

# FRANCZEK

## OPEN MEETING ACT CHECKLIST REMOTE MEETINGS DURING A PUBLIC HEALTH EMERGENCY

### Prior to the meeting:

- **Verify that the Governor or the Director of the Illinois Department of Public Health issued a disaster declaration relating to public health concerns that covers all or part of the jurisdiction of the public body.**
  - The Governor's current disaster declaration is in effect until June 29.
- **The head of the public body must determine that an in-person meeting is not practical or prudent because of the disaster.**
  - For school districts, the president of the board of education and the superintendent are both considered the head of the public body. Although the law does not require that this determination be in writing, doing so will help establish that this condition was met in the face of a challenge.
- **Provide 48 hours' notice of the meeting unless there is a *bona fide* emergency.**
  - The notice must be given to all members of the public body, posted on the public body's website, provided to any news organization that has requested notice of meetings in accordance with the OMA, and otherwise comply with the notice requirements of the OMA. Special notice requirements arise for emergency meetings. As always, keep records showing that all notice requirements were met.

### At the beginning of the meeting:

- **Verify that at least one member of the public body, the chief legal officer, or chief administrative officer is present at the regular meeting location, unless not feasible due to the disaster.**
  - If providing for in-person attendance for one of the required individuals is not possible because of safety concerns, we recommend that the public body document the reasons prior to commencing the meeting.
- **Verify that all members of the public body participating in the meeting can hear one another and all discussion, wherever they may be.**
  - Although the OMA as amended does not require that this verification be completed on the record and documented, we recommend that public bodies take those additional steps.
- **Verify that all members of the public physically present at the regular meeting location can hear all discussion and votes of the public body members, unless attendance at the regular meeting location is not feasible due to the disaster.**
- **Although not addressed in the recent amendments, public participation must still be provided.**
  - Allowing members of the public who are not physically present to speak via video or audio conference are seemingly permissible methods. To date, the Public Access Counselor's office has upheld public comments via email as we reported on in a [recent alert](#).

### During the meeting:

- **Verify that all votes are conducted by roll call, with identification and recording of the vote of each member of the public body.**
- **Prepare and maintain a verbatim record (audio or video recording) of both the open and closed portion of the meeting.**
  - We advise having two separate recordings to avoid the inadvertent release of a closed session recording if the public body shares the open session recording publicly.