



Business Days in the Texas Public Information Act

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House Bill 3033 (HB 3033), effective September 1, 2023, adds new Texas Government Code section 552.0031, which defines *business day* for purposes of the Texas Public Information Act (PIA). This article answers frequently asked questions about HB 3033 and calculating timelines when handling requests for public information.

1. What is a *business day* under the PIA?

Before HB 3033, there was no statutory definition of a business day in the PIA. The law now provides that a business day means a day other than:

- A Saturday or Sunday.
- A national holiday: New Year's Day; Martin Luther King, Jr., Day; Presidents Day; Memorial Day; Independence Day; Labor Day; Veterans Day; Thanksgiving Day; and Christmas Day.
- A state holiday: Confederate Heroes Day; Texas Independence Day; San Jacinto Day; Emancipation Day; Lyndon Baines Johnson Day; the Friday after Thanksgiving Day; the 24th day of December; and the 26th day of December.
- Rosh Hashanah, Yom Kippur, and Good Friday, if observed by the public information officer of the school district.
- The Friday or Monday before or after a national or state holiday listed above, if the holiday falls on the weekend and the district observes the holiday on that Friday or Monday.

Tex. Gov't Code § 552.0031.

A school district may designate a day on which the district's administrative offices are closed or operating with minimum staffing (skeleton crew) as a *non-business day*. As amended by HB 3033, the PIA now allows governmental bodies to designate up to 10 non-business days during a calendar year. For a school district, the designation of non-business days must be made by the board of trustees. Tex. Gov't Code § 552.0031(f). The fact that an employee works from an alternative work site is of no consequence as to whether a day is considered a business day. Tex. Gov't Code § 552.0031(b).

2. When are business days relevant in responding to a PIA request?

In order to withhold all or some of the responsive information in a PIA request, a district must typically seek a decision from the attorney general about whether the information is within a specified legal exception. Tex. Gov't Code § 552.301(a). Texas Government Code section 552.301 sets out the process for requesting a decision from the attorney general and refers to business days in multiple steps.

According to the attorney general's Public Information Act Handbook, when a district seeks a decision from the attorney general, it must inform the attorney general of any holiday or skeleton crew day observed by the school district. If a district fails to do this, those days will be included in the business day calculation. Office of the Tex. Att'y Gen., Public Information Act Handbook 2022, at 42.

For more information, see TASB Legal Services' [Basic Principles of the PIA](#).

3. How soon must a school district respond to a PIA request?

Texas Government Code section 552.221 requires governmental bodies, including school districts, to "promptly" produce public information for inspection, duplication, or both when a request is made. Promptly means within a reasonable time and without delay. Tex. Gov't Code § 552.221(a). What is considered a prompt response will differ on a case-by-case basis and varies depending on the facts and circumstances. Tex. Gov't Code § 552.221(a). In a previous decision, the attorney general stated that the amount of information sought is highly relevant in determining a reasonable timeframe for responding to a request for public information. Tex. Att'y Gen. ORD-467 (1987).

There is a common misconception that districts must respond to PIA requests within 10 business days. This is not the case. While the PIA has time constraints referencing business days, there is not a set amount of time in which a school district must produce information requested in a PIA request. If, however, the district cannot produce information within 10 business days, the officer for public information must notify the requestor in writing of a date and time the information will be available. Tex. Gov't Code § 552.221(d).

4. When does the clock start for counting business days?

When a district receives a written request for public information, the date of receipt is not counted in the business day calculation. The district's responsibilities under the PIA start the day after the request for information is received. *Received* means when a request is actually or physically received, not when it is opened or read by the district's officer for public information.

If a district receives a written request by U. S. mail and cannot adequately establish the actual date of receipt, the written request is considered to have been received by the district on the third business day after the date of the postmark on a properly addressed request. Tex. Gov't Code § 552.301 (a-1).

A person may make a written request for public information by U. S. mail, email, hand delivery, or any other appropriate method approved by the district. Tex. Gov't Code § 552.234(a). It is important for the district's officer for public information to check consistently for physical mail and email so that the district doesn't fall behind on its response time. A district should also ensure that a substitute employee is available if the public information officer has to miss work for any reason.

5. How do districts designate additional non-business days?

A school district's designation of non-business days in addition to the holidays listed above must be made by formal action of the board. A school board can act only through formal action at a properly posted public meeting held in compliance with Texas Government Code chapter 551 (the Texas Open Meetings Act). Whether the designation is made by resolution or other board action, each district will need to weigh and choose which method of formal action works best for them.

It's important to remember that the PIA only allows an additional 10 non-business days. A district might want those days spread throughout the year or more concentrated. In order to make the best decision, districts will need to determine whether the officer for public information observes Rosh Hashanah, Yom Kippur, and/or Good Friday. Districts may also wish to seek input from staff and the community.

6. How do districts communicate their non-business days to requestors?

As previously stated, a school board's designation of additional non-business days must be made by formal action of the board. The board minutes documenting the board's action will provide an official record for the formal action of the district, which can be shared in order to communicate the district's official designation of additional non-business days. If the board adopts a resolution listing all the additional non-business days, this will also provide a document that can be shared. However, some districts may find that board meeting records are not the most efficient way to communicate information widely.

Another option is to create a PIA calendar for posting in the district's administrative offices and/or online. Some districts find this option provides transparency and reduces confusion for requestors of information. This method may also help the district inform the attorney general of the district's non-business days when seeking an attorney general decision.

For more information about responding to requests for public information, visit the Community section of TASB [School Law eSource](#) and click on [Public Information](#).

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