



Kansas Attorney General

Derek Schmidt

120 SW 10th Avenue, 2nd Floor

Topeka, KS 66612-1597

PHONE: (785) 296-2215 • FAX: (785) 296-6296

www.ag.ks.gov

K.A.R. 16-20-1. Compliance with the Kansas open meetings act during an emergency declaration.

(a) This regulation shall be in effect only:

(1) during a state of disaster emergency lawfully declared by the governor pursuant to K.S.A. 48-924(a) through (c), and amendments thereto, or other emergency declaration lawfully declared pursuant to applicable emergency-powers provisions of local, state or federal law,

(2) in the territory affected by any such declaration, and

(3) to the extent emergency responses required pursuant to any such declaration prevent or impede the ability of: (i) members of a public body or agency subject to the Kansas open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, to conduct meetings by physically gathering in person, (ii) members of the public to attend or observe public meetings by physically attending such meetings, or (iii) a combination of both (i) and (ii).

(b) All requirements of the Kansas open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, shall remain in force and effect during any emergency declared as described in paragraph (a)(1) unless expressly suspended by order of the governor pursuant to K.S.A. 48-925(c)(1), and amendments thereto, or other applicable provision of K.S.A. 48-925, and amendments thereto. No order of the governor shall be construed to suspend any requirement of the Kansas open meetings act unless such order (i) expressly cites and invokes K.S.A. 48-925(c)(1), and amendments thereto, and any other specific provision of K.S.A. 48-925, and amendments thereto, from which it draws authority, (ii) expressly references the Kansas open meetings act and the specific provisions thereof that the governor intends to suspend during the state of disaster emergency, and (iii) makes plain and unequivocal the intent of the governor to suspend any such requirement.

(c) A public body or agency may comply with the requirement of K.S.A. 75-4318(a), and amendments thereto, that a meeting be “open to the public” through the use of a telephone or other medium for interactive communication provided the requirements of subsection (e) are satisfied.

(d) As used in this section, a “medium for interactive communication” includes teleconference, videoconference, web conference, television broadcast, or other method that permits the public to listen to the meeting and also to observe the meeting if the medium allows for visual observation.

(e) Each public body or agency conducting an open meeting solely utilizing a telephone or other medium of interactive communication rather than by members such body or agency gathering in person at a physical location shall:

- (1) Use a medium of interactive communication that, at a minimum, allows members of the public, without cost, to listen to the meeting, and if available, also allows video observation of the meeting;
 - (2) Comply with all requirements of the Kansas open meetings act, except any temporarily suspended by the governor as provided by subsection (b), including requirements for notice;
 - (3) if the medium for interactive communication allows, provide an alternative means to access the meeting for members of the public who do not have internet access that also complies with the requirements issued pursuant to any emergency declaration;
 - (4) provide directions describing how members of the public will be able to electronically access, listen to or observe the open meeting;
 - (5) require each member of the public body or agency, staff or presenter to state their name and title, if any, each time they begin speaking or voting so they may be readily identified by remote listeners or observers;
 - (6) require all participants to ensure microphones, phones or other electronic devices are muted when not speaking so the ability of remote listeners or observers to hear the proceedings is not unnecessarily impeded;
 - (7) describe at the beginning of the meeting whether public comment will be allowed and what process will be used to identify any individual who wishes to comment if permitted;
 - (8) describe at the beginning of the meeting the process that will be used for a closed or executive meeting pursuant to K.S.A. 75-4319, and amendments thereto;
 - (9) prior to any meeting, provide electronic or paper copies of an agenda, if any, to any individual requesting the agenda;
 - (10) clearly state each motion before the public body votes and announce the results of the final vote; and
 - (11) clearly identify and authorize by delegation the member(s) of the public body or staff who will be permitted to sign any binding document for the public body or agency.
- (f) To the extent that emergency responses required pursuant to the emergency declaration prevent or impede the ability of the public to physically attend a public meeting, a public body or agency may comply with the requirement of K.S.A. 75-4318(a), and amendments thereto, by meeting in person but limiting physical access of the public to the place where the meeting occurs, provided the public body or agency:
- (1) Complies with all requirements of the Kansas open meetings act, except any suspended by the governor as provided by subsection (b), including requirements for notice;
 - (2)(A) broadcasts the meeting live on television or the internet; or
 - (B) provides members of the public the ability to access the meeting by telephone without cost; or

(C) uses any other similar method that permits the public to listen to or observe the meeting without cost;

(3) provides directions describing how members of the public will be able to electronically access, listen to or observe the open meeting;

(4) requires each member of the public body or agency, staff or presenter to state their name and title, if any, each time they begin speaking or voting so they may be readily identified by remote listeners or observers;

(5) describes at the beginning of the meeting whether public comment will be allowed and what process will be used to identify any individual who wishes to comment if permitted;

(6) describes at the beginning of the meeting the process that will be used for a closed or executive meeting pursuant to K.S.A. 75-4319, and amendments thereto;

(7) prior to any meeting, provides electronic or paper copies of an agenda, if any, to any individual requesting the agenda;

(8) states each motion before the public body votes and announces the results of the final vote; and

(9) identifies and authorizes by delegation the member(s) of the public body or staff who will be permitted to sign any binding document for the public body or agency.

(g) Nothing in this regulation shall require the public body or agency to provide members of the public with the opportunity for public comment.

(Authorized by K.S.A. 75-762 and implementing K.S.A. 75-4317 and 75-4318; effective, T-
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