

AARON D. FORD
Attorney General

KYLE E. N. GEORGE
First Assistant Attorney General

CHRISTINE JONES BRADY
Second Assistant Attorney General



JESSICA L. ADAIR
Chief of Staff

RACHEL J. ANDERSON
General Counsel

HEIDI PARRY STERN
Solicitor General

STATE OF NEVADA

OFFICE OF THE ATTORNEY GENERAL

555 E. Washington Ave. Suite 3900
Las Vegas, Nevada 89101

MEMORANDUM

To: Nevada Public Bodies

From: Rosalie Bordelove, Chief Deputy Attorney General, Boards and Open Government Division

Date: March 16, 2020

Subject: Open Meeting Law Guidance

In light of recent developments related to COVID-19 in Nevada, the Office of the Attorney General (OAG) would like to offer some guidance to public bodies within the State of Nevada regarding the application of Nevada's Open Meeting Law (OML) in emergency situations and regarding the use of teleconferencing and videoconferencing equipment.

The OML is contained in NRS Chapter 241 and applies to all meetings of public bodies within the State, with few exceptions. NRS 241.010; 241.016. In enacting the law, the Nevada Legislature declared the intent of the law is that the actions of public bodies be taken openly and that their deliberations be conducted openly. NRS 241.010(1).

Teleconferencing. A public body may conduct a meeting by means of teleconference or videoconference if (a) a quorum is actually or collectively present, whether in person or by means of electronic communication, and (b) there is a physical location where members of the public are permitted to attend and participate. NRS 241.023(1). In addition, the chair of the public body, or his or her designee, must make reasonable efforts to ensure that members of the public body can participate in the meeting and members of the public in attendance at the physical location can hear or observe each member attending by teleconference. NRS 241.023(2). While the OML does not require that teleconference or videoconference options be provided to members of the public, due to current events, the OAG encourages offering such options where circumstances permit.

Emergency Meetings. The OML offers an exception to the public notice requirement in the case of an emergency. NRS 241.020(3). For purposes of this exception, "emergency" means "an unforeseen circumstance which requires immediate action and includes, but is not limited to: . . . (b) Any impairment of the health and safety of the public." NRS 241.020(11). For purposes of its enforcement abilities under NRS 241.037 and 241.039, the OAG will liberally construe this exception where the intent is protecting public health in light of COVID-19.

When conducting an emergency meeting, only the requirements with respect to public notice being given three working days prior to the meeting are waived. NRS 241.020(3). Public bodies should still draft a public notice agenda for its meetings and comply with as many of the posting requirements as it is reasonably able under the circumstances. *See* NRS 241.020(3)-(6). Only those agenda items which are required by the emergency circumstances should be considered or acted upon during an emergency meeting. A physical location where members of the public are permitted to attend and make public comment is still required, even in the event of an emergency meeting. NRS 241.023.

The OAG recognizes that due to current events, many public bodies need to act quickly and may have confusion regarding their abilities under Nevada's OML. Public bodies are encouraged to contact the OAG if they have general questions regarding the OML and OAG staff will make every effort to respond as quickly as possible.