

# Informational Legal Memo



TO: Indiana Public Libraries

FROM: Indiana State Library

RE: Governor Holcomb's Executive Order 20-04  
(Paragraph #5 Public Meetings/Open Door Law)

DATE: March 19, 2020

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On March 6, 2020, Governor Holcomb issued [Executive Order 20-02](#). Executive Order 20-02 declared a public health emergency in the State of Indiana due to the spread of the coronavirus disease of 2019 (COVID-19). On March 17, 2020, Governor Holcomb issued [Executive Order 20-04](#) which provided "further orders and directives" in response to the COVID-19 epidemic. Paragraph 5 of Executive Order 20-04 addresses temporary modifications to the Open Door law which will be in effect for the duration of this public health emergency. The temporary modifications made to the requirements for public meetings as applicable to public libraries are summarized below:

- The legal requirement for library boards to meet monthly is suspended. Library boards may skip the required monthly meetings unless doing so will disrupt essential decisions or services (or unless the board is otherwise required to meet by federal law).
- In the event the library board decides to meet, it should be for the purpose of discussing essential matters critical to the operations of the library.
- Libraries may post notices and agendas for meetings solely by electronic means (on the library website).
- Library boards may conduct electronic meetings under [IC 5-14-1.5-3.6](#). This is a section of the law public libraries usually cannot use as it is reserved for agencies of the state and bodies corporate and politic. Electronic meetings may be conducted as modified by the terms of Executive Order 20-04. Such meetings should abide by the following guidelines:

For questions regarding this memo or to suggest another memo topic, contact Sylvia Watson at [sywatson@library.IN.gov](mailto:sywatson@library.IN.gov).

- Per the Executive Order:
  - The board does not have to pass a policy in order to conduct electronic meetings.
  - The number of board members required to be physically present may be reduced to one member only.
  - The meeting is still considered open to the public where the one member is present and the public should be allowed to observe/attend to the extent that the number of participants present in person do not exceed the number set by the CDC in their guidance on gatherings (as of the date of this memo, the maximum attendees allowed would be 10 but be sure to check the [CDC guidance](#) for updates to this number). Libraries should make efforts to allow the public to participate electronically, if feasible.
  
- In accordance with IC 5-14-1.5-3.6, the rest of which is in effect and still applies:
  - Board members present electronically may participate if the member uses a means of electronic communication that permits the board member and members of the public physically present at the place where the meeting is conducted to communicate simultaneously.
  - Votes on decisions by members attending remotely may be counted but such votes must be taken by roll call vote.
  - Each library board member must physically attend at least one meeting annually. (This would only be relevant if the public health emergency extends on throughout the year)
  - Unless the library board adopts a policy that says otherwise, each board member attending the meeting electronically is considered present at the meeting for the purpose of establishing a quorum.
  - Meeting notice and meeting memoranda requirements for public meetings still apply
  - The board may conduct an executive session electronically and may exclude the public. However, meeting notice and meeting memoranda requirements for executive sessions still apply as well.
  - The library board may adopt a policy related to board member participation in electronic meetings if it so chooses but such a policy is not required at this time. See IC 5-14-1.5-3.6(g) for the topics the library may address in such a policy. Any policy on this topic must not conflict with state law or the governor's executive order and the policy must be posted on the library's website. Again, a policy is not required at this time, though.

**Q: What qualifies as an electronic meeting? Can we do a conference call or video conference?**

A. Yes, the board can do a conference call or video conference. In either scenario, the executive order encourages public agencies to have a mechanism in place for the public to dial in or otherwise participate electronically as well, if possible. Include information on how to access the electronic meeting on your meeting notice.

**Q. Is a quorum of 4 still required?**

A. Yes, a quorum of 4 is still required to hold the meeting but again, only one board member must be present in person, the others may attend electronically.

**Q. Does someone actually have to go to the library for the meeting?**

A. There still needs to be one board member at the location where the meeting will be open to the public, whether that is the library or another location. However, you can/should limit physical participants (the public) at the meeting to the number recommended by the CDC which, at this time, is a maximum of 10. Be sure to check the [CDC guidance](#) for updates to this number. This might mean opening the library for an hour just for the meeting and for no other purpose or it might mean hosting the meeting elsewhere—just as long as the location is noted on the meeting notice and it is somewhere the public can attend. If you have a large facility and are worried about the public wandering around, you may want to have a staff person or two present to direct people to the meeting space and ensure folks don't go wandering around.

**Q. Can we just go ahead and make payments and get the board to ratify them later?**

A. [IC 36-12-3-16](#) provides that with advance permission, a board approved written resolution, payments may be disbursed in advance of a board meeting. The resolution should state which categories of payments may be made in advance of the board meeting. If your library does not have such a resolution in place, that might be something to consider for the next meeting. The library board is required to review and allow the payments at the board's next regular or special meeting following the payment. Each payment must be supported by a fully itemized invoice or other documentation and the library director shall certify to the library board, on the required state form, that each claim for payment is true and correct. Click here for [sample resolution](#).

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Some options for streaming your board meetings:

YouTube live stream:

[https://support.google.com/youtube/answer/9228389?hl=en&ref\\_topic=9257984](https://support.google.com/youtube/answer/9228389?hl=en&ref_topic=9257984)

Google hangouts for up to 10 people at a time:

<https://chrome.google.com/webstore/detail/google-hangouts/nckgahadagoaajgafhacjanaoiihapd?hl=en> (G Suite Subscribers will have more options).

Zoom meeting set up (free accounts allow up to 100 simultaneous users):

<https://support.zoom.us/hc/en-us/articles/201362413-Scheduling-meetings>

Skype Business or Microsoft365 subscribers can utilize Skype Meeting Broadcast for up to 10,000 attendees at a time:

<https://support.office.com/en-us/article/what-is-a-skype-meeting-broadcast-c472c76b-21f1-4e4b-ab58-329a6c33757d>

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