

Insights

Indiana's Open Door Law ("ODL") Partially Suspended in Response to COVID-19

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By: Christopher W. Bloomer and Robert S. Schein

Following earlier executive action concerning COVID-19, Indiana Governor Eric Holcomb issued **Executive Order 20-04 (the "Order") on March 16, 2020**. Pertinent to the ODL, and with aims to increase containment of the virus and prevent initial exposure and secondary transmission, the Order directs the following:

- **Public meetings conducted pursuant to the ODL should be limited to only essential matters critical to the operations of the subject governmental agency or entity.**
- **All statutory deadlines requiring a governing body to meet during the COVID-19 public health emergency are suspended, so long as cancellations do not disrupt essential government decisions or services, and so long as the meeting is not otherwise required by federal law.**
- **All governing bodies may meet electronically, provided that one member of the body is physically present.** Previously, the members of the governing body had to expressly adopt an electronic meeting policy under Ind. Code § 5-14-1.5-3.6 (f), and more than one member was required to be present pursuant to Ind. Code § 5-14-1.5-3.6 (c).
- **All governing bodies of public agencies may post notices and agendas for meetings solely by electronic means during the COVID-19 health emergency.** Previously, meeting notices were to be issued pursuant to Ind. Code § 5-14-1.5-5, which required posting of the notice at the public agency's office or the building where the meeting was to be held. Agendas were to be posted in hardcopy prior to the meeting, at the entrance to the location of the meeting. Ind. Code § 5-14-1.5-4.
- **Any political subdivision other than a charter school, public agency of the state, or an airport authority (i.e. cities, towns, county governments, etc.) may act consistent with the provisions contained in Ind. Code § 5-14-1.5-3.6, including the ability to meet remotely.**

Previously, only charter schools, public agencies of the state, and airport authorities could participate by electronic communication and take final action at a meeting. Compare Ind. Code § 5-14-1.5-3.5 (b) ("a member of the governing body of a public agency who is not physically present at a meeting . . . may not participate in final action taken at the meeting unless the member's participation is expressly authorized by statute") with Ind. Code § 5-14-1.5-3.6 (b-e) ("a member of a [governing body of a charter school, public agency of the state, or airport authority] who is not physically present at a meeting of the governing body may participate in a meeting of the



governing body by electronic communication [and so long as certain criteria are met] . . . a member who participates in a meeting by electronic communication . . . may vote at the meeting.”

If you have questions pertaining to information found in this alert please contact **Christopher W. Bloomer** or reach out to any member of Krieg DeVault's **Public Finance and Municipal Law team**.