

In Person, Virtual and Hybrid Meetings - What have we learned?

**Massachusetts Select Board
Association
Lauren F. Goldberg**



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Agenda

- Current State of the Remote Open Meeting Law
- Remote Meetings
- Hybrid Meetings
- In Person Meetings

Current State of the Remote Open Meeting Law

- **How long will this last?**
 - Pandemic era changes are in place until April 1, 2022; bill pending that would extend.
- **What is authorized?**
 - Instead of holding meetings in a public place, a public body **may** provide “adequate alternative means” of public access.
 - Public body members **may** participate in meetings remotely, regardless of whether a quorum is physically present.
- **Must meetings be held remotely?**
 - No, these changes are optional, meetings may still (or again start to be) conducted in person.

Adequate Alternative Means

- **What does this mean?**

- A public body must provide real time access (lag of ~20 seconds is acceptable).
- If a technical problem prevents the meeting from being accessible in real time (e.g., the live stream crashes), the meeting should be paused or rescheduled, depending on the severity of the technical issue.
 - Continuing a meeting and subsequently posting a recording, even immediately afterwards, does not cure the violation. The public must be able to access the meeting as it happens. See OML 2021-166; OML 2021-17.
- Zoom is the typical “adequate alternative means” but it is not required, any method that allows the public to follow in real time is acceptable.

Additional Considerations for Remote Meetings

- If the meeting will be recorded, the Chair must make a public statement regarding the recording per the MA wiretap statute.
- All votes must be taken with a roll call (just like what is required in executive session).
- Remote members must introduce selves (or be introduced) at start of meeting.
- Cameras should be on (not required if a device does not have camera).
- When holding an executive session remotely, each member participating remotely must state that no other person is present or able to hear the discussion at the remote location, unless the public body has approved the presence of that individual.

Hybrid Meetings

- A public body may meet in person but require members of the public to watch a livestream. See OML 2020-100.
 - Direct participants on agenda matters may still attend in person, even if the general public must attend remotely. See OML 2020-159.
 - A member may attend remotely even if other members attend in person
 - REMEMBER, if live access stops, the meeting must stop.
 - Be careful not to deliberate while troubleshooting occurs.
 - The public body may resume the meeting once the technical problem is resolved and members of the public are again able to view the meeting in real time.
- The public must be able to hear and follow the meeting from their remote location.

The Future

- There are different implications for holding in person, remote and hybrid meetings:
 - In person:
 - Body language, chair's ability to "control" participants, typical to identify/require all speakers to provide their name and address
 - Many boards do not allow those in attendance to speak, ask questions, etc.
 - Those that do allow this often utilize time limits and/or subject matter-related input after board discussions.
 - Traditional; most people "know" how to do this
 - Can use paper handouts, etc.
 - Sometimes space limitations
 - Covid-19 risks

The Future

- Remote:
 - More people can, and do, attend
 - Can participate even if on vacation or otherwise “busy”
 - People appear to be more comfortable participating
 - Also, misunderstandings about role of public at meetings
 - Some people are uncomfortable about identifying themselves
 - It is harder to keep track of who wants to speak and in what order
 - Typically harder to read body language and reactions
 - Requires some tech know how

The Future

- Hybrid
 - Can be looked at as “best” of both worlds, encourages and enhances participation
 - Flexible
 - All the benefits and limitations of the other two methods
 - Tech issues could include delay in, or disruption of, streaming, difficulty hearing, difficulty identifying “who” is talking, delays from the “can you hear me” crowd
 - Issues arise as to how to treat people participating remotely the same way as people in the room

Lauren F. Goldberg, Esq.

KP|LAW, P.C.

101 Arch Street, 12th Floor

Boston, MA 02110

lgoldberg@k-plaw.com

www.k-plaw.com

617.556.0007