

**Judicial Branch Certification Commission
Public Meetings Policy
(Effective September 5, 2014)**

1. Policy. The purpose of this policy is to address notice and public access to meetings of the Judicial Branch Certification Commission, which is a judicial branch entity and therefore not subject to the Open Meetings Act.

2. Definitions.

- (a) "Closed meeting" means a meeting to which the public does not have access.
- (b) "Deliberation" means an oral or written verbal exchange during a meeting.
- (c) "JBCC" means the Judicial Branch Certification Commission established in Chapter 151, Texas Government Code, and includes duly-established official advisory boards and committees of the JBCC.
- (d) "Meeting" means:
 - (1) a deliberation among members constituting a quorum, or between a quorum and another person, during which public business or public policy over which the JBCC has supervision or control is discussed or considered or during which the JBCC takes formal action; or
 - (2) except as otherwise provided in Section 2(d)(3), a gathering:
 - (A) that is conducted by the JBCC or for which the JBCC is responsible;
 - (B) at which a quorum is present;
 - (C) that has been called by the JBCC; and
 - (D) at which the members receive information from, give information to, ask questions of, or receive questions from any third person, including an employee of the Office of Court Administration, about the public business or public policy over which the JBCC has supervision or control.
 - (3) "Meeting" does not include:
 - (A) the gathering of a quorum at a social function unrelated to the public business of the JBCC, or the attendance by a quorum at a regional, state, or national convention or workshop, if formal action is not taken and any

discussion of public business is incidental to the social function, convention, or workshop;

(B) the attendance by a quorum at a meeting of a committee or agency of the legislature if the deliberations at the meeting by the members of that JBCC consist only of publicly testifying at the meeting, publicly commenting at the meeting, and publicly responding at the meeting to a question asked by a member of the legislative committee or agency; or

(C) the attendance by a quorum at a judicial hearing or proceeding unrelated to the public business of the JBCC, if formal action is not taken and any discussion of JBCC business is incidental.

(e) "Open" means open to the public.

(f) "Quorum" means a majority of the formally-appointed members of the JBCC or duly-established official advisory boards and committees of the JBCC.

3. Public Meetings Requirement.

(a) Every meeting of the JBCC or an advisory board or committee of the JBCC shall be open to the public, except as provided by this policy. This requirement does not preclude the use of telephone or video teleconferencing equipment, provided that at least one location shall be open to the public and posted in accordance with Section 6.

(b) At each meeting, the JBCC will give members of the public the opportunity to appear and speak about issues within the jurisdiction of the JBCC. The chair of the JBCC may set reasonable limits on presentations by members of the public, including limits on the number, frequency, and length of presentations.

(c) This public meetings policy precludes deliberation through written communication, including electronic mail.

4. Minutes. The JBCC shall prepare and keep minutes and may make an audio recording of each public meeting, except that consultations with an attorney in a closed session pursuant to Section 7 may not be recorded. The minutes of a public meeting are judicial records under Rule 12 of the Rules of Judicial Administration and shall be available for public inspection and copying.

5. Recording of a Meeting by a Person in Attendance.

- (a) A person in attendance may record all or any part of a public meeting of the JBCC by means of a tape recorder, video camera, or other means of audio or visual reproduction.
- (b) The chair of the JBCC may adopt reasonable policies to maintain order at a meeting, including policies relating to:
 - (1) the location of recording equipment; and
 - (2) the manner in which the recording is conducted.
- (c) A policy adopted under Subsection (b) may not prevent or unreasonably impair a person from exercising a right granted under Subsection (a).

6. Meeting Notice Required.

- (a) The JBCC shall post on its website written notice of the date, hour, place, and subject of each JBCC meeting for at least 72 hours before the scheduled time of the meeting.
- (b) The JBCC shall maintain an e-mail distribution list of persons requesting notice of JBCC meetings and shall provide e-mail notification of the date, hour, place and subject of each meeting to the distribution list at least 72 hours before the scheduled time of the meeting.
- (c) If the JBCC posts notice of a meeting and then is unable to attain a quorum, the members present may discuss and deliberate JBCC matters, but shall not vote or otherwise take formal action.
- (d) In an emergency, the notice of a meeting or the supplemental notice of a subject added as an item to the agenda for a meeting for which notice has been posted in accordance with this policy is sufficient if it is posted for at least two hours before the meeting is convened. The emergency must be reasonably unforeseeable, and the JBCC shall clearly identify the emergency in the notice.

7. Exceptions to Requirement that Meetings Be Open. The JBCC may conduct a closed meeting to:

- (a) consult with its attorney:
 - (1) when the JBCC seeks the advice of its attorney about:
 - (A) pending or contemplated litigation; or
 - (B) a settlement offer; or

- (2) on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with this policy;
- (b) deliberate a negotiated contract or a prospective gift or donation to the JBCC if deliberation in an open meeting would have a detrimental effect on the position of the JBCC in negotiations with a third person;
- (c) deliberate the appointment, employment, evaluation, reassignment, duties, discipline, or dismissal of a public officer or employee, or to hear a complaint or charge against an officer or employee;
- (d) deliberate the deployment, or specific occasions for implementation, of security personnel or devices;
- (e) deliberate a test item or information related to a test item if the JBCC believes that the test item may be included in a test the JBCC administers to individuals who seek to obtain or renew a license or certificate that is necessary to engage in an activity; or
- (f) deliberate information regarding an applicant for certification, registration, or licensure or the subject of a complaint to the JBCC that would be confidential under law or the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

8. Investigation. The JBCC, when investigating a matter, may exclude a witness from a hearing during the examination of another witness in the investigation.