

Kentucky Office of Attorney General Open Meetings Opinion During the Pandemic

At the request of the Kentucky League of Cities (KLC) and the Kentucky Association of Counties, on March 18, 2020, Attorney General Daniel Cameron issued opinion OAG 20-05. [https://www.klc.org/userfiles/03.18.20_OAG_20-05_\(final\)20200326154926.pdf](https://www.klc.org/userfiles/03.18.20_OAG_20-05_(final)20200326154926.pdf)

The opinion determined that during the extraordinary circumstances presented by the COVID-19 pandemic, public agencies are not required to identify a primary physical location for video teleconference meetings. This opinion is consistent with KLC's previous guidance to cities during this outbreak and provides additional assurance for the conduct of remote meetings and meetings that restrict public attendance.

The opinion relies upon KRS 61.840 to conclude that identifying a primary physical location in which the public may gather to view video teleconference meetings is infeasible given the social distancing requirements issued by the Centers for Disease Control and Prevention (CDC). Public agencies must still conduct meetings via technology that allows the public to see and hear all participating members.

To conduct video teleconferencing, cities must provide a notice that states that the meeting will be held by video teleconference and detail the mechanism by which the video teleconference can be accessed, such as a web address, link, television channel, or other marker that provides public access to see and hear the meeting. Further, the notice must conform to the 24-hour time frame and other transmission and posting requirements of KRS 61.823 for special meetings. Based on the opinion, this rule will apply whether the meeting is a special or regular meeting that is being teleconferenced. A detailed agenda must be included in the notice and only those subjects listed on the meeting agenda can be discussed. If at any time the video or audio is disrupted, the meeting must be discontinued until the video and audio are restored in full.

On March 25, 2020, Governor Andy Beshear issued Executive Order 2020-257 suspending in-person government activities unless necessary to protect or sustain life. This order should be interpreted broadly to postpone in-person meetings of city legislative bodies, and their various boards, commissions, and other authorities unless they are related to maintaining necessary government activities. It is also important to note that if a quorum of the legislative body or other public agency is meeting in person, media must be permitted within the location of the meeting of the physically present quorum; however, the general public may still be excluded. There are many internet-based options for video teleconferencing that are relatively user-friendly. Microsoft Team, Zoom, and Go To Meeting are a few common options available that can be used with a laptop or smartphone.

KLC is very appreciative to the Kentucky Office of Attorney General for providing this opinion so quickly to assist our cities in navigating city business during these extraordinary times. KLC will continue to provide cities with any and all resources necessary to operate through this pandemic. Please contact KLC's Municipal Law Department for additional information at mpatterson@klc.org; ashindlebower@klc.org; cstraw@klc.org; and cjohnson@klc.org.

You can read the entire opinion here. [https://www.klc.org/userfiles/03.18.20_OAG_20-05_\(final\)20200326154926.pdf](https://www.klc.org/userfiles/03.18.20_OAG_20-05_(final)20200326154926.pdf)