

Kansas Administrative Regulations

Attorney General

Article 20.—Kansas Open Meetings Act

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

(a) This regulation shall be in effect only as follows:

(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 that emergency responses required pursuant to any such declaration prevent or impede the ability of any of the following:

(A) 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;

(B) members of the public to attend or observe public meetings by physically attending the meetings; or

(C) a combination of both paragraph (a)(3)(A) and paragraph (a)(3)(B).

(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 the order meets the following conditions:

(1) 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 the order draws authority;

(2) 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

(3) makes plain and unequivocal the intent of the governor to suspend any such requirement.

(c) Any 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 if the requirements of subsection (e) are met.

(d) As used in this regulation, "medium for interactive communication" shall include teleconference, videoconference, internet conference, television broadcast, or any other method that permits the public to listen to the meeting and also to observe the meeting if the method allows for visual observation.

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

(1) Use a medium for 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) if the medium for interactive communication does not permit easy identification of the individual speaker, require each member of the public body or agency, staff, or presenter to state the individual's name and title, if any, each time the individual begins

speaking or voting so that the individual can be readily identified by remote listeners or observers;

(6) require all participants to ensure that microphones, phones, or other electronic devices are muted when the participants are not speaking so that 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) before 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) when not otherwise established by the agency or by ordinance or resolution of the public body, pass a motion that clearly identifies and authorizes by delegation each member 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, any 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 if the public body or agency meets the following requirements:

(1) Complies with all requirements of the Kansas open meetings act, except any requirements suspended by the governor as provided by subsection (b), including requirements for notice;

(2)(A)(i) Broadcasts the meeting live on television or the internet; and

(ii) provides members of the public with the ability to access the meeting by telephone without cost; or

(B) uses any other method other than the methods specified in paragraphs (f)(2)(A)(i) and (ii) 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) if the medium for interactive communication does not permit easy identification of the individual speaker, requires each member of the public body or agency, staff, or presenter to state the individual's name and title, if any, each time the individual begins speaking or voting so that the individual can 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) before 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) when not otherwise established by the agency or by ordinance or resolution of the public body, passes a motion that clearly identifies and authorizes by delegation each member of the public body or staff who will be permitted to sign any binding document for any public body or agency.

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

(h) Nothing in this regulation shall require any public body or agency to take action to prevent any member of the public from physically attending any public meeting.

(Authorized by K.S.A. 75-762; implementing K.S.A. 75-4317 and 75-4318; effective, T-16-3-25-20, March 25, 2020; effective Sept. 11, 2020.)