



Updates to School Board Meeting Guidance Revised April 1, 2021

The following FAQs cover issues relating to holding an in-person or virtual public meeting under the Open Meetings Act and the March 19, 2021 [Emergency Order](#) on Gatherings and Face Masks issued by the Michigan Department of Health & Human Services, [as amended](#) on March 31, 2021.

1. Does the current MDHHS emergency order clearly permit school boards to have an in-person public meeting?

Yes. The emergency order was amended on March 31, 2021 to specifically exempt “[g]atherings of public bodies and attendees of meetings held by public bodies in compliance with the Open Meetings Act” from the order’s restrictions and limitations on gatherings. So, this means that school board meetings have finally been added to the list of gatherings and activities that are not subject to the emergency order’s restriction on limiting gatherings at nonresidential venues to no more than 25 persons.

2. May a school board have an in-person meeting at its traditional meeting location without worrying about capacity limitations?

Yes, as long as the meeting is designed “to encourage and maintain physical distancing” and to “ensure that persons not part of the same group maintain 6 feet of distance from one another to the extent possible.” Thus, school boards are not required by the emergency order to hold their meetings in a gymnasium or auditorium unless it is necessary to move to a larger venue in order to ensure that attendees maintain proper social distancing.

3. Are school board meetings still subject to the face mask requirements that apply to gatherings?

Yes. All persons participating in gatherings associated with an in-person school board meeting are required to wear a face mask. However, the emergency order does indicate that the mask requirement does not apply to individuals who are “giving a speech for broadcast or to an audience, provided that the audience is at least 12 feet away from the speaker.”

4. As of April 1, 2021, may school boards have virtual public meetings under OMA?

Yes, but under very limited circumstances. Through Dec. 31, 2021, a school board may only conduct a virtual meeting in whole or in part to accommodate absent board members due to military duty, a medical condition, or a statewide or local state of emergency or state of disaster. Thus, if one of the above reasons do not apply, a school board member may not virtually participate and vote in a public meeting while traveling during a vacation or for business purposes. After Dec. 31, 2021, a school board may only have a virtual public meeting in part to accommodate absent board members due to military duty.

5. What constitutes a “medical condition?”

A medical condition is defined as “an illness, injury, disability or health-related condition.” This definition only applies to a school board member who will be physically absent from an in-person meeting, so it does not permit a school board member to virtually participate and vote in a meeting to care for a family member who has a medical condition. Further, only the school board member who is physically absent due to a medical condition may participate and vote remotely in the public meeting.

6. If only one board member is remotely participating in a public meeting due to a medical condition, does the school board have to comply with all of the virtual meeting requirements identified in OMA?

Yes. If a school board holds a virtual public meeting in whole or *in part*, it must comply with all of the virtual meeting requirements. Thus, even if a school board has six members physically present in a physical location and one board member is participating in the meeting by remote means, the board must comply with OMA’s virtual meeting requirements on notice, agendas, public attendance and public comment.

7. Is Michigan currently subject to a declared statewide state of emergency or state of disaster allowing school boards to conduct virtual meetings?

No.

8. How is a local state of emergency or state of disaster declared?

Under Public Act 390 of 1976, the Emergency Management Act, when circumstances within a county or municipality indicate that the occurrence or threat of widespread or severe damage, injury or loss of life or property from a natural or human-made

cause exists, the chief executive official of the county or municipality is authorized to declare a local state of emergency. A local state of emergency may not continue or be renewed for a period in excess of seven days unless an extension or renewal is consented to by the governing body of the municipality. The extension may be for a set period of time and the declaration may be renewed as necessary.

9. If a school board is holding a traditional in-person public meeting with all participating school board members physically attending the meeting, may the school board provide community members virtual access to the meeting?

When having a traditional in-person public meeting, a school board may still livestream the meeting to community members. OMA doesn't expressly permit or prohibit a public body from conducting a public meeting that allows community members to attend the meeting or engage in public comment by electronic/virtual means even though the public body isn't holding a virtual meeting in whole or in part under Section 3a of OMA. However, if a traditional in-person school board meeting is held without complying with the Section 3a virtual meeting requirements, there would be some uncertainty on what type of rules could be applied in administering virtual public comment. Thus, from a best practice standpoint, if a school board is not conducting a virtual meeting in whole or in part under OMA, MASB recommends that the board limit public comment to individuals who are attending the meeting in person.

10. May school boards still conduct hybrid public meetings where the board members are meeting in person but community members are required to virtually attend and participate in the meeting?

No. Unless the school board is able to conduct a virtual meeting in whole due to a declared statewide or local state of emergency or state of disaster.

If you have additional questions, please reach out to the MASB Legal Services and Labor Relations staff at legal@masb.org or 517.327.5900.