



CONDUCTING A REMOTE PUBLIC LIBRARY BOARD MEETING

April 1, 2020

NOTE: THIS SUMMARY IS MEANT ONLY TO PROVIDE A GENERAL OVERVIEW OF THE NEW LEGISLATION IN RELATION TO THE POSSIBLE EFFECT ON LIBRARY OPERATIONS. IT IS NOT MEANT AS A LEGAL OPINION OR LEGAL ADVICE. LIBRARIES SHOULD CONSULT THEIR ATTORNEYS FOR INFORMATION, CLARIFICATION OR ADVICE REGARDING HOW THE LAW MAY AFFECT THEIR SPECIFIC SITUATIONS

Requirements of Executive Order 2020-15

“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.”

Public bodies may hold public meetings virtually, via video or teleconference. 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. *(Boards may establish a quorum and vote virtually and remotely)*

All persons must be permitted to participate *(All members of the public must be able to attend, including those with disabilities and those without computers and/or Wi-Fi).*

A person must not be excluded from a meeting held electronically and otherwise open to the public except for a breach of the peace actually committed during the meeting. *(No one can be prevented from attending or removed from a meeting unless they commit a breach of the peace during the meeting. Including because the meeting can't accommodate additional participants. Boards must use a meeting platform or technology that can accommodate the number of participants that attend – no one can be turned away).*

There must be two-way communication so that members of the public body can hear and be heard by other members of the public body

General public participants must be able to hear members of the public body and must be heard by members of the public body and other participants

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 (members of the public can't be required to sign in with their names in order to participate), other than mechanisms necessary to permit the person to participate in a public comment period of the meeting (Board can have appropriate rules for public comment).

Public bodies should take all votes by roll call to avoid any questions about how each member of the public body votes (All participants should know who is voting and how they vote).

Just as with traditional public meetings, members of the public may record the proceedings without the approval of the public body. 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. However, a public body may establish reasonable rules and regulations to minimize the possibility of disrupting the meeting (participants can record the meeting if they wish).

A public body may still enter into a closed meeting, as long as the reason for the closed meeting meets the requirements of the Open Meetings Act, and the appropriate procedures are followed to enter the closed meeting. **HOWEVER**, depending on the technology being used to facilitate the meeting, accomplishing a legal closed meeting may be difficult. It is recommended that boards consult their attorney to discuss plans for a closed session within an open meeting, and, if possible, postpone any closed sessions for the time being.

Members of a public body may not take advantage of virtual or telephonic meeting to communicate electronically in a manner that cannot be observed and/or heard by attendees. 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. In other words, no secret discussions (via text, chat, e-mail or any other medium) during a board meeting (Don't use a virtual or teleconferenced meeting as a means to construct business secretly. NO separate discussions during the meeting).

NOTICE REQUIREMENTS

In addition to the usual applicable notice requirements, the public body must, 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 library's homepage or on a separate webpage dedicated to public notices for non-regularly scheduled public meetings or electronic meetings (such as the pages in use on many municipal websites) and accessible through a prominent and conspicuous link on the library'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. It is also a good practice to include the name and contact information for accommodation needs and requests.

Additionally, it is recommended that a body post their rules for public participation to the library's website.

To Sum, public meetings, such as public library board meetings may be held virtually or via telephone, as long as the meeting complies with the requirements above.

TECHNOLOGY

The accommodation and public participation requirements required for a public meeting should play a significant part in determining which platform to utilize for a virtual meeting, and, whether the meeting should be video, telephonic, or both. Because of the accommodation and OMA requirements, **it is suggested that library boards and directors consult appropriate IT staff and legal counsel in determining the right options for their meetings.**

Considerations for determining the appropriate videoconference platform:

Number of participants able to attend a meeting.

Meeting length restrictions (many free options will limit meetings to 45 minutes or an hour).

A call- in or telephone participation option (for participants who don't use, or don't have a computer or Internet access).

The ability to mute and unmute participants.

The ability to generate a transcript.

The ability to record the meeting.

The ability for attendees to participate without having to register or provide their names.

The ability for board members and presenters to address all participants and be heard.

The ability for participants to speak in a manner that permits all other attendees to hear them.

The ability to share/display documents or screens.

The ability of the platform to be compatible with assistive technologies and apps.

The ability to provide closed or open captioning on recordings.

Considerations for determining the appropriate teleconference option (if meeting will be conducted via telephone only):

Public meetings can be conducted via teleconference. **However, it is advised that libraries considering this option contact their attorney for advice.** Certain ADA accommodation options are limited in a teleconference.

However, Boards may be able to utilize Relay services for participants with hearing challenges (<https://www.nidcd.nih.gov/health/telecomm>), and pertinent public documents and agendas could be posted to the library website for public access. Boards may wish to start teleconferences by emphasizing that members of the public must refrain from speaking except during the public comment period(s). Teleconference service characteristics to consider include:

The Number of participants (callers) that can attend.

Restrictions or limits on meeting length.

Availability of transcripts.

Availability of recordings.

A toll-free number for participants to use to dial in.

ADA CONCERNS:

All public meetings – including Virtual meetings under EO 2020-15 must be accessible to members of the public with disabilities. The accommodations necessary for a virtual meeting can be a bit more complex – and more expensive- than for a traditional public meeting. However, they are no less important. A public body like a library board can still get sued for discrimination and an ADA violation whether the meeting is virtual during a pandemic or not.

Libraries are advised to consult with their attorneys on the steps required to ensure appropriate accessibility compliance.

<https://www.ada.gov/effective-comm.htm>

<https://www.miamiherald.com/news/local/community/florida-keys/article225260230.html>

The most likely accommodations that need to be included as part of a regular virtual meeting are:

Captioning (Closed (available only to certain participants) or Open (available to all participants))

Live - Captioning that is generated while the event is occurring and in real time while speech is occurring. Text appears at the bottom of the video image. If live transcripts are provided, live captioning is not necessary.

Post-event – Captioning that is added to a recording of the event.

Live capturing is not part of most platforms. However, there are many third-party options available at a variety of price points.

<http://blogs.mml.org/wp/coronavirus/files/2020/03/relay-captioning-services.pdf>

<https://portal.ncra.org/Sourcebook>

faq.htmlhttps://www.nad.org/resources/technology/captioning-for-access/when-is-captioning-required/

<https://www.nidcd.nih.gov/health/captions-deaf-and-hard-hearing-viewers>

<http://cccaptioning.org/faqs-cart/>

<http://cccaptioning.org/>

<https://interpreter.apps.lara.state.mi.us/>

<https://interpreter.apps.lara.state.mi.us/>

[Can be connected to a YouTube account to facilitate public review -](#)

<https://www.ncsc.org/~media/Files/PDF/Newsroom/NCSC-Pandemic-Resource-1.ashx> - connecting a

YouTube account to a Zoom account

YouTube captioning

<https://support.google.com/youtube/answer/2734796?hl=en>

<https://webaccess.msu.edu/Tutorials/caption-third-party.html> (post event capturing)

Transcripts – These are generally produced at the end of an event. They are a written verbatim recording of what is said during the meeting. Most of the platforms below generate post-event transcripts. A paid subscription may include live transcripts. Libraries and board should contact their chosen platform for more information about live transcripts.

Live – Transcribing in real time as the meeting occurs. Text is linear and separate from the video. If Live captioning is provided, live transcripts are not necessary. The third party captioners, CART resources, listed under Live Captioning may usually also be engaged for live transcripts.

Post-Event – Generated as a document after the event. Included in most platforms (some may include it only with subscription)

Below are some links and Information on popular video conferencing and meeting platforms, as well as resources to assist library boards with conducting virtual meetings. Please note that there are numerous additional products that would be adequate to hold public meetings. Those listed below are only a few of the most common options but are not necessarily recommendations.:

PLATFORMS

While almost all of these listed below have free options, necessary options (such as captioning and transcripts) as well as adequate participant capacity and meeting length may only be available with a paid option. The options listed below are for the free versions.

Cisco's WebEx

<https://www.webex.com/>

<https://www.webex.com/pricing/index.html>

[Closed captioning available \(under meetings option – unclear if this include live captioning\)](#)

[Call in ability for participation](#)

[Transcripts available \(send transcript option under “file” in meeting\)](#)

[Costs usually under \\$20/month](#)

Zoom

<https://www.zoom.us/>

[up to 100 people](#)

[Captioning before meeting – Settings/Meetings/In Meetings\(advanced\) Save Captions](#)

[video settings \(in meeting\)- accessibility – close captioning](#)

[Settings prior to meeting – Settings/Recording/Audio Transcripts \(available only with paid subs\)](#)

[Closed captioning transcripts available- Settings/Meetings/In Meeting \(Advanced\) Save Captions](#)

[*cannot add telephone attendees with free option during current crisis](#)

[Events can be only 40 minutes long if 3 or more participants – participants up to 100 in free version](#)

[Costs usually under \\$20/month](#)

Skype

<http://www.skype.com/>

<https://support.skype.com/en/faq/FA34551/what-s-the-difference-between-skype-skype-meetings-and-skype-for-business>

Subtitles/Captions (During an audio or video call, select the **more**  button. Select **Turn subtitles on.**)

Transcripts for captions

Skype support <https://support.skype.com/en/skype/all/>

Can accept telephone calls (may be a charge for this)

Skype Business (included with Office 365 subscription) subscriptions vary.

Skype Meetings are limited to 20 people when free

BlueJeans

<https://www.bluejeans.com/>

[Costs usually under \\$20/month](#)

Up to 50 participants

Unlimited meeting time

5 hours of meeting recording hosting

Supports telephone participation

Transcripts (after event)

Supports use of most assistive technologies including Android and Apple apps that live transcribe speech.

Accessible to Web Content Accessibility Guidelines 21st Century Communications and Video accessibility Act (This means that the site is optimized to work with assistive technology and is accessible for people with disabilities using screen readers, etc.) Blue Jeans' enhanced services are now compatible with standard screen readers such as VoiceOver on iOS and OSX platforms, Talkback on Android devices and NVDA (Non-Visual Desktop Access) for Windows platform. Users can navigate using their keyboard and these assistive technologies to perform most of the functions to schedule, attend and participate in a BlueJeans meetings.

Supported Screen Readers and Browsers: ● NVDA: Firefox, IE ● VoiceOver: Chrome, Firefox

https://pws-bluejeans-drive-prod.s3-us-west-2.amazonaws.com/file/accessibility_guide_2.9.pdf

Teleconferencing

https://www.michigantownships.org/downloads/teleconferencing_resources.pdf

<https://www.nidcd.nih.gov/health/telecomm>

Additional Resources on EO 2020-15

https://www.michigantownships.org/downloads/conducting_meetings_under_executive_order_202015_and_the_oma_march_19_2020.pdf

<http://blogs.mml.org/wp/coronavirus/files/2020/03/Covid-19-Remote-Public-Meeting-Participation-Presentation-MML-FINAL-reduced-size.pdf> - Presentation by Michigan Municipal Association on virtual public meetings and EO 2020-15

https://www.masb.org/portals/0/About_MASB/COVID19/COVID19FAQsUpdated%203_24_20.pdf – Michigan Association of School Boards information sheet on EO 2020-15

<https://www.fosterswift.com/communications-executive-order-oma-covid-19.html> Michigan law firm memo on EO 2020-15

[Resources on virtual meeting procedures and protocols](#)

<https://www.lawoforderblog.com/2020/03/covid-19-3-things-most-people-get-wrong-about-virtual-meetings> (COVID-19: 3 Things Most People Get Wrong About Virtual Meetings (Law of Order Blog) This is about meetings in general – not specifically PUBLIC meetings).

<https://jurassicparliament.com/covid-19-cancels-meeting/> When COVID-19 cancels your meeting (Jurassic Parliament)

https://blog.zoom.us/wordpress/2020/03/20/keep-the-party-crashers-from-crashing-your-zoom-event/?fbclid=IwAR3lhafI5j0JNz8_NH4bFkPtTRDvJrxpgTWcUQ1Msr6qR2sLSvGG6ijHDJ9E&sfns=mo Keeping your Zoom Event Safe

Additional ADA information

<https://www.ndrn.org/resource/presenter-guidelines/> - National Disability Rights Network guidelines and best practices for meeting speakers on making presentations accessible.

<https://www.adahospitality.org/accessible-meetings-events-conferences-guide/book> (see section on “Presentation material, slide and video”) ADA National Network guide to accessible meetings, events and conferences.

NOTE - Individual situations can differ - PLEASE consult your library’s attorney with questions.

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