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FAQ STATEMENT #2 FOR SB 661
AMENDING CERTAIN SECTIONS OF THE OKLAHOMA OPEN MEETING ACT

The amendments to the Open Meeting Act are a temporary measure to allow public bodies to meet virtually and transact public business while limiting or avoiding social contact and community spread consistent with governmental directions on how to mitigate the effects of the COVID-19 pandemic. If matters can be postponed to future months, then meetings may be postponed.

Accessibility

1. Are meetings still required to be open and accessible to the public?

- Yes.

2. What does “open and accessible to the public” mean with regard to public meetings being conducted through teleconference and videoconference?

- A videoconference is open and accessible to the public if anyone can join the videoconference.
- A teleconference is open and accessible to the public if anyone can join the call.

3. Can a public body have an in-person meeting but NOT allow the public into the meeting because it would exceed the recommended social distancing of no more than 10 people being together in-person?

- No.

4. Can a public body regulate (or limit through technology) the number of attendees to a meeting?

- No. While other laws and regulations, like a fire code or public health guidelines, may limit the number of people allowed in a location, a public body may not use those laws and regulations to limit the number of persons attending an open meeting, whether the meeting is in-person, by videoconference, or by teleconference.
- If there are limits on the number of people who can be in one location, the public body will need to evaluate whether a larger meeting space or additional rooms are needed. If multiple rooms or locations are used, there must be live audio and video feed between the rooms/locations. See FAQ #15 for more information on audio and video feed requirements.
- Similarly, if there are limits on the number of people who can call into a teleconference or join a videoconference, the public body will have to provide a number or website that does not have such limitations.

5. Our virtual conference technology only allows for a set number of people to join the public meeting remotely. What happens if more people want to virtually attend or participate in the meeting than capacity allows?

- The public body cannot limit the number of persons who can attend an open meeting. See FAQ #4.

6. What if a public body doesn't have the technology to hold a meeting by either videoconference or teleconference that will allow the public to observe and/or participate in the meeting?

- If the public body doesn't have the capability to hold a meeting by either videoconference or teleconference and the public body needs to hold a meeting, it will have to hold an in-person meeting.
- Social distancing guidelines may be met by setting up the location to allow for the recommended distance between persons, even if more than ten people attend. The public body may also need to evaluate whether a larger meeting space or additional rooms are needed to accommodate the spacing. If multiple rooms are used, there must be live audio and video feed between the rooms. See FAQ #15 for more information on audio and video feed requirements

7. Can a public body have an in-person meeting but not allow the public into the meeting if the public can still observe the meeting by calling in or watching a live video stream of the meeting?

- No. If the public body is meeting in-person, the public body must allow the public to also attend the meeting in-person.
- Social distancing guidelines may be met by setting up the location to allow for the recommended distance between persons, even if more than ten people attend. The public body may also need to evaluate whether a larger meeting space or additional rooms are needed to accommodate the spacing. If multiple rooms are used, there must be live audio and video feed between the rooms. See FAQ #15 for more information on audio and video feed requirements

8. If the public body is meeting in person, does using Facebook Live meet the requirements that the meeting be open and accessible to the public?

- No. While a public body may choose to broadcast their meeting via Facebook Live, it must still provide the public with access to the location where the members of the public body are meeting in-person. See FAQ #7.

9. Are the requirements of the OMA met if the public body chooses to hold a teleconference that the public can access only if the public goes to a physical location to listen in and participate?

- No. If the public body is meeting using a teleconference or videoconference, the public must also be able to join the teleconference or videoconference from their own location.

10. Will recording the meeting and then making the recording available to the public (rather than allowing the public to attend) satisfy the Open Meeting Act?

- No. The meeting must be open and accessible while the meeting is happening, whether the meeting is in-person, by videoconference, or by teleconference.

Notice

11. Are public bodies still required to provide the public with notice of a meeting before it happens?

- Yes. The only change to the Open Meeting Act's notice and agenda posting requirements are *where* the notice and agenda should be posted. The same time frame and information is required as under the Open Meeting Act that was in effect before these amendments.
- Public bodies are no longer required to post a hard copy of their meeting notices or their meeting agendas at their principal office location or the meeting location. Instead, the public body is only required to post an electronic copy of their meeting notices and meeting agendas on their website and through any distribution list the public body maintains. If a public body does not currently have a distribution list to email notices and agendas, it should create one to facilitate notice to the public.

12. What if a public body doesn't have a website? Where should they post their meeting notices and meeting agendas?

- If a public body doesn't have a website, it will have to continue posting meeting notices and meeting agendas in prominent public view at the principal office of the public body or at the location of the meeting if no office exists. Posting to a Facebook page alone does not meet the requirement to post notices and agendas on a public body's website.

13. Are public bodies still required to provide the public with an agenda of the meeting twenty-four (24) hours prior to the start of the meeting?

- Yes. That part of the Open Meeting Act was not amended.

14. When meetings are held via videoconference or teleconference, is the location of each member required to be added to the notice?

- No. Under the new law, the notice and agenda must tell the public (1) each public body member that is appearing remotely and (2) for each public body member appearing remotely, whether that individual member is appearing via videoconference or teleconference. After these temporary measures authorized by SB 661 expire, a member of a public body continuing to meet virtually as allowed by law will have to participate from a fixed location, list their location on the meeting agenda, and cannot change location after the agenda is posted.

Public Comment

15. If the public body has a meeting that is solely by teleconference or videoconference, does the public body have to allow members of the public to speak?

- If the public body normally allows members of the public to speak at an in-person meeting, then the public body must continue to allow members of the public to speak at a virtual meeting.

Email questions to questions@oag.ok.gov.

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