

Executive Directive 2020-02

Executive Directive

No. 2020-2

To: State Department Directors and Autonomous Agency Heads

From: Governor Gretchen Whitmer

Date: March 13, 2020

Re: Public Meetings of State of Michigan Public Bodies During the COVID-19
Emergency

As governor, one of my most solemn obligations is to protect the health, safety, and welfare of Michigan residents, particularly in times of crisis. It is a core and critical duty of the executive branch to respond quickly and effectively to emergent threats to the public health, safety, and welfare of Michiganders, and to faithfully execute the laws of this state in a manner consistent with that priority.

With Executive Order 2020-4, I declared a statewide state of emergency due to the spread of the novel coronavirus (COVID-19). This is a new strain of coronavirus that had not been previously identified in humans, can easily spread from person to person, and can result in serious illness or death. To mitigate the spread of COVID-19 and to provide essential protections to vulnerable Michiganders and this state's health care system and other critical infrastructure, it is crucial that all Michiganders take steps to limit in-person contact, particularly in the context of large groups.

One of the cornerstones of public engagement in governmental activities is the ability to participate in the meetings of public bodies. The Open Meetings Act ("OMA"), 1976 PA 267, as amended, MCL 15.261-.275, sets forth guideposts to ensure that the public has meaningful access to the meetings and decision-making processes of certain public bodies. The OMA requires that "[a]ll meetings of a public body shall be open to the public and shall be held in a place available to the general public," and "[a]ll decisions of a public body" and "deliberations of a public body" must take place at a meeting open to the public. MCL 15.263(1)-(3). It further provides that "[a]ll persons shall be permitted to attend any meeting except as otherwise provided in this act" and "shall be permitted to address a meeting of a public body under rules established and recorded by the public body." MCL 15.263(1), (5). Finally, the OMA provides that "[a] meeting of a public body shall not be held unless public notice is given as provided in this section by a person designated by the public body." MCL 15.265(1).

The OMA promotes governmental accountability and fosters open and responsible governmental decision making. In conducting its business during this time of emergency, state government must ensure that it preserves these important governmental objectives without unduly compromising the public health, welfare, and safety of this state.

Acting under sections 1 and 8 of article 5 of the Michigan Constitution of 1963, I direct the following:

1. All public bodies of departments and agencies of the State, including but not limited to boards, commissions, committees, subcommittees, authorities, and councils, must, to the extent practicable, consider postponing public meetings and/or agenda items that may be deferred until a later time.
2. All public bodies of departments and agencies of the State subject to the OMA that must continue to meet must do so by means sufficient to enable meaningful access and communication for all participants. Participation by remote access technology, including conference calling, real-time streaming, or other platforms is acceptable, and sufficient to form a quorum, so long as public access and participation is preserved.
3. Public notice of the time and date of each meeting of a public body of a department or agency of the State subject to the OMA must be given in the manner required by the OMA, which includes publication of the notice on the public body's internet website. The public notice must include sufficient information such that the public's right to address a meeting of the public body is preserved.

This directive is effective immediately and will remain in effect until further notice.

Thank you for your cooperation in implementing this directive.