



Minnesota Open Meeting Law: Using Technology to Meet

Minnesota Association of Workforce Boards
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The Minnesota Open Meeting Law

Minnesota Statutes, Chapter 13D

- Presumes all meetings of a governing body are open to the public unless there is statutory authority to close the meeting
- Notice requirements based on meeting type
- Fines and penalties may be imposed upon board member personally if intentional violation is found
- Court may order the board member to pay reasonable costs, disbursements and reasonable attorney fees, up to \$13,000, to the claimant

Applies to Meetings of the Governing Body of:

- School district however organized
- Unorganized territory
- County
- Statutory or home rule charter city
- Town
- Other public body

Which Meetings?

- All meetings of the public body as a whole
- Committees or subcommittees if:
 - Public body members comprise a quorum of the committee or subcommittee; or
 - Public body delegated authority to the committee or subcommittee



For Questions:

- Consult with legal counsel
- Check resources available at the Department of Administration's Data Practices Office: *MN.gov/admin/data-practices*
- Seek a formal opinion from the commissioner of the Department of Administration **with the assistance of legal counsel**

Using Technology to Meet

Minnesota Open Meeting Law

2 Statutes Permit for Remote Meetings



Minn. Stat. § 13D.02: Other Entity Meetings by Interactive Technology

- Can be used at any time
- Interactive technology (video): Must be able to both **hear and see** all discussion, testimony and votes at all board member locations



Minn. Stat. § 13D.021: Meetings During Pandemic or Chapter 12 Emergency

- Can be used when in-person meeting or a meeting conducted under 13D.02 is not practical or prudent because of a health pandemic or an Chapter 12 emergency
- Can be telephone or interactive technology

Determining Quorum and Participating



Minn. Stat. § 13D.02: Other Entity Meetings by Interactive Technology

- Each board member participating in a meeting by interactive technology is considered present at the meeting for purposes of determining a quorum and participating in all proceedings



Minn. Stat. § 13D.021: Meetings During Pandemic or Chapter 12 Emergency

- Each board member participating in a meeting by telephone or interactive technology is considered present at the meeting for purposes of determining a quorum and participating in all proceedings

Minn. Stat. § 13D.02: Other Entity Meetings by Interactive Technology



Requirements:

- All members of the body participating in the meeting, wherever their physical location, can **hear and see** one another and all discussion and testimony presented at any location at which at least one member is present.
- Members of the public present at the regular meeting location of the body can **hear and see** all discussion and testimony and all votes of all members of the body.
- At least one member of the body is physically present at the regular meeting location.

Section 13D.02: Additional Requirements



Requirements:

- All votes are conducted by roll call.
- **Each location at which a member of the body is present must be open and accessible to the public, unless an exception is met.**

Open, Accessible Requirement, Exceptions



Minn. Stat. § 13D.02: Other Entity Meetings by Interactive Technology

- Each location at which a board member is present must be open and accessible to the public, *unless*
 - Board member is serving in the military and at a required drill, deployed or on active duty; or
 - Board member has been advised by a health care professional against being in a public place for personal or family medical reasons *during a state of emergency declared under Minnesota Statutes, Section 12.31 or within 60 days of its expiration*
- **Limited to 3 times per calendar year**

Notice Under Section 13D.02



Entities must give:

- Notice of the regular meeting location AND
- Notice of any site location where a board member will be via interactive technology
 - **Except** for locations that do not need to be open and accessible to the public
- Generally, the notice:
 - Must be posted on the principal bulletin board (or on the door of its usual meeting room if there is no principal bulletin board) and
 - Mailed or otherwise delivered to each person who has filed a written request for special meeting notices
- **At least three days before the date of the meeting**

Section 13D.02: Monitoring and Minutes



- To the extent practical, the government entity must allow a person to monitor the meeting electronically from a remote location.
- The minutes for a meeting conducted under Section 13D.02 must reflect:
 - the names of any members appearing by interactive technology and
 - state the reason or reasons for the appearance by interactive technology.

Minn. Stat. § 13D.021: Meetings During Pandemic or Chapter 12 Emergency



- The presiding officer, chief legal counsel or chief administrative officer for the governing body determines that **an in-person meeting or a meeting conducted under Section 13D.02 is not practical or prudent because of a health pandemic or an emergency declared under Chapter 12.**
 - May depend on the particular circumstances of the governing body.
 - May take local public health conditions into account, as well as state and federal guidance.

Section 13D.021 Requirements



- All members of the body participating in the meeting, wherever their physical location, can **hear** one another and can **hear** all discussion and testimony.
- Members of the public present at the regular meeting location of the body can **hear** all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible due to the health pandemic or emergency declaration.
- At least one member of the body, chief legal counsel or chief administrative officer is physically present at the regular meeting location, unless unfeasible due to the health pandemic or emergency declaration.
- All votes are conducted by roll call.

Section 13D.021 Notice



Entities must give:

- Notice of the regular meeting location AND
- The fact that some board members may be participating by telephone or interactive technology AND
- The ability for the public to monitor the meeting electronically
- Generally, the notice:
 - Must be posted on the principal bulletin board (or on the door of its usual meeting room if there is no principal bulletin board) and
 - Mailed or otherwise delivered to each person who has filed a written request for special meeting notices
 - **At least three days before the date of the meeting**

Monitoring Requirement



Minn. Stat. § 13D.021: Meetings During Pandemic or Chapter 12 Emergency

- No requirement for remote locations to be open and accessible to the public
- To the extent practical, the government entity must allow a person to monitor the meeting electronically from a remote location.

Public Comment Period



Minn. Stat. § 13D.021: Meetings During Pandemic or Chapter 12 Emergency

- If attendance at the regular meeting location is not feasible due to the health pandemic or emergency declaration and the public body's practice is to offer a public comment period at in-person meetings, members of the public shall be permitted to comment from a remote location during the public comment period of the meeting to the extent practical.

FAQs on Meeting Remotely

Limit on Remote Attendance?

Q: Is there a limit on the number of times that a board member can attend a meeting from a remote location?



Limit on Remote Attendance?

A: No. It's a policy decision.

- The only statutory limitation is related to the number of times that a remote location can be closed to the public for personal or family medical reasons (during or within 60 days after a state of emergency only) or military reasons when meeting under Section 13D.02.

Board Member Illness?

Q: If a board member with a medical issue has been advised to stay home and away from the public, can the board member attend meetings remotely?



Board Member Illness?

A: It depends.

- Section 13D.02 requires all remote locations be open and accessible to the public.
 - If the board member cannot make his or her location open and accessible, all statutory requirements have not been met.
 - Note: There is no medical exception to the open and accessible requirement unless there is currently a state of emergency declared under Minnesota Statutes, Section 12.31 or within 60 days of one ending.
- The analysis may be different if the board is currently meeting under Section 13D.021.

Change of Plans

Q: A board member recently discovered that he or she cannot attend a scheduled in-person board meeting. Can the board member attend remotely via interactive technology?



Change of Plans

A: It depends on when the in-person meeting is occurring

- Under Section 13D.02, entities must give notice any locations at which board members will be participating via interactive technology, unless the remote location is closed to the public under the limited exceptions.
- The notice needs to be provided at least three days before the date of the meeting.
- If the notice cannot be provided within this time frame, all the requirements for meeting remotely have not been met.

Discussion

Ask Questions and Share Experiences

