

To Our School Board Community:

Given the current uncertainty surrounding COVID-19, we here in the Education Department at Cooper Levenson thought it appropriate to provide guidance regarding holding Board Meetings while your School District is closed. The below is subject to any additional Federal, State, or Locally issued rules or orders that may be issued in the coming days and weeks, including curfews and prohibitions on large gatherings.

The Division of Local Government Services gave the following direction regarding board meetings:

- *In accordance with N.J.S.A. 10:4-6, et seq., (the “Open Public Meetings Act,” or “Act”), public meetings may be held in person or by means of communication equipment, N.J.S.A. 10:4-8(b), to include streaming services and other online meeting platforms. All meetings, including those held using communications equipment, must be noticed in a manner consistent with the requirements of the Act, unless the meeting is for emergent circumstances and held in a manner consistent with the requirements set forth at N.J.S.A. 10:4-9(b).*
- *Local units should also provide guidance to the public for remotely accessing and providing comment at a meeting.*
- *Local units should still have an advertised meeting place, which, is connected to the meeting through communications equipment, unless otherwise directed by state or local emergency management or health officials, consistent with Executive Order 103 (Murphy 3/9/2020).*
- *Local units are reminded that they are required to provide a means of public comment even if a meeting is held remotely.*
- *Further, if a local unit currently records the audio or video of its meetings, we recommend that it continue to record a remote meeting.*
- *Local units holding meetings remotely are advised to avoid entering executive or closed session unless the topic of concern is urgent, directly affects the health, safety, or welfare of residents, and is an allowed exception as listed in N.J.S.A 10:4-12, given the difficulty of ensuring only appropriate individuals are on the line during a separate session. If an executive or closed session is necessary, local units must use a mechanism that ensures the confidentiality of closed session. To this end, after announcing the executive or closed session at the public portion of the meeting consistent with the Act, a local unit may consider using a separate, non-public, dial-in mechanism for the executive or closed portion of the meeting.*

With that direction we offer the following guidance for your Board Meetings:

- Meetings where a limited number of Board Members (less than a quorum) choose to participate via telephone or video conference

-Meeting with a quorum of Board Members physically present at the Board Meeting location while other Board Members participate via speakerphone or videoconferencing.

-This is an option if you have some Board Members who do not feel comfortable attending the public meeting.

- If you anticipate that Board Members will opt for electronic participation in an already scheduled meeting, it is imperative that you ensure the Board Members are able to participate fully, hear everything, and everyone else can hear them. It would be best if everyone could hear and see the Board Member.

-If the Board goes into Executive Session, the electronically participating Board Member must ensure the remaining Board Members that they are in a confidential location where they cannot be over heard and nobody is else is on the phone or videoconferencing call.

- The Board Member must electronically participate for the whole Board Meeting.

-As a courtesy consider allowing members of the public to electronically view and electronically participate in the meetings.

-All other elements of your meetings should follow regular meeting process, including public discussion and public participation elements.

- Electronic Meeting (Virtual Meetings)

- It is imperative that you ensure the Board Members are able to participate fully, hear everything, and everyone else can hear them. It would be best if everyone could hear and see the Board Members.

- If more than a quorum of Board Members will be participating virtually, you should advertise that it will be a virtual meeting. If your meetings are scheduled for this week and you cannot meet the notice requirements to advertise as a virtual meeting, make sure you allow the public to attend at the noticed physical location of the Board Meeting and ensure they are able to hear everything and participate as if it were a normal meeting.

- Similarly, you must provide the public with a remote participation option, whether that be to type questions on a social media platforms during public comment (and be read out loud at the meeting), call in with their questions and remarks during public comment (so that everyone can hear them), or e-mail their questions during the meeting to be read out loud during public comment. If questions are e-mailed or typed in they should be read in normal que and addressed in the same manner as any other public comment.

- The Board Secretary/Business Administrator and Superintendent, and whoever else you deem necessary must be physically present at the advertised location to facilitate the process. If your Board does not typically live stream your meetings, some examples of streaming services are Facebook Live, Zoom, and YouTube. Though, we are not endorsing any of these services.

-Closed session should not occur unless you absolutely have to, and if you must to use a secure platform or another platform for this discussion, such as a phone conference, etc.

- The Board should pass a resolution permitting changes to the meeting format given the current public health emergency.

Other “Best Practices” for Meetings and Items to Consider while all Districts are closed:

- All non-mandated presentations should be cancelled.
- Utilize a consent agenda if possible.
- Although you cannot tell members of the public, faculty, and staff not to attend, you can ask that everyone be conscious of other members of the Board and public, and take every precaution not to spread illness.
- Continue other best practices to prevent spread of illness, including hand sanitizer, social distancing, follow all other state and local guidelines.

If you have any further questions about Board Meetings or anything else in the coming weeks, please do not hesitate to contact us.