FAQs: Conducting a Virtual School Board Meeting
Updated April 15, 2020

In response to multiple Executive Orders issued by Gov. Gretchen Whitmer, MASB published and then updated FAQs: Holding School Board Meetings During COVID-19 Pandemic, which provides school boards with guidance on complying with the general requirements of existing Executive Orders and the Open Meetings Act while conducting a virtual school board meeting.

The following FAQs provide the next level of virtual meeting guidance for school boards by offering detailed best practices on public notice, meeting procedures, administering public comment and holding closed meetings.

PUBLIC NOTICE

1. We are scheduled to have a regular meeting in May. Because this meeting will be conducted electronically, do we need to provide additional public notice of this meeting?

Yes. In addition to the regular meeting posting required by the Open Meetings Act, Executive Order 2020-48 requires a school board to post advance notice of a meeting held electronically on the school district’s website that is fully accessible to the public. If the notice is not posted on the district’s homepage, the homepage must include a “prominent and conspicuous” link (labeled as “Public Notice for Electronic Public School Board Meeting”) to a separate webpage that includes the notice.

2. Does EO 2020-48 require a specific timeframe for posting this notice?

No. As a best practice, MASB recommends posting the website notice at least 18 hours before the virtual meeting is called to order.
3. What best practices does MASB recommend in order to comply with the notice requirements included in EO 2020-48?

(i) An Explanation of the reason why the school board is meeting electronically:
• “Executive Order 2020-42 prohibits all public gatherings of any number of people until after April 30, 2020. This requires the [District] School Board to meet electronically.”

(ii) Detailed procedures by which the public may participate in the meeting electronically, including a telephone number, internet address or both.
• If using internet-based remote meeting technology—Include the weblink or toll-free call-in information generated by the specific platform.
• If conducting a teleconference meeting—Include the toll-free bridge number and passcode or personal identification number if it is required to participate in the meeting.
• Include a link to allow members of the general public to sign up to address the school board during the meeting. (See Question 9 for additional guidance on public comment procedures.)
• Include a link to the board’s public comment rules.
• Include a technology helpline to assist community members in accessing the meeting.

(iii) Procedures by which persons may contact members of the school board to provide input or ask questions on any business that will come before the school board at the meeting.
• Include an email address that includes all school board members, e.g., schoolboard@anytownschools.org or list the school board members’ individual email addresses.

(iv) Procedures by which persons with disabilities may participate in the meeting.
• Include a statement to ensure compliance with the Americans With Disabilities Act: “If you are an individual with a disability who is in need of an auxiliary aid or service to participate in the meeting, please contact (name and title) at (telephone number) for voice and TDD calls or at (email address) prior to the meeting.”
MEETING PROCEDURES

4. Are school boards required to use a specific type or brand of remote access technology in conducting a virtual meeting under EO 2020-48?

No. However, the technology used by a school board must allow school board members to hear each other and allow community members to hear the board members, who also must be able to hear the community members during the public comment portion of the meeting.

5. Can a school board use only telephonic conferencing to conduct an electronic meeting under EO 2020-48?

Yes. To hold a meeting by teleconference, persons wishing to observe or participate in the school board meeting would be required to call into a designated conference line and enter an access code. These numbers would need to be included in the public notice of the electronic meeting to ensure that community members may participate in the meeting. A school district would also have to confirm with its teleconference provider that the conference line is able to sustain a call with a significant number of people participating.

6. What web-based video conferencing platforms are public bodies using to conduct virtual meetings?

Based on anecdotal evidence, it appears that public bodies are using Zoom, GoToMeeting, Skype, Community by Diligent, Cisco WebEx or Google Hangouts for their remote meeting applications. MASB does not endorse a specific product, but we encourage school boards to consult with their IT staff and investigate the applications by visiting their websites where you will find helpful tutorial videos and FAQs about the products.

Look for whether the application includes the helpful options of live closed captioning, easy mute/unmute capability, screen sharing and participation without registration. (Under EO 2020-48, a school board cannot require a community member to register or otherwise provide his or her name as a condition of participating in an electronic meeting.) Because of the necessity to hold virtual meetings, many of the products are offering expanded free subscription options to school districts.

7. What is Video-Teleconferencing Hijacking (also called “Zoombombing”) and what can a school board do to prevent it from disrupting a virtual meeting?

VTC hijacking occurs when virtual meetings are disrupted by graphic, profane or threatening messages from a third party. Recently, the Detroit News and MLive reported stories on two Michigan municipal boards that had their virtual meetings disrupted by VTC
hijacking. Unfortunately, this is an issue that school boards must be prepared to address.

Most virtual meeting platforms have published guidance on controlling VTC hijacking, so the individual who is responsible for setting up and administering the board’s virtual meeting should seek out guidance from the video conferencing vendor via its website. For example, Zoom’s website has posted an article offering users tips on stopping individuals from disrupting virtual meetings. Additionally, the Michigan Department of Attorney General issued a consumer alert statement with some recommendations.

If a school board does experience a VTC hijacking, it should report the incident to local law enforcement authorities as it may constitute a cybercrime.

8. What should a school board do if the virtual meeting is interrupted due to the remote meeting platform malfunctioning and members of the public can no longer access the meeting?

Under EO 2020-48, a school board must ensure that a virtual meeting permits the general public participants to hear members of the school board throughout the meeting. Thus, if community members are cutoff from the virtual meeting, the board President should recess the meeting by board consent until the issue is corrected. OMA allows a school board to recess a meeting for up to 36 hours without providing advanced notice of reconvening the meeting.

PUBLIC COMMENT

9. What is the best practice for facilitating public comment during a virtual meeting?

Telephonic Conferencing. EO 2020-48 implies that school boards may request that community members register to participate in the public comment period of the meeting. The opportunity to sign up for public comment should be afforded to community members up until the meeting is called to order.

At the beginning of the meeting, the community members’ telephones should be muted until the President announces the public comment period and the listed community members are given an opportunity to address the board.

Or, if a conference call provider is providing “hosted” services, a school board may consider setting up the meeting as a listen-only call, which would permit all remote participants to hear but not be heard. Under this option, remote participants would “raise” their hand to request to speak for public comment instead of signing up for it. How a participant “raises” his or her hand varies across service providers.
Internet-Based Remote Meeting Technology. As discussed above, school boards may request that community members register to participate in public comment. Depending on the options that are offered by the video conferencing platform being used by a school board, there are multiple variations on how public comment may be administered by the board President. Similar to facilitating public comment while using a telephonic system, school boards should consider muting participating community members upon entry into the meeting, and then use the public comment registration list and tools of the remote meeting platform to allow the members of the public to address the board.

10. What public comment rules should a school board apply during a virtual meeting?

To the extent that they still apply, a school board should use its existing public comment rules, which would likely include rules on the time for public comment and length of individual comment. If a school board doesn’t currently require individuals to identify themselves and make it known ahead of time that they wish to address the school board during public comment, such a rule should be considered to facilitate an orderly virtual meeting and to alleviate possible VTC hijackings.

The request to have individuals sign up for public comment should be posted on the electronic meeting notice (see Question 3), which should include a link to a webpage or email address allowing members of the public to register for public comment.

If a school board makes substantial changes to its public comment rules, the board should adopt a motion prior to the public comment period approving the rule changes. The President may also want to make the following announcement before public comment begins:

*Members of the public who have followed the instructions on the meeting notice for registering to speak during the public comment portion will be unmuted for ___ minutes to speak. If you would like to provide comment at a future meeting conducted by videoconference or telephone call, please follow instructions on the meeting notice.*

CLOSED MEETINGS

11. Must a school board vote at a virtual open meeting to go into a closed meeting under EO 2020-48?

Yes. The decision to hold any portion of a meeting as a closed session allowed by OMA must be made at an open meeting. EO 2020-48 does not suspend this requirement.
Thus, if a school board wishes to have a closed virtual meeting, it must be coupled with a virtual open meeting held in compliance with OMA and EO 2020-48.

12. How does a school hold a virtual closed meeting that is coupled with a virtual open meeting?

MASB recommends the following procedures as a best practice:

- During the open portion of the virtual meeting, the board votes to go into closed session.
- If the motion passes (either by a majority or two-thirds’ vote depending on the closed meeting exception), the President announces that the board is convening a closed session.
- At this point, the open portion of the virtual meeting is suspended. If using a videoconferencing system, a school board may want to post a slide on the screen indicating “School board meeting in closed session.”
- The board members should log-off from the video conference meeting or the individual responsible for administering the virtual open meeting should mute the microphones of the board members as well as turn off all sound for the open meeting, assuming that option exists on the board’s video conferencing platform.
- For the closed meeting, the board should hold a separate telephonic conference. This eliminates any confusion between holding two video conference meetings (one open and one closed) and possibly breaching the confidentiality of the closed session due to a mix-up.
- When the closed meeting is called to order, the President should remind the board members that the deliberations in a closed meeting are confidential under law, so the board members must isolate themselves while participating in the closed meeting.
- When the business is complete, the President adjourns the closed meeting.
- The open virtual meeting should be restarted and the meeting called back to order. A school board may want to consider setting up a text alert system that notifies participating community members that the board has convened back into open session.
13. How does a school board approve closed meeting minutes without breaking the chain of custody of the minutes when a school board is meeting by electronic means?

To preserve the chain of custody for closed meeting minutes, MASB recommends that the minutes should not be included in board packets or even posted on a password-protected website. Based on this recommendation, it may not be possible for a school board to approve closed meeting minutes while conducting virtual meetings, and that’s okay.

OMA requires a separate set of closed meeting minutes, but it doesn’t include a requirement for approving those minutes. Thus, if a school board doesn’t approve its closed session minutes or doesn’t approve them at the next regular meeting, the board isn’t violating OMA. Approving closed meeting minutes is generally considered to be a best practice, but it’s not a legal requirement.

Under the current circumstances, MASB recommends that school boards suspend the practice of approving closed meeting minutes while conducting virtual meetings.

If you have additional questions, please contact MASB Legal Counsel/Director of Labor Relations & Policy Brad Banasik, J.D., at bbanasik@masb.org or 517.327.5929.