



PAULA GRAY

Director of School and Board Relations

1201 Main Street, Suite 300, Columbia, SC 29201

To: School Board Members and School Leaders

From: Paula Gray

Re: Board Meetings during COVID-19 Emergency

Date: March 25, 2020

Please see the following some questions and answers regarding board meetings during the current COVID-19 restrictions.

May boards cancel regularly scheduled board meetings?

Boards may cancel regularly scheduled board meetings if they are not necessary. However, if meetings are necessary for the school to conduct business during this time, boards need to determine the best method for holding a board meeting.

How can a board cancel a meeting?

A meeting may be canceled by a majority vote of the board at a duly called board meeting; by a declaration of the board chair, or if the chair is unavailable, the vice chair, in consultation with the head of school, when a significant event beyond the board's control renders attendance at the meeting unsafe or unreasonable in light of the circumstances; or when a quorum cannot be reached.

Who ultimately determines whether a board meeting will take place?

The board determines whether it will meet. The board has granted the chair, and in some schools, other board officers, the authority to consult with the head of school on setting the agenda for regularly scheduled meetings and special called meetings. However, a majority of board members can determine that a meeting needs to be called or cancelled.

How do you provide notice to the public that a meeting has been cancelled or rescheduled?

The notice of cancellation or rescheduling should be sent out in the same manner in which the school would publicize notice of a meeting (i.e. post notice on doors and post on the school's website).

May a board schedule a special called meeting?

A board may schedule special called meetings to deal with unusual circumstances. If possible, notice should be given 24 hours prior to the meeting. The board will need to be able to identify the emergency if a 24-hour notice cannot be provided.

Can a board hold a meeting that is not public?

All meetings must comply with the Freedom of Information Act and must be accessible to the public. The Freedom of Information Act specifically prohibits closed meetings unless the board is entering into executive session for reasons specified by the law.

Do boards have to meet in person during this state of emergency?

Boards may opt to meet in person with essential staff, meet electronically using livestream or telephonic capabilities (if allowed in the board's bylaws), or a combination thereof with some persons meeting at the physical location and others participating electronically. If telephonic methods are used, the public must be provided a call-in number, preferably one with the ability to mute the public participants.

If the board bylaws do not allow electronic meetings, the board may vote to temporarily suspend that provision of the bylaws during the emergency period.

Does the public have to be able to view the board meetings?

The Freedom of Information Act only requires the public to be able to hear board members. Viewing the board meeting is not mandatory.

Do electronic meetings have to be recorded?

The Freedom of Information Act does not require board meetings, electronic or in-person, to be recorded.

Should the public be allowed to attend in-person board meetings?

The recommendations of the Center for Disease Control, the Governor's state of emergency declaration, and any city or county ordinances regarding COVID-19 should be followed. The board is authorized to limit in-person meetings to board members and essential staff, including security. The public must still be able to access the meetings electronically via a livestream or telephonic call-in number.

Who is considered essential staff that should attend board meetings?

This should be determined by the head of school, after consulting with the board member(s) (i.e. board chair, board officers, etc.) who develop the meeting's agenda.

What liability will the school face for mandating essential staff attend board meetings?

Please consult the school's attorney regarding any potential liability. The board is authorized, per the Governor's state of emergency declaration, to have essential staff report to work.

How does a school with a significant number of board members ensure that only 10 people are meeting?

The school may utilize both in-person and electronic methods to conduct board meetings to ensure that only 10 people are in the meeting at the same time.

Does the latest restriction of 3 or more people in the Governor's state of emergency declaration apply to school board meetings?

The latest restriction applies to unauthorized gatherings, not those necessary to conduct business. However, the school may limit the number of individuals meeting in-person.

Should board meetings include executive sessions if the meeting is conducted electronically?

Normally, boards should not utilize electronic means during executive session as there is no way to ensure complete privacy. However, during this state of emergency, boards may have to use electronic means for executive session in order to conduct business. The school will need to ensure that technology is in place to permit the board to "enter" executive session and to return to open session in a manner that provides privacy and allows the public continued access to the open portion of the meeting (i.e. a separate teleconference line for executive session that board members use while the public line is held open by the board's administrative assistant, etc.).

Please contact me at 803-849-2460 or by email at hrbenefits@erskinecharters.org if you need anything or have additional questions.