

FAQ ON SCHOOL BOARD MEETINGS
(Updated October 30, 2020)

1. How have the Governor's Executive Orders impacted school board meetings?

In Executive Order 20-04 (issued March 16, 2020), the Governor:

- ❖ stated that public meetings should be limited to essential matters critical to the operations of the agency for the duration of the public health emergency;
- ❖ suspended the requirement to have a majority of board members physically present in order to conduct a meeting and stated only one board member had to be physically present;
- ❖ authorized the posting of notices of meetings and agendas solely by electronic means for the duration of the public health emergency;
- ❖ permitted political subdivisions to conduct their meetings in accordance with Section 3.6 of the Open Door Law for the duration of the public health emergency; and
- ❖ suspended the requirement to adopt a policy on electronic participation in board meetings.

In Executive Order 20-09 (issued March 23, 2020), the Governor modified the above order and suspended the requirement that a governing body adopt a policy for electronic participation in meetings and the requirement that any board member be physically present in order to conduct a school board meeting. **The Order specifically authorized all governing bodies to conduct virtual meetings for the duration of the public health emergency.**

2. When does the public health emergency end?

The Governor initially declared a public health emergency on March 6, 2020, but has now extended the declaration eight times. In Executive Order 20-47 (issued October 30, 2020), the Governor declared the current public health emergency period will end on December 1, 2020.

3. What are the requirements for conducting a meeting electronically?

- ❖ A quorum of members must participate in the meeting.
- ❖ All votes must be taken by roll call.
- ❖ The meeting must be made available to the public and the media.

4. How does a school board make an electronic meeting accessible to the public and the media?

The Public Access Counselor has stated that the public and the media must be given real-time access to an electronic meeting. Therefore, a school board must utilize technology and allow the public and the media to call into the meeting, livestream, and/or broadcast its electronic meeting. The school board cannot record its meeting and thereafter post the recording on its

website. Some suggested services for a school board to consider include Zoom, YouTube Live, Facebook Live, and public television.

5. Must the public be given the opportunity to speak at an electronic meeting?

The Open Door Law states that the public has the right to observe and record a meeting that is open to the public. Therefore, the school board has the right to determine whether it will allow the public the opportunity to speak at public meetings, including a meeting that is conducted electronically.

However, in cases where the board is required by law to conduct a public hearing (such as when entering into a contract with a superintendent), the school board must provide an opportunity for the public to provide verbal comments. Additionally, a board may want to consider allowing the public to submit written comments.

6. May all meetings of the board be conducted electronically?

Yes. During the period of the public health emergency, any meeting of the board, including an executive session, may be conducted electronically.

7. How does a school board give the public notice of its meetings?

The board must still give 48 hours' notice (excluding Saturdays, Sundays, and legal holidays) of the date, time, and place of any meeting. However, in light of the modifications made in Executive Order 20-04, notices of the meeting need only be posted electronically for the duration of the public health emergency. The Public Access Counselor has suggested this means notices must be posted on the school corporation's website or through social media avenues.

Additionally, the board must continue to give 48 hours' notice of its meetings to news media organizations that have requested to receive meeting notices. Notices to news media organizations may be sent by mail, fax, or electronic mail.

Lastly, if a school board has adopted a policy that allows patrons to request notice of board meetings, that notice may be delivered by posting on the school corporation's website or sending to the patron's email address.

If an agenda for the meeting is created, the agenda must be also posted electronically.

8. May school boards conduct meetings with all board members physically present?

Yes. A school board may choose to conduct a meeting with all board members physically present, but would also have to allow the public and the media to physically attend the meeting

in order to observe and record the meeting. In essence, the school board can elect to conduct a meeting in accordance with Section 3.5 of the Open Door Law and conduct a meeting as it traditionally has.

If conducting a meeting with board members, the public, and the media physically present, the school board would also have to follow the latest directives on required social distancing and other sanitation measures and face covering requirements. See Executive Order 20-43 for these directives. Electing to conduct a meeting with board members and others physically present may necessitate making arrangements to have the meeting in a larger venue and/or having multiple rooms available to accommodate the public and comply with social distancing requirements.

The school board would not have to livestream and/or broadcast a meeting where the public is allowed to physically attend the meeting. The board could always choose to do so.

9. May school boards conduct meetings with some board members physically present and other boards members participating remotely?

Yes. As long as the Governor has declared the existence of a public health emergency, a school board may conduct its meetings by having some school board members physically present and others participating remotely. This option may be desirable in situations where some board members are at a higher risk of complications from COVID-19. Under this option, the school board would have to vote via roll call and the board members participating remotely could be counted as present and could vote.

If conducting a meeting with some board members physically present and others participating remotely, the school board would have to allow the media and the public to physically attend the meeting, again adhering to the required social distancing and other sanitation measures and face covering requirements.

The school board would not have to livestream and/or broadcast such a meeting, but could always choose to do so.

10. Must minutes of meetings be taken?

Yes. There have been no changes to the requirements in the Open Door Law to take memoranda notes of the meetings, whether the meetings are conducted virtually or with board members physically present.

11. Must school boards conduct regularly scheduled meetings each month?

No, a school board is not required to meet monthly. A board meeting may be cancelled at any time.

12. Are there limitations on the number of persons who may attend school board meetings?

Currently, there are no limits on the number of persons who may attend school board meetings.

13. Are patrons who attend school board meetings required to wear face coverings?

In Executive Order 20-37 (issued July 24, 2020), the Governor issued face covering requirements for all citizens, with certain exceptions, including for persons with medical conditions, mental health conditions, and certain disabilities. The Order states that every individual shall wear a face covering whenever inside a business, **public building**, or other indoor place open to the public. Additionally, the Executive Order states that educational institutions shall require all **visitors to wear a face covering or a face shield while physically present in any building, facility or grounds at all times.**

These face covering requirements were extended by the Governor in Executive Order 20-42 (issued August 26, 2020) and then again in Executive Order 20-43 (issued September 24, 2020) when the Governor announced that the State moved into Stage 5. In his most recent executive order, Executive Order 20-46 (issued October 15, 2020), the Governor announced that the State will remain in Stage 5 through Saturday, November 14, 2020, and that all the directives in Executive Order 20-43 would continue through November 14, 2020. Thus, all patrons attending school board meetings are required to wear face coverings at least through November 14, 2020.

14. If a patron refuses to wear a face covering at a school board meeting, what recourse is available to the school board?

While the public does have the right to attend school board meetings, that right is arguably now conditioned on the patron abiding by the directives in the Governor's executive orders on wearing a face covering inside a public building. If a patron refuses to wear a face covering at a school board meeting, the board president or superintendent should advise the patron of the requirement and ask the patron to wear a face covering. School officials may want to have masks on-hand in order to provide one to any patron who forgets his/her personal face covering. If the patron still refuses, the patron could be seated away from other patrons who are present. Alternatively, if the school board plans to broadcast the meeting, the patron could be escorted to another room where the live recording could be made available to the patron. Lastly, if a law enforcement officer is present, the board president could ask the police officer for assistance in enforcing the face covering requirement. If the patron refuses to wear a face covering or at any time a patron's presence becomes disruptive, a law enforcement officer should be asked to escort the patron out of the building.