

Committee on Open Government – Open Meetings Law

In April of 2022, the Committee on Open Government (COOG) put together a [Question-and-Answer](#) document, which includes clarification for interpreting *Chapter 56 of the Laws of 2022 relating to the New York State budget for the 2022-2023 state fiscal year* and how it describes to videoconferencing under Open Meetings Law (OML). The Q&A document and law should be read in total, and questions regarding interpretation and application should be directed to legal counsel. Key points are highlighted below.

- Under the new law, members of a public body, including trustees of library boards, are permitted to participate remotely by videoconference from a location not open to the public under "extraordinary circumstances." The law includes a non-exhaustive list of such circumstances, "including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting."
- There are steps that a public body, including a library board of trustees, must take before it can permit its members to participate remotely citing extraordinary circumstances, including the adoption of a resolution that defines "extraordinary circumstances" and a public hearing regarding authorization of the use of videoconferencing in these circumstances.
- Any member who participates at a physical location that is open to in-person attendance by the public (and which location has been included in the meeting notice) may count toward a quorum and fully participate and vote in the meeting. If there is a quorum of members at a physical location open to the public, the public body may properly convene a meeting; a member who is participating from a remote location that is not open to in-person physical attendance by the public may not count toward a quorum of the public body (but may participate and vote if there is a quorum of members at a physical location open to the public).
- The law requires that "a minimum number of members are present to fulfill the public body's quorum requirement in the same physical location or locations where the public can attend" and that members of the public body "shall be physically present at any such meeting unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances."
- If a public body conducts a meeting leveraging allowing a member to participate from a private location by videoconference based upon a determination of "extraordinary circumstances," the public notice for the meeting must inform the public that such videoconferencing will be used and must include directions for how the public can view and/or participate (if participation is permitted) in such meeting. A public body that allows public comment or participation must provide the same opportunity for general members to view the forum and participate, by remote technology or in-person, in real-time.

- The law requires that “minutes of the meetings involving videoconferencing shall include which, if any, members participated remotely.” Each meeting conducted using [extraordinary circumstances] videoconferencing shall be recorded. Such recordings will be posted or linked on the public website of the public body within five business days following the meeting and remain available for a minimum of five years after that. Such recordings shall be transcribed upon request. This provision does not apply to meetings of public bodies that are not taking advantage of “extraordinary circumstances” videoconferencing such that a member is participating from a non-public location.
- The law states that the “in-person” participation requirements of the law shall not apply during a state disaster emergency declared by the governor or a local state of emergency proclaimed by the chief executive of a county, city, village, or town if the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the public body to hold an in-person meeting.

Resolution: Adopted on May 18, 2022, by unanimous vote of the Board of Trustees of the Catskill Public Library.