

## Item 22:

### Consider and Take Appropriate Action on SBEC Meeting Agenda Content and Formatting

#### ACTION

**BACKGROUND:** Currently, a notice relating to closed session appears in two places on every SBEC meeting agenda: (1) within the Litigation/Contested Case item and also (2) at the bottom of the agenda. The Open Meetings Act does not require placing any notice of a possible closed session on meeting agendas. The current practice of placing the notice in the Litigation/Contested agenda item may create an expectation in the interested public that only specific agenda items that contain the notice will be subject to a closed session, when in fact, the board may go into closed session regarding any item on the agenda if it is permitted by the Open Meetings Act. For SBEC, the most common reason to go into closed session is to obtain the advice of legal counsel. Because it has been the practice to include the notice on SBEC agendas, a previous AG opinion suggests that the notice must continue to appear on future agendas. However, to avoid ambiguity or possible confusion, the notice should appear only once on each agenda.

**RECOMMENDATION:** To change the agenda format so that the closed session notice appears only once as a general statement at the end of the agenda. Placing it at the end of the agenda would inform the public that a closed session is possible at any board meeting, under any item on the agenda, and for any reason permitted by the Open Meetings Act. The change would also avoid possibly creating an expectation that the board will go into closed session only for those agenda items that contain a specific reference to closed session.

#### MOTION TO BE CONSIDERED:

Motion to amend the SBEC agenda format to include only one notice of closed session at the end of each agenda and to not include the notice under specific agenda items, beginning with the fall meeting agenda. Staff is directed to include notice of the transition on meeting agendas between now and then.

Respectfully submitted,

Ryan Franklin  
Associate Commissioner  
Educator Leadership and Quality

**Staff Members Responsible:** Melissa Juarez, SBEC Counsel  
Texas Office of the Attorney General