

**Judicial Branch Certification Commission**  
**Public Meetings Policy**  
**(Effective February 3, 2023 )**

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 a verbal or written exchange during a meeting between a quorum of the JBCC, or between a quorum and another person, concerning an issue within the jurisdiction of the JBCC.
- (c) "JBCC" means the Judicial Branch Certification Commission established in Chapter 151, Texas Government Code, and includes 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, ceremonial event, press conference, or any other event if formal action is not taken and any discussion of public business is incidental to the event;

- (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 any discussion of JBCC business is incidental.

- (e) "Open" means open to the public.
- (f) "Quorum" means a majority of the members of the JBCC or 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 for the attendance of a member of the commission, advisory board, or committee; any member of the staff of the JBCC; any party, legal counsel, or witness in a hearing before the JBCC; or a member of the public. A witness appearing via telephone or video teleconference before the JBCC on behalf of a witness must disclose, under oath, on the record, and prior to testifying, who, if anyone, is in the room with them or in their general presence. Witnesses must not communicate with any person, including by text message, during their testimony. Failure to adhere to this rule may waive the witness's testimony.
- (b) This public meetings policy precludes deliberation through written communication, including texting, direct messaging, comments in an online meeting room or program and electronic mail. Except as authorized under Section 8 of this policy, all deliberations and public comment must be open to the public.

**4. Public Participation.**

- (a) 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.

- (b) If a member of the public or of the JBCC, advisory board, or committee inquires about a subject for which notice has not been given, the JBCC, advisory board, or committee may not deliberate about the matter. Any statements made must be limited to:
  - (A) a statement of specific factual information given in response to the inquiry;
  - or
  - (B) a recitation of existing policy in response to the inquiry.Any deliberation of or decision about the subject of the inquiry must be limited to a proposal to place the subject on the agenda for a subsequent meeting.

**5. 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 8 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.

**6. 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).

**7. 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.

**8. 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.

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