

FAQ ON SCHOOL BOARD MEETINGS

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;
- ❖ permitted political subdivisions to conduct their meetings in accordance with Section 3.6 of the Open Door Law; 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 any board member be physically present in order to conduct a school board meeting. This Order allows governing bodies to conduct virtual meetings for the duration of the public health emergency.

2. When does the public health emergency end?

Executive Order 20-25 (issued May 1, 2020) extended the public health emergency to June 4, 2020. The Governor may elect to further extend the public health emergency.

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 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. In light of Executive Order 20-04, notices of the meeting must be posted on the school corporation's website AND sent (by mail, fax, email) to news media organizations that have requested to receive notice of board meetings.

If an agenda for the meeting is created, the agenda must be posted on the website of the school corporation.

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 be sure to follow the latest restrictions in the Governor's Executive Orders on maximum number of persons allowed in gatherings and required social distancing and other sanitation measures. Electing to conduct a meeting with board members physically present may also necessitate making arrangements for having the meeting in larger venues and having multiple rooms available to allow for the public and the media to attend the

meeting and not exceed the maximum number of people allowable in a gathering.

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

Yes. During the public health emergency, a school board may conduct its meeting 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. In essence, the school board can elect to conduct its meeting in accordance with Section 3.6 of the Open Door Law but choose to have at least one board member physically present. 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, adhering to the latest restrictions in the Governor's Executive Orders on maximum number of persons allowed in gatherings and required social distancing and other sanitation measures. The school board may also want to consider giving the public and the media real-time access to the meeting to allow the public and the media to adhere to any travel restrictions or other health and safety guidance issued by the Governor, and other state and/or local officials.

10. Must minutes of electronic 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 conducted electronically 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.

During the public health emergency, and in accordance with Executive Order 20-18, governmental entities may continue to provide services that are needed to ensure the continuing operations of governmental agency or to provide for or support the health, safety and welfare of the public. The governmental body has the authority to determine its essential governmental functions.

Additionally, the Public Access Counselor has advised that governing bodies "postpone or cancel public meetings scheduled during the emergency declaration if the meeting does not concern essential matters critical to government operations."

Thus, school boards may decide to cancel a regularly scheduled board meeting if there are no essential matters critical to the operations of the school corporation for the board to act upon.