

Julia Hosford Barnes, P.C.

To: PEC
From: Julia Barnes
Re: Hybrid Attendance
Date: September 21, 2023

You have asked what the status is of guidance on a virtual or hybrid meeting is from the Attorney General.

First, the guidance on hybrid attendance is still posted on the AG's website and is the first item on the Open Meetings Act page.

The screenshot shows a web browser window with the URL nmag.gov/get-help/open-meetings-act/. The page title is "Open Meetings Act" and the breadcrumb trail is "Home > Get Help > Open Meetings Act". The main content area features a section titled "AG Guidance to Public Entities Regarding OMA and IPRA Compliance During COVID-19 State of Emergency". The text in this section states: "Attorney General Balderas issued the following guidance to public entities across the State of New Mexico regarding their ongoing obligations to comply with the Open Meetings Act (OMA) and the Inspection of Public Records Act (IPRA) during the state of emergency in New Mexico." Below this text is a link: "Open Government Division Advisory During COVID-19 State of Public Health Emergency". The page also includes a sidebar with various links such as "Consumer Complaint Instructions", "Investigations Complaint", "OMA and IPRA Complaints", "Tobacco Manufacturers Directory", "Tobacco Forms", "Other Agency Resources", "Consumer Protection", "Open Meetings Act", and "Inspection of Public Records Act". The Windows taskbar at the bottom shows the date as 9/12/2023 and the time as 3:30 PM.

Further, in a voicemail from Heather Sandoval from the AG's office she indicated that the guidance is no longer effective technically. They do use this type of guidance to explore ways for hybrid meetings for certain types of entities. However, the idea right now is to go back to the way that boards and commissions met prior to COVID.

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The guidance for hybrid meetings in the AG Guidance to Public Entities Regarding OMA and IPRA Compliance During COVID-19 State of Emergency” is as follows:

If, however, a board or commission has a time-sensitive matter to attend to, it may proceed with a virtual meeting, provided its notice of meeting contains detailed information (password, phone number, etc.) about how members of the public may attend and listen via telephone, live streaming or other similar technologies. More specifically, if a public body decides to proceed with a virtual meeting, it should:

- At the start of the meeting, the chair should announce the names of those members of the public body participating remotely.
- All members of the public body participating remotely must identify themselves whenever they speak and must be clearly audible to the other members of the public body and to the public.
- Members of the public should be afforded remote access, via live stream or other similar technology, if possible, or call-in number for listening by phone.
- Chair should suspend discussion if the audio or video is interrupted.
- All votes of the public body must be by roll call vote.
- The public body should produce and maintain a recording of the open session of the meeting.

Your decisions are time-sensitive, so I think that you can utilize these protocols. Further, you have indicated a preference for in-person attendance, and you are holding hybrid regular meetings, not virtual regular meetings unless there is an extraordinary circumstance. The upgraded Mabry Hall equipment is state-of-the-art and allows ready access to public either in person or virtually. If the PEC determines that it will continue to follow this protocol as presently exists in the Rules of Procedure, I suggest that you put these requirements listed above into the agenda template and continue to follow this guidance.

