

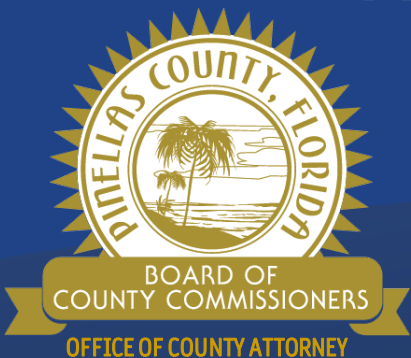
# Public Meetings & Virtual Attendance



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# Florida Sunshine Law & In-Person Quorum Requirements



- **Florida's Sunshine Law (*Florida Constitution Art. 1 s. 24 and Florida Statutes § 286.011*) requires that, unless exempt by law, all meetings of a Florida local government board must be public meetings that are open to the public.**
- **"[A] quorum requirement, in and of itself, contemplates the physical presence of the members of a board or commission at any meeting subject to the requirement."**  
**Fla. AGO 2010-34**

**All Sunshine boards, including advisory boards, must have a physical, in-person quorum to meet, absent *extraordinary circumstances*.**

**If a Board's governing laws, bylaws, or other documents do not expressly state the number of members that constitute a quorum, there is an implied quorum of the majority of the Board members**

# Example AGOs: Virtual Attendance & Quorum



- [AGO 1983-100](#)
- [AGO 1992-44](#)
- [AGO 1998-28](#)
- [AGO 2001-66](#)
- [AGO 2002-82](#)
- [AGO 2003-41](#)
- [AGO 2006-20](#)
- [AGO 2009-56](#)
- [AGO 2010-34](#)
- [AGO 2020-03](#)

"[I]t is my opinion that where a rule or statute contemplates that a meeting will be held in a public place with the members physically present, the participation of an absent member in the meeting by telephone conference should be permitted only in extraordinary circumstances and when a quorum of the board members is physically present at the meeting. Whether the absence of a member due to a scheduling conflict constitutes such a circumstance is a determination that must be made in the good judgment of the board."

-AGO 2003-41

# 2020 Emergency Executive Orders



- **Emergency Executive Order (EO) 20-69, as subsequently extended, suspended in-person quorum requirement for local government bodies, authorizing them to use communications media technology, such as telephonic and video conferencing, as provided in section 120.54(5)(b)2., Florida Statutes, which otherwise only applied to State agencies.**
- **This suspension has expired.**

## **In 2020, the Attorney General clarified that:**

- Meetings of a government board must be “public meetings” that are “open to the public.”
- A physical quorum must be present for the board to conduct official business unless there is a statute that states otherwise, or such requirement is suspended during a declared state of emergency.
- A quorum can include a virtual member only in extraordinary circumstances, at the discretion of the board.
- As long as there is a quorum physically present, other members of the board may attend the meeting virtually, at the discretion of the board. No extraordinary circumstances are required.
- A board’s use of electronic media technology to increase public participation or to allow members to participate virtually does not raise Sunshine Law issues, as long as other Sunshine requirements, such as proper notice and public participation, are met.



# Virtual Attendance policy requirements



1. **Confirm that a physical quorum is required absent “extraordinary circumstances.”**
2. **Authorize virtual attendance by a member of the board, when a physical quorum is otherwise present, only if:**
  - a) All Sunshine requirements can be met.
  - b) The meeting location, technology, and staff support are sufficient to support effective virtual attendance; and
  - c) The member:
    - i. Is appropriately equipped to participate in the meeting and be heard by other board member and the public;
    - ii. Requests virtual attendance in advance.
    - iii. Is hindered by circumstances from physically attending the meeting and meets any other limitations criteria established by the BCC or the board.

# Virtual Attendance policy considerations



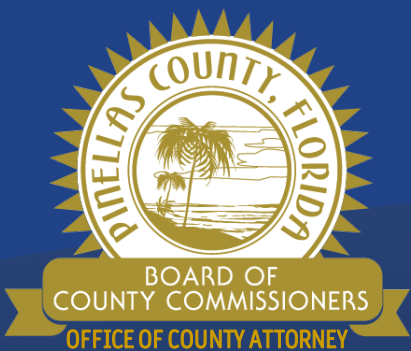
- **Will standards be the same for the BCC and all citizen boards, or will different standards be created (or authorized) for individual boards?**
- **Do you want to adopt different standards for work sessions and official meetings?**
- **Will the Board delegate authority to grant virtually attendance to the Chair (in accordance with the standards set in the policy adopted by a majority vote of the Board), or will they vote at each meeting?**
- **Do you wish to limit the number of board members who can virtually attend a single meeting? (If so, will there be exceptions and how are those determined?)**
- **Do you wish to limit the number of times a board member can attend virtually in a year (or other time frame)? (If so, will there be exceptions and how are those determined?)**
- **Do you wish to require videoconferencing, or allow telephone attendance as well?**
- **Other standards or limitations, at the Board's discretion**



# Benefits of a formal policy

- **You can establish the desired level of flexibility for virtual attendance (within legal parameters)**
- **Consistent and uniform decision-making**
- **Helpful guidance to advisory boards**
- **Transparency in standards used to allow virtual attendance**

# Questions?



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