
 - (5) *one representative of the county commissioners courts appointed by the board;*
 - (6) *two juvenile court judges appointed by the board; and*
 - (7) *seven chief juvenile probation officers appointed by the board as provided by Subsection (b).*
- (b) *The board shall appoint to the advisory council one chief juvenile probation officer from each regional chiefs association in this state from a list of nominees submitted to the board by each regional chiefs association. To the greatest extent practicable, a regional chiefs association shall include in its list of nominees:*
 - (1) *one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes fewer than 7,500 persons younger than 18 years of age;*
 - (2) *one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes at least 7,500 but fewer than 80,000 persons younger than 18 years of age; and*
 - (3) *one chief juvenile probation officer of a juvenile probation department serving a county with a population that includes 80,000 or more persons younger than 18 years of age.*
- (c) *Advisory council members, other than ex officio members, serve staggered two-year terms, with the terms of one-half of the members, as nearly as practicable, expiring on February 1 of each year.*
- (d) *The advisory council shall report to the board any determinations made under Subsection (e).*
- (e) *The advisory council shall assist the department in:*
 - (1) *determining the needs and problems of county juvenile boards and probation departments;*
 - (2) *conducting long-range strategic planning;*
 - (3) *reviewing and proposing revisions to existing or newly proposed standards affecting juvenile probation programs, services, or facilities;*
 - (4) *analyzing the potential cost impact on juvenile probation departments of new standards proposed by the board; and*
 - (5) *advising the board on any other matter on the request of the board.*
- (f) *The advisory council is not subject to Chapter 2110, Government Code.*

Establishing Fees

Reference: *Human Resources Code §203.0082*

If the General Appropriations Act does not specify the amount of the fee, the board by rule may establish fees that:

- (1) are reasonable and necessary;*
- (2) produce revenue sufficient for the administration of this chapter; and*
- (3) do not produce unnecessary revenue.*

Appeals to the Board

Reference: *Human Resources Code §203.011*

A juvenile probation department that is aggrieved by a decision of the executive director, including a decision relating to standards affecting juvenile probation programs, services, or facilities, may appeal the executive director's decision to the board. The decision of the board is final and cannot be appealed.

Certification and Discipline of County Probation and Supervision Officers

Reference: *Human Resources Code, Chapter 222 (summarized below)*

- (a) The board is responsible for developing administrative rules that juvenile probation officers, juvenile supervision officers, and community activities officers must follow and for holding the certification for such individuals.
- (b) The board may revoke or suspend a certification or reprimand a certified officer for violating the provisions in Human Resources Code Chapter 222 or the standards adopted by the board. The officer is entitled to a hearing before an administrative law judge at the State Office of Administrative Hearings if the department proposes suspension or revocation of the certification.
- (c) A suspension may be probated. If probated, the board may require the person to report regularly to the department on matters that are the basis of the probation and to continue or review professional education until the person attains a degree of skill satisfactory to the department.
- (d) The executive director may convene a panel of three board members to determine if a person's continued certification poses an imminent threat to juveniles in the juvenile justice system. If the panel determines continued certification threatens juveniles, the person's license is temporarily suspended until an administrative hearing is held as soon as possible. The panel may convene telephonically only if immediate action is required and convening in person is inconvenient for any member of the panel.
- (e) The officer may appeal a discipline order to a district court in the person's county of residence or in Travis County. The standard of review is under the substantial evidence rule.

Accessibility to Programs and Facilities

Reference: *Human Resources Code §203.003(b)*

The board shall prepare and maintain a written plan that describes how a person who does not speak English can be provided reasonable access to the department's programs and services.

Negotiated Rulemaking; Alternative Dispute Resolution

Reference: *Human Resources Code §203.004*

- (a) *The board shall develop and implement a policy to encourage the use of:*
 - (1) *negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of department rules; and*
 - (2) *appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the department's jurisdiction.*
- (b) *The department's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.*
- (c) *The department shall:*
 - (1) *coordinate the implementation of the policy adopted under Subsection (a);*
 - (2) *provide training as needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and*
 - (3) *collect data concerning the effectiveness of those procedures.*

--- Board Policy ---

It is the policy of the board to encourage the use of negotiated rulemaking procedures for the adoption of department rules when appropriate. Rulemaking may be negotiated informally, in a manner established by the department, or formally, in accordance with the procedures established in Chapter 2008 of the Texas Government Code. The board, the executive director, or their designees may direct the department to begin negotiated rulemaking procedures on a specified subject.

It is the policy of the board to encourage the fair and early resolution of internal and external disputes under the department's jurisdiction through voluntary settlement processes, which may include any procedure or combination of alternative dispute resolution (ADR) procedures described by Civil Practice and Remedies Code, Chapter 154. Any such ADR procedures shall comply with the requirements of Civil Practice and Remedies Code Chapter 154, Government Code Chapters 2001 and 2009, and, to the extent possible, any model guidelines issued by the State Office of Administrative Hearings related to the use of ADR by state agencies.

Any ADR procedures developed and used under this policy supplement and do not limit other dispute resolution procedures available for use by a governmental body.

The executive director or his/her designee shall be responsible for coordinating the implementation of this policy, serving as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution, and collecting data concerning the effectiveness of those procedures.

Section VI: BOARD MEETINGS

Meetings; Public Participation

Reference: *Human Resources Code §202.008*

- (a) *The board shall hold regular quarterly meetings on dates set by the board and special meetings at the call of the presiding officer.*
- (b) *The board shall adopt rules regulating the board's proceedings.*
- (c) *The board shall keep a public record of the board's decisions at the board's general office.*
- (d) *The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the jurisdiction of the department.*

--- Board Policy ---

Board Meeting Preparation and Organization

(1) **Selection of Agenda Items.**

- (A) The board chair shall establish the agenda for each board meeting. Any board member may submit a request to the chair to include an item on the board meeting agenda. Such requests must be submitted at least two weeks prior to a board meeting.
- (B) At the beginning of the year, the chair shall establish a schedule of subjects to be discussed during the year (to the extent practicable). During at least one meeting each year, the board shall review the department's long-term strategic plans and the principal issues that the department expects to confront in the future.
- (C) It is the policy of the board that each board meeting agenda shall contain an agenda item allowing members of the public to address the board on any issue under the jurisdiction of the department. The board chair reserves the right to place reasonable limits on the amount of time granted to each individual to address the board.

(2) **Frequency and Length of Meetings.**

The board chair, in consultation with the members of the board, shall determine the frequency and length of the board meetings. Special meetings may be called as determined by the needs of the department.

(3) **Advance Distribution of Materials.**

Information and data that are important to the board's understanding of the business to be conducted at a board or committee meeting should generally be distributed in writing to the members at least two weeks before the meeting where practicable, and members should review these materials in advance of the meeting. The board acknowledges that certain items to be discussed at a board or committee meeting may be of an extremely confidential or time-sensitive nature and that the distribution of materials on these matters prior to meetings may not be appropriate or practicable. Presentations made at board meetings should do more than summarize previously distributed board meeting materials.

(4) **Obtaining the Floor.**

Board members shall seek recognition from the chair to address the board or a person presenting information to the board. Upon recognizing the member, the chair shall state the member's name for the record.

(5) **Order and Decorum.**

The board chair is responsible for ensuring that board meetings proceed with appropriate order and decorum. The board chair, in consultation with the department's general counsel, shall resolve any questions relating to parliamentary procedures.

Public Notice of Meeting

Reference: *Government Code §551.044(a)*

The secretary of state must post notice on the Internet of a meeting of a state board, commission, department, or officer having statewide jurisdiction for at least seven days before the day of the meeting.

Open Meetings Requirement

Reference: *Government Code §551.002*

Every regular, special, or called meeting of a governmental body shall be open to the public, except as provided by this chapter.

Requirement to First Convene in Open Meeting

Reference: Government Code §551.101

If a closed meeting is allowed under this chapter, a governmental body may not conduct the closed meeting unless a quorum of the governmental body first convenes in an open meeting for which notice has been given as provided by this chapter and during which the presiding officer publicly:

- (1) *announces that a closed meeting will be held; and*
- (2) *identifies the section or sections of this chapter under which the closed meeting is held.*

Requirement to Vote or Take Final Action in Open Meeting

Reference: Government Code §551.102

A final action, decision, or vote on a matter deliberated in a closed meeting under this chapter may only be made in an open meeting that is held in compliance with the notice provisions of this chapter.

Executive Session

The following is a list of exceptions specified in the Government Code to the requirement that meetings are open.

§ 551.071	Consultation with Attorney
§ 551.072	Deliberation Regarding the Purchase, Exchange, Lease, or Value of Real Property
§ 551.073	Deliberation Regarding Prospective Gift
§ 551.074	Personnel Matters
§ 551.076	Deliberation Regarding Security Devices or Security Audits
§ 551.087	Deliberations Regarding Economic Development Negotiations
§ 551.088	Deliberation Regarding Test Item

Inquiry Made at Meeting

Reference: Government Code §551.042

- (a) *If, at a meeting of a governmental body, a member of the public or of the governmental body inquires about a subject for which notice has not been given as required by this subchapter, the notice provisions of this subchapter do not apply to:*
 - (1) *a statement of specific factual information given in response to the inquiry; or*
 - (2) *a recitation of existing policy in response to the inquiry.*
- (b) *Any deliberation of 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.*

Section VII: BOARD COMMITTEES

--- Board Policy ---

(1) **Key Committees.**

The board shall have standing committees as determined appropriate by the board. Each such committee shall have a charter that has been approved by the board.

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(2) **Assignment and Rotation of Committee Members.**

The board chair appoints each committee chair and committee member.

(3) **Committee Charters.**

The charters of the committees shall set forth the purposes, goals, and responsibilities of the committees as well as qualifications for committee membership, procedures for committee member appointment and removal, committee structure and operations, and committee reporting to the board. The board shall, as it deems appropriate, review and reassess the adequacy of each charter and make appropriate changes.

(4) **Selection of Agenda Items.**

The chair of each committee, in consultation with the committee members, shall develop the committee's agenda. At the beginning of the year, each committee shall establish a schedule of subjects to be discussed during the year (to the extent practicable). The schedule for each committee shall be furnished to all board members.

(5) **Frequency and Length of Committee Meetings.**

The chair of each committee, in consultation with the committee members, shall determine the frequency and length of the committee meetings consistent with any requirements set forth in the committee's charter. Special meetings may be called as determined by the needs of the department and the responsibilities of the committees.

Section VIII: MANAGEMENT SELECTION AND EVALUATION

Selection, Evaluation, and Compensation of Certain Positions

References:

Human Resources Code §203.002

The board shall:

- (1) *employ an executive director to administer the department; and*
- (2) *supervise the director's administration of the department.*

Human Resources Code §242.102(f)

The board shall select a commissioned peace officer as chief inspector general. The chief inspector general:

- (1) *operates directly under the authority of the board;*
- (2) *is subject to the requirements of this section; and*
- (3) *may only be discharged by the board for cause.*

Government Code §2102.006(a)

The governing board of a state agency...shall appoint an internal auditor.

Government Code §2102.007(a)(1)

The internal auditor shall report directly to the state agency's governing board or the administrator of the state agency if the state agency does not have a governing board.

--- Board Policy ---

- (1) The board selects the department's executive director, chief inspector general, and director of internal audit in the manner that it determines to be in the best interests of the department. In the event of involuntary separation of a board-appointed staff member, the board selects an interim replacement in the manner that it determines to be in the best interests of the department. The person selected must meet any statutorily required certifications or other qualifications (e.g., CIA or CPA for director of internal audit, TCOLE peace officer certification for chief inspector

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general). At the chair's request, persons holding board-appointed positions will provide recommendations for interim appointments.

- (2) The board shall provide the overall evaluation of the executive director, chief inspector general, and director of internal audit.
 - (3) The board delegates authority to the board chair to take the following actions concerning the compensation of the chief inspector general and director of internal audit:
 - (A) make adjustments to the salary; and
 - (B) issue one-time bonus payments.
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Appendix A: BOARD ACTION/DELEGATION ESTABLISHED BY DEPARTMENT POLICY OR STATE LAW

Policy Number and Title	Area of Responsibility	Board Action/Delegation
GAP.05.00 - Naming of a TYC Facility	Selecting names for agency-operated facilities	Requires board approval
GAP.05.01 - Auditing	Annual systematic risk assessment	Requires board approval
GAP.05.03 - OIG Mission, Authority, and Responsibilities	Authority and responsibilities of the Office of Inspector General	Requires board approval
GAP.07.51 - Reporting Procedures - Death of a Youth	Receipt of a copy of the Custodial Death Report	Must be sent to board for review
GAP.385.8153 - Research Projects	Non-TJJD proposals for research involving TJJD youth	Requires board approval
GAP.385.8165 - Site Selection for Juvenile Facility Construction	Final site selection	<ul style="list-style-type: none"> ○ Board chair appoints board member to chair site selection committee ○ Final site selection requires board approval
GAP.385.8170 - Acceptance of Gifts of \$500 or more	Acceptance of gift of \$500 or more	Requires board acknowledgement within 90 days
GAP.380.9333 - Alleged Abuse, Neglect, and Exploitation	<ul style="list-style-type: none"> ○ Summary reports of complaints and appeals ○ Internal audit of abuse investigation procedures 	<ul style="list-style-type: none"> ○ Requires board review and appropriate action ○ Board ensures periodic audits are conducted
GAP.385.1101 - Contract Authority and Responsibilities	Approval authority and responsibilities for executing contracts	<ul style="list-style-type: none"> ○ Requires board approval of certain types of contracts. ○ Board delegates authority to executive director to approve all contracts not requiring board approval. ○ Board delegates authority to executive director to approve all emergency contracts. ○ Board delegates authority to executive director to execute all contracts for TJJD. ○ Requires board review of annual agency contracting plan.
37 Texas Administrative Code, Chapter 349	General Administrative Standards for Juvenile Boards	<ul style="list-style-type: none"> ○ Requires board action on appeal of department's decision regarding request for waiver of TJJD standard(s). ○ Requires board action on request for variance of TJJD standard(s). ○ Requires board action regarding various disciplinary actions for certified officers. ○ Requires board action on appeal of department's decision regarding complaint against juvenile board. ○ Requires board action for the issuance of a subpoena in certain matters.
37 Texas Administrative Code, Chapters 341 - 359	Texas Administrative Code Provisions Applicable to Juvenile Boards, Juvenile Probation Departments, and Programs/Facilities Operated under Authority of/Contract with Juvenile Boards	<ul style="list-style-type: none"> ○ Promulgation, adoption, and revision of all rules must be approved by the board.

Note: All policies and rules listed above can be accessed at <http://www.tjjd.texas.gov>.