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New York Coalition



For Open Government, Inc.



Shoshanah Bewlay, Executive Director
Committee on Open Government

July 28, 2021

VIA EMAIL

Re: Please Issue Guidance on Open Meetings Law Post-COVID

Dear Ms. Bewlay,

We write to ask that the Committee on Open Government (COOG) staff publish guidance on your website clearly detailing what the Open Meetings Law (OML) requires public bodies to do, now that the COVID-19 emergency order has ended. Specifically, COOG should address the law as it applies to the following:

- Attendance
- Quorum
- Voting
- Accommodations for those attending in person and remotely
- Testimony by the public
- Testimony by public officers

Advocates also have expressed confusion about how the law applies to hearings as opposed to meetings, and what qualifies as “reasonable efforts” to accommodate both people with ambulatory disabilities and members of the public (we appreciate COOG’s efforts to educate the public on OML through trainings).

Since Governor Cuomo ended the official state of emergency and Executive Order 202 was rescinded, journalists and civic organizations across New York have noticed that state and local public bodies appear to be interpreting the Open Meetings Law differently. While some bodies

are now meeting in person, others are still holding virtual meetings, some of which appear to be in violation of OML now that the state of emergency has ended. There are also issues with public access—during the pandemic, members of the public could testify remotely, but for some that may no longer be an option.

COVID-19 has changed the conversation about how public bodies should convene and the public's level of access. While it's ideal that public bodies meet in person like before, we are sympathetic to the challenges that some officials and members of the public face gathering at a single location while coming from faraway regions. Some may also be pregnant, immunocompromised, have disabilities or be taking care of vulnerable family members, complicating in-person attendance as virus variants continue to circulate.

Ideally, the state will find a way to both resume in-person meetings and ensure remote access. It's important that the solution requires a quorum of the government body to be present at an accessible meeting location. The Open Meetings Law strives for maximum transparency, and the end of the COVID-19 emergency must not result in diminished access for the public.

However, state and local agencies are struggling to determine the best path forward. We believe that guidance from COOG staff would provide much-needed clarity.

Sincerely,

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