

I. All State and Local Government Meetings

A. Public Participation -- R.S. 42:14(E)

- Applies to all state and local public bodies, which is defined in the Open Meetings law as “village, town, and city governing authorities; parish governing authorities; school boards and boards of levee and port commissioners; boards of publicly operated utilities; planning, zoning, and airport commissions; and any other state, parish, municipal, or special district boards, commissions, or authorities, and those of any political subdivision thereof, where such body possesses policy making, advisory, or administrative functions, including any committee or subcommittee of any of these bodies [. . .].” R.S. 42:13(A)(3).
 - The law specifically excludes the following public bodies from its provisions:
 - The legislature and committees thereof;
 - The State Board of Elementary and Secondary Education;
 - The Board of Regents;
 - The Board of Ethics or Ethics Adjudicatory Board;
 - The State Civil Service Commission;
 - The board of directors of the Louisiana Citizens Property Insurance Corporation;
 - The Louisiana Board of Commerce and Industry;
 - The board of supervisors for LSU, University of Louisiana System, Louisiana Community and Technical College System, Southern University System; and
 - Any parish board of election supervisors.
- All public bodies that have the capability to conduct electronic meetings (tele or videoconference) shall adopt rules, regulations and procedures to allow any member of the public with a disability recognized by the Americans with Disabilities Act (ADA), or caretaker of such person, to participate in its meetings if such person so requests.
- Public bodies that do not have such capability shall adopt rules to facilitate viable alternative methods for members of the public with an ADA disability to participate in its meetings if such person, or caretaker, so requests.
- State agencies, defined in R.S. 49:951 as all state entities except committees/boards of the Court and the Legislature, shall promulgate rules pursuant to the Administrative Procedures Act (APA).
- Requirements of R.S. 42:14(E) are not applicable during an properly held executive session or during any meeting that is sequestered in accordance with the law.

B. Board Participation -- R.S. 42:17.2.1

- Applies to all state and local public bodies as defined in Open Meetings Law (R.S. 42:13(A)(3)) *except* the legislature and any parish board of election supervisors.
- Provides that a member of a public body who has a disability recognized by the ADA *shall* be allowed to participate and vote in a meeting via electronic means as defined in R.S. 42:17.2 (video or teleconference).
- Such a member’s participation via electronic means shall also count towards the making of a quorum.
- Each public body is required to adopt rules, regulations and procedures to facilitate the requirements of R.S. 42:17.2.1(A).
- State agencies (as defined in R.S. 49:951) shall promulgate rules pursuant to APA.

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II. Non-Emergency Exception to 1/3 of Open Meetings of Statewide Boards

R.S. 42:17.2 authorizes certain statewide public bodies to conduct up to 1/3 of their meetings via electronic means (video or teleconference) outside of a gubernatorially declared state of disaster or emergency provided certain special requirements, including notice, agenda publication, and public participation, are met. **This law is not related to ADA considerations.**

Public bodies to which this exception applies:

- This exception only applies to those public bodies that have “powers, duties, or functions that are not limited to a particular political subdivision or region and that conducts at least six regularly scheduled meetings in a calendar year.” R.S. 42:17.2(H)(1).
 - Examples of such boards would be the State Bond Commission and most licensing or regulatory boards, such as the Pharmacy Board.
 - **NOTE: the law specifically provides that licensing or regulatory bodies shall not conduct a disciplinary hearing or adjudication via electronic means. R.S. 42:17.2(H)(2).**
- Additionally, specific public bodies that would otherwise meet the definition of R.S. 42:17.2(H)(1) are excluded from the provisions of this law as follows:
 - The legislature and committees thereof;
 - The State Board of Elementary and Secondary Education;
 - The Board of Regents;
 - The Board of Ethics or Ethics Adjudicatory Board;
 - The State Civil Service Commission;
 - The board of directors of the Louisiana Citizens Property Insurance Corporation;
 - The Louisiana Board of Commerce and Industry;
 - The board of supervisors for LSU, University of Louisiana System, Louisiana Community and Technical College System, Southern University System; and
 - Any parish board of election supervisors.

Notice:

No later than 24 hours prior to the electronic meeting, the public body shall provide all of the following

- The notice and agenda for the meeting posted on the public body’s website, emailed to any member of the public or the news media who requests notice and posted and distributed as otherwise required by law;
- Detailed information regarding how members of the public may participate in the meeting and submit comments regarding matters on the agenda, which information shall be posted on the website of the public body, emailed to any member of the public or the news media who requests notice of meetings of the public body.

Meeting Requirements: R.S. 42:17.2(C)

- The presiding officer shall be present and shall preside over the meeting at an “anchor location,” defined as the public location at which the public body holds in-person meetings or is specifically equipped with the technology necessary to meet via electronic means. This anchor location shall be open to the public and any member of the public shall be allowed to participate in person at the anchor location.

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- The public body shall provide a mechanism to receive public comment electronically in the manner it prescribes prior to and, to the extent practical, during the meeting.
- The public body shall identify and acknowledge all public comments, inclusive of those received in person during the meeting (at the anchor location) and those received in writing or electronically prior to any submission deadline for the meeting and shall maintain those comments in its record of the meeting.
- The presiding officer shall ensure all of the following:
 - (a) That each person participating in the meeting is properly identified.
 - (b) That all parts of the meeting, excluding any matter discussed in executive session, are clear and audible to all participants in the meeting including the public.
 - (c) That the voting decision of each participating member of the public body on each matter is clearly identified during each vote during the meeting and recorded and included in the archive of the meeting.
- If the public body is aware of any technical problem that causes the meeting to no longer be audible/visible to the public, the meeting shall be recessed until the problem is resolved. If the problem is not resolved within one hour, the meeting shall be adjourned. The presiding officer shall make an effort to alert all participants to that fact.
- The meetings shall be recorded and made available to the public in an online archive located on the public body's website for at least two years.
- All documents made available to members of the public in attendance at the anchor location shall be made available electronically to members of the public participating electronically to the extent practicable.

Quorum, Voting and Rules: 42:17.2(E)

- All members of the public body participating in a meeting held pursuant to R.S. 42:17.2, either at the anchor location or via electronic means, shall be counted for the purpose of establishing a quorum and may vote.
- Each public body conducting meetings pursuant to R.S. 42:17.2 shall adopt rules, regulations and procedures to allow the public to participate in the meeting via electronic means.

Number of Electronic Meetings: R.S. 42:17.2(F)

- The number of electronic meetings is limited to no more than 1/3 of the meetings held in a calendar year.
- Additionally, the number of successive electronic meetings shall be limited to a reasonable number and a schedule shall be published indicating which upcoming meetings will be conducted in person and which will be electronic.
- **Any public body that is strictly advisory or that primarily focuses on issues dealing with disabilities or assisting military families may conduct successive meetings electronically without limitation.**

Per diem R.S. 42:17.2(G)

- Members of a public body who participate in a meeting via electronic means are not eligible to receive a per diem.

III. Disability Recognized by the Americans with Disabilities Act

The Americans with Disability Act (ADA), in 42 USC §12102, defines “disability” for the purpose of an individual under the ADA to mean:

- A physical or mental impairment that substantially limits one or more major life activities of the individual;
- A record of such an impairment; or
- Being regarded as having such an impairment.

The ADA further defines “major life activities” as including, but not limited to, the following:

- Caring for oneself, performing manual tasks, seeing, hearing, eating, sleeping, walking, standing, lifting, bending, speaking, breathing, learning, reading, concentrating, thinking, communicating, and working; and
- Operation of major bodily functions, such as functions of the immune system, normal cell growth, digestive, bowel, bladder, neurological, brain, respiratory, circulatory, endocrine, and reproductive functions.

42 USC §12102(4) provides that disability shall be construed in favor of broad coverage of individuals, and that impairments may be temporary in nature and still constitute a disability for the purposes of the ADA.

The ADA itself does not define or identify specific medical conditions as constituting a disability. However, the Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Justice: Civil Rights Division, who are tasked with enforcement of the ADA, have through rulemaking provided guidance that the following medical conditions, when substantially limiting major life activities, will likely constitute a disability for the purposes of the ADA:

- Blindness
- Deafness
- Intellectual disability
- Partial or complete missing of limbs or mobility impairments requiring a wheelchair
- Autism
- Cancer
- Cerebral palsy
- Diabetes
- Epilepsy
- Human Immunodeficiency Virus (HIV),
- Multiple sclerosis
- Muscular dystrophy
- Major depressive disorder
- Bipolar disorder
- Post-traumatic stress disorder (PTSD)
- Obsessive compulsive disorder (OCD)
- Schizophrenia