



REMOTE ATTENDANCE AND THE OPEN MEETINGS ACT

MARCH 13, 2020

NOTE: There is nothing in the Open Meetings Act or Michigan law to indicate that members attending electronically can not vote. However, many municipal and library boards prohibit remote-attending members from voting. There have been several attempts in the Michigan Legislature to pass legislation regulating remote attendance in public meetings, but so far nothing has passed.

If your library determines that remote attending members CAN vote, then the Open Meetings Act would require that any votes be conducted via ROLL CALL so that it is very clear to members of the public attending which members voted which way on each issue. The minutes should also be very clear on how each member (including the remote-attending member) voted.

It is interesting to note that the [Michigan Open Meetings Act Handbook](#) anticipates voting by members attending remotely. On page 20, under “Roll-Call Vote,” the handbook states “if you have board members participating by teleconference, a roll call will permit the secretary to accurately record the entire vote.” This text implies that voting by remote-attending members would be ok , as long as the appropriate measures are taken to ensure that members of the public are able to see/hear (as explained below), and any vote is held via Roll-Call method (as explained above).

It is also a good idea to refrain from completing a quorum via remote access. It is becoming widely accepted (and even legislated in some states) that a quorum may not be established via participants attending remotely. **However, in the event of an emergency or other unexpected circumstance, if a quorum cannot be formed except by remote access, then it may be permitted (all steps to ensure access and interaction by the public must be taken – see below).** A library should confer with their attorney as to the appropriate circumstances when a quorum could be completed via remote access.

It is also important that **members attending remotely (either via phone or video) are visible and/or audible to members of the public attending the meeting.** Remote attending members should be clearly heard and/or seen. It is also important to make sure that the remote attending members introduce themselves each time they speak so there is no confusion as to who is speaking.

https://www.mml.org/pdf/resources/publications/ebooks/HMO_by_chapter/Appendix%207%20Questions%20and%20Answers.pdf (see Q 40 on remote attendance to meetings).

See Also McInerney, Mark “*Open Meetings Act Update “Informal Meetings,” “Remote Attendance”*” (This is an article/opinion piece by an attorney at Clark Hill law firm. It is a good summation of the issue)

<https://www.clarkhill.com/alerts/open-meetings-act-update-informal-meetings-remote-participation>

SAMPLE POLICIES

Library 1

“7.4 A Board member, after notifying the Library Director or Board Chairperson of a planned absence, may request in advance to attend the meeting electronically. Board members who participate in a meeting electronically will be marked present on the Board’s attendance chart.

8.1 quorum for the transaction of (Library Name) business shall consist of five members of the Library Board. A Board member attending a meeting electronically shall not be counted for the quorum.

8.2 Adoption of all resolutions and business shall require a simple majority vote of a quorum of five or more members of the Library Board in attendance. A Board member attending a meeting electronically may participate in discussions regarding all items on the agenda, but shall be unable to vote”

Library 2

“a. In the case of emergency, as provided by law, Board action may be taken by at least a quorum of the Board upon at least eighteen (18) hours (or longer if practicable) notice to the public. A board member may participate in such meetings by means of conference telephone or other means of remote communication by which all persons participating in the meeting can communicate with each other. Any action taken pursuant to such emergency meeting shall be subject to ratification or rejection at the next public meeting of the Board.”

Library 3

“Section 4. A Board member may participate virtually or via telephone as long as full participation in the meeting is possible and a quorum of the Board is physically present.”

Library 4

“ 1. A Board member, after notifying the Library Director or Board President of a planned absence, may request in advance to attend the meeting electronically. Board members who participate in a meeting electronically (via skype or telephone) will be marked present in attendance with participation limited to discussion but not counted as part of a quorum.”

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