

## Vermont Attorney General's Office Guidance on the Vermont Open Meeting Law, Physical Distancing and COVID-19:

The Vermont Attorney General's Office ("AGO") has authority to enforce violations of the Vermont Open Meeting Law pursuant to 1 V.S.A. § 314.<sup>1</sup> The following provides a guide for local governments to conduct open meetings while practicing physical distancing as recommended by experts in the medical community to address COVID-19:

1. Electronic participation in public meetings is allowed. Vermont open meeting laws allow for members of public bodies to attend meetings by electronic means without being physically present at the meeting. 1 V.S.A. § 312(a)(2). A quorum or more can attend electronically and conduct business. 1 V.S.A. § 312(a)(2)(D). This is subject to certain requirements, explained below.
2. A physical location is required for all meetings of a public body, including those with electronic attendance by a quorum or more of the body. Vermont open meeting laws require a physical location where at least one member of the public body, or a staff member or designee of the body, will be present and where members of the public can attend--even if all other members of the body are attending electronically. 1 V.S.A. § 312(a)(2)(D).
3. A public body could limit attendance at the required physical location described in section 2 above, consistent with state and federal COVID-19 crowd-size guidelines, as long as electronic access is available to those not present. This is a reasonable interpretation of the law given the current, unprecedented circumstance involving COVID-19, which the Attorney General's Office will rely upon for enforcement decisions. Nothing in the open meeting law prevents a public body from limiting attendance at the required physical location described in section 312(a)(2)(D), consistent with current emergency state and federal guidelines regarding crowd size, so long as electronic access to the meeting is available to those not present at the physical location. See 1 V.S.A. § 312(a)(2)(D). This interpretation is limited to those situations where a quorum or more (as covered by section 312(a)(2)(D)) of the public body is meeting by electronic means and the business of the body is being done by means of remote communication.
4. A public body could manage physical attendance in these additional ways:
  - a. Delay unnecessary meetings.
  - b. Widely and clearly publicize electronic participation information for public meetings that must occur. Encourage individuals to attend electronically for the sake of public health.
  - c. Designate physical locations with sufficient space to allow for compliance with the principles of physical distancing--more than 6 feet apart.
5. Emergency Meetings are allowed: Given the rapidly changing nature of the situation, meetings may need to convene quickly. This is allowed when necessary to respond to unforeseen occurrences or conditions requiring immediate attention. Notice and posting

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<sup>1</sup> . Private actors may also enforce rights under the Vermont Open Meeting Law.

requirements are waived for emergency meetings. 1 V.S.A. § 312(c)(3). Public notice should still be given as soon as possible before the meeting. Id.

6. Proposed legislative changes: The Senate Government Operations Committee is considering [a bill](#) that would temporarily allow public meetings to occur electronically and without a designated physical location, as long as the public can attend by electronic means. It would also allow for extended time to post meeting minutes.
7. Additional guidance can be found:
  - a. [at the Secretary of State's website](#).
  - b. [at the Vermont League of Cities and Towns](#).

March 20, 2020