Juvenile Board Reference Guide

Juvenile Board defined – "Juvenile board" (herein board or juvenile board) means a body established by law to provide juvenile probation services to a county. Tex. Hum. Res. Code § 201.001(a)(6). A juvenile board is a "specialized local entity"; a separate and independent local governmental entity, not a unit of county government, as provided in Local Government Code § 140.003(a)(2). *See* Att'y Gen. Op. No. DM-460(1997).

Enabling Legislation – Basic law creating juvenile boards across the state is found at Tex. Hum. Res. Code Ch. 152, Subch. A-D. Many counties have passed state legislation allowing deviation from the general terms of operation and specific counties are listed in alphabetical order at Tex. Hum. Res. Code §§ 152.0071-152.2571.

Juvenile Board Responsibilities and Compliance – The basic responsibilities of the juvenile board are spelled out in the 37 Tex. Admin. Code §§ 341.2-341.3. These rules cover the requirements for hiring a chief administrative officer and the related responsibilities and functions of the juvenile probation department and the chief administrative office via adoption of written personnel and department policies and procedures.

Juvenile Board Law and Requirements

Suitability of Juvenile Court Facilities – Tex. Fam. Code § 51.05(b) requires annual reporting by the juvenile board re suitability of juvenile court facilities and recommendations for improvements.

Designation of Juvenile Court – Tex. Fam. Code § 51.04(b) requires the juvenile board designate juvenile courts.

State Funding for Juvenile Board – Annual state aid to the juvenile board and related provisions for continued eligibility by the county is found at Tex. Hum. Res. Code § 223.001-223.005. The annual execution of the State Financial Assistance Contract and the passage of a formal resolution are the basic steps that authorize the juvenile board to receive and spend its share of state funds appropriated to the Texas Juvenile Justice Department (herein TJJD) by the legislature.

Budget Preparation – The juvenile board shall prepare a budget for the juvenile probation department and other facilities and programs under the jurisdiction of the board. Tex. Hum. Res. Code § 152.0012. *See* "Budget Considerations" herein.

Record Keeping -- Tex. Hum. Res. Code § 221.007 and Tex. Fam. Code §§ 58.105 and 59.011 requires the juvenile board keep and submit records deemed necessary by TJJD.

Inspection and Certification of Facilities – Annual juvenile board personal inspection of all public and private pre-adjudication and post-adjudication secure and nonsecure juvenile facilities within the county is required by Tex. Fam. Code §§ 51.12(c), 51.125(b), and 51.126(b).

Informal Disposition and First Offender Programs – Tex. Fam. Code § 52.032 requires the adoption of first offender and informal disposition guidelines for police agencies within the county by the cooperative efforts of the juvenile board and each law enforcement agency.

Inspections and Audits by TJJD -- Tex. Hum. Res. Code § 221.008 allows inspections and audits by the TJJD of the juvenile board, probation department and facilities to determine compliance with the board's rules.

Complaints Against Juvenile Board -- Tex. Hum. Res. Code § 221.010 governs complaints and procedures for investigation of complaints filed with TJJD relating to a juvenile board.

Pre-trial Detention Policy for Discretionary Transferred Youth – The juvenile board must establish a policy for detention of youth transferred to criminal court via Tex. Fam. Code §§ 54.02 and 51.12 in accord with Tex. Hum. Res. Code § 152.0015.

Appointment of Attorney Plan – The board shall adopt an indigent defense plan for juveniles that recognizes varying degrees of experience and qualifications to meet the individual needs of the child. Tex. Fam. Code § 51.102.

Destruction of Juvenile Records Audit – The board shall conduct an annual audit of the records of all law enforcement agencies to verify the destruction of photos and fingerprints as certified by law enforcement. Tex. Fam. Code §§ 58.001, and 58.002(a) and (c).

Open Meetings Act – Tex. Gov't Code Ch. 551 provides that the public must be allowed to attend any juvenile board meeting except for executive sessions and must be given notice of the date, time, place and subject of the meeting. An agenda must be posted at least three business days before the scheduled meeting and no later than 1 hour for emergency meetings of urgent public necessity. A quorum of the juvenile board must be present in order to carry out business and vote. Board members must be present at the meeting in order to deliberate and vote and may not vote by proxy. Tex. Gov't Code § 551.005 requires each member of the board to complete a course of training of not less than one and not more than two hours regarding the responsibilities of the governmental body re Open Meetings Act not later than the 90th day after the date the member takes the oath of office. *See* www.oag.state.tx.us for training video and certificate.

Juvenile Board Authority

Juvenile boards are created by statutes located within Tex. Hum. Res. Code Ch. 152. In addition to the basic provisions for the board, there are over 200 unique enactments for various counties. In many instances within these special provisions counties have exempted the board from some or all of Tex. Hum. Res. Code §§ 152.002-152.008 which contain law relating to the compensation, expenses and responsibilities of the board and chief juvenile probation officer. This election taken by these counties has led to confusion over the authority of the board to conduct activities or make policy addressed within those deleted sections. It has been

recommended that the board and the chief juvenile probation officer use Tex. Hum. Res. Code §§ 152.0007-152.0008 as a guide for operation (Texas Juvenile Law, 9th Edition, pg.13). The Attorney General has recently dealt with these questions by finding alternative (see Tex. Hum. Res. Code § 142.002) and/or implied authority for the boards based upon the general principle that political subdivisions have the authority to carry out its legislative mandate, i.e. providing juvenile probation services. *See* Tex. Att'y Gen. Op. Nos. GA-1085(11-10-14) and GA-1069(7-2-14).

In addition to questions relating to each individual board's basic authority described above, misunderstanding, to the point of litigation, exists with respect to the role of the board and commissioners court. The juvenile board is a "specialized local entity" as specifically enumerated in Tex. Local Govt. Code § 140.003(a) and is not a unit of county government. Regulation, including compliance audits of the juvenile probation department and board, is the responsibility of the TJJD and not the commissioners court; consequently, the juvenile board and not the commissioners court has authority over the employment decisions , travel policies and general management and financial decisions for the juvenile probation services within the county. *See* Tex. Hum. Res. Code § 142.002(a) and Tex. Att'y Gen. Op. No. JC-0085.

Budget Considerations

Funding for juvenile probation services comes from state and local county sources. The board sets the annual budget for the juvenile probation department and other facilities and programs under the jurisdiction of the board. The commissioner's court shall review and consider only the amount of the budget derived from the county, as opposed to state funding, on a limited abuse of discretion standard (Tex. Hum. Res. Code § 152.0012)(Tex. Att'y Gen. Op. No. JC-0085 and No. DM-460).

What "abuse of discretion" means outside legal proceedings - Even though the term originates in appellate review, the underlying concept is widely used in administrative, organizational, academic, and professional settings to evaluate whether someone with decision-making authority acted within acceptable bounds. These elements come from the legal definition but translate cleanly into non-legal contexts:

- Wrong standard applied — The decisionmaker (herein Juvenile Board) used criteria that were irrelevant or improper.
- Clearly erroneous factual basis — The decision (herein Proposed Budget) relied on facts that were unsupported or plainly incorrect.
- Unreasonable or arbitrary judgment — The decision (herein Proposed Budget) falls outside the range of reasonable choices available.
- Failure to consider required factors — The decisionmaker (herein Juvenile Board) ignored key considerations they were expected to weigh.