

MTA Guidelines for Conducting Meetings under Executive Order 2020-15 and the Open Meetings Act

March 19, 2020

(MTA has added emphasis in bold, along with additional MTA notes in italics in brackets)

MTA—Note that these provisions apply to all township public bodies, including the township board, board of review, annual meeting of the electors (if still held by township), planning commission, zoning board of appeals, elective library board, elective park commission, etc. Also note that a “physical” meeting may still be held, as long as it is in compliance with Executive Order 2020-11, which prohibits assemblages of more than 50 people.

Acting under the Michigan Constitution of 1963 and Michigan law, the Governor has ordered the following:

1. **Meetings May be Held Electronically:** Effective immediately and continuing until April 15, 2020 at 11:59 pm, to the extent that the Open Meetings Act, 1976 PA 267, as amended, MCL 15.261 to 15.272 (“OMA”) requires that a meeting of a public body be held in a physical place available to the general public or requires the physical presence of one or more members of a public body, strict compliance with section 3 of the OMA, MCL 15.263, is temporarily suspended in order to alleviate any such physical-place or physical-presence requirements, as follows:
 - (a) A meeting of a public body may be held electronically, including by telephonic conferencing or video conferencing, **in a manner in which both the general public and the members of the public body may participate by electronic means.**
 - (b) A meeting of a public body held electronically must be conducted in a manner that permits two-way communication so that members of the public body can hear and be heard by other members of the public body and so that general public participants can hear members of the public body and can be heard by members of the public body and other participants during a public comment period. The public body also may use technology to facilitate typed public comments that may be read to or shared with members of the public body and other participants.
 - (c) Members of a public body and of the general public participating electronically will be considered present and in attendance at the meeting and may participate in the meeting as if physically present at the meeting. ***[MTA—This means the members may discuss, make motions and vote. The public must be given at least one opportunity for public comment.]***
 - (d) All persons must be permitted to participate in any meeting of a public body held electronically, except as otherwise provided in the OMA. ***[MTA—This means that the public must be able to participate, not just the members of the public body.]***
 - (e) ***[MTA—Notice must be posted in the normal physical locations (notice board, door) and may be posted, in addition, on the township’s website:]*** If a public body directly or indirectly maintains an official internet presence, the public body must, consistent with and in addition to any other applicable notice requirements under the OMA, post advance notice of a meeting held electronically

on a portion of the public body's website that is fully accessible to the public. The public notice on the website must be included on either the homepage or on a separate webpage dedicated to public notices for non-regularly scheduled public meetings or electronic meetings and accessible through a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of those non-regularly scheduled or electronic public meetings. Notice of a meeting of a public body that will be held electronically must include all of the following:

- (i) An explanation of the reason why the public body is meeting electronically.
- (ii) Detailed procedures by which the public may participate in the meeting electronically, including a telephone number, internet address, or both.
- (iii) Procedures by which persons may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.
- (iv) Procedures by which persons with disabilities may participate in the meeting.

(f) The right of a person to participate in a meeting of a public body held electronically includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of the public body at a public meeting. The exercise of this right does not depend on the prior approval of the public body. However, a public body may establish reasonable rules and regulations to minimize the possibility of disrupting the meeting.

(g) A public body may not require a person as a condition of participating in a meeting of the public body held electronically to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance, other than mechanisms necessary to permit the person to participate in a public comment period of the meeting.

(h) A person must be permitted to address a meeting of a public body held electronically under rules established and recorded by the public body. A person must not be excluded from a meeting held electronically otherwise open to the public except for a breach of the peace actually committed during the meeting.

(i) During a meeting of a public body held electronically, members of the public body are urged to take all votes by roll call to avoid any questions about how each member of the public body votes. [MTA—This means each member of the body must be asked how they vote, and their name and vote must be recorded in the minutes.]

(j) If a public body holding a meeting electronically directly or indirectly maintains an official internet presence, the public body is encouraged to make available to the general public through the public body's website homepage an agenda and other materials relating to the meeting.

(k) Members of the general public otherwise participating in a meeting of a public body held electronically may be excluded from participation in a closed session of the public body held electronically during that meeting if the closed session is convened and held in compliance with the requirements of the OMA applicable to a closed session.

2. **Public Body Must Still Make Decisions in Public:** *[MTA—The full discussions and deliberations of a public body, not just the voting, must still be done with public access.]* A public body holding a meeting electronically as provided under this order is encouraged to do so in a manner that effectuates as fully as possible the purposes of the OMA, which include promoting government accountability and fostering openness in government to enhance responsible decision-making. **Discussions or deliberations at an open meeting that cannot at a minimum be heard by the general public participating in the meeting are contrary to these purposes. Accordingly, members of a public body must avoid using email, texting, instant messaging, and other such electronic forms of communication to make a decision or deliberate toward a decision, and must avoid “round-the-horn” decision-making in a manner not accessible to the public at an open meeting.**
3. **Meetings Held in Compliance with EO are in Compliance with OMA:** If a decision or other action of a public body is in compliance with the requirements of this order and the other requirements of the OMA, it is in compliance with the OMA.
4. **Commenting at Public Hearings:** Effective immediately and continuing until April 15, 2020 at 11:59 pm, **if a statute or rule other than the OMA requires that public comments be permitted or a public hearing be held**, including in conjunction with the issuance of a permit or a hearing required under the Uniform Budgeting and Accounting Act, 1968 PA 2, as amended, MCL 141.421 to 141.440a, *[MTA—Including the budget public hearing]* a public body or department or agency may provide a means for remote public comment or participation through the use of any technology that would facilitate a member of the general public’s ability to participate remotely to the same extent as if the member of the general public appeared in person. If not expressly authorized by statute or rule, **written comment, including by electronic means, also is permitted.**
5. **School Boards Do Not Have to Meet Once a Month:** Effective immediately and continuing until April 15, 2020 at 11:59 pm, strict compliance with subsection 6 of section 11a, subsection 7 of section 384, and subsection 1 of section 418a of the Revised School Code, 1976 PA 451, as amended, MCL 380.11a(6), MCL 380.384(7), and MCL 380.418a(1), is temporarily suspended so as not to require school district boards to hold meetings at least once each month.
6. **The Press/News Media Must Have Access:** Nothing in this order permits a public body to limit or restrict the rights of the press or other news media. Members of public bodies are encouraged to facilitate access by members of the press and other news media both to meetings held electronically and to members of public bodies.
7. As used in this order, the terms “decision,” “meeting,” and “public body” mean those terms as defined under section 2 of the OMA, MCL 15.262, except this order does not apply to state legislative bodies.
8. A provision of this order will prevail over any conflicting provision of a local charter, ordinance, or rule.