



## CLIENT ALERT

### Important Open Meeting Law Developments

During the COVID-19 public health emergency, the boards of Massachusetts public bodies, including charter schools, have been operating under temporary modifications to the Open Meeting Law, pursuant to an emergency order issued by Governor Baker. The emergency order has permitted public bodies to hold entirely remote meetings and to suspend the requirement that both a quorum of members and the chair of a public body be physically present at a meeting. The emergency order has been extended several times but is currently expected to expire on March 31, 2023.

Another extension of the emergency authorizations might not be forthcoming, given the declining number of COVID-19 cases and President Biden's stated intention to allow the COVID-19 public health emergency to expire in May. If the Massachusetts emergency order relating to the Open Meeting Law expires on March 31, 2023, Massachusetts public bodies will be required to conduct meetings in accordance with the Open Meeting Law in effect prior to the emergency order, as follows:

1. Members of the public body who participate remotely and all persons present at the meeting location must be clearly audible to each other.
2. The chair (or the person chairing the meeting in the chair's absence) and a quorum of the public body must be physically present at the specified meeting location that is physically accessible to the public.
3. Members of the public body will be able to participate remotely only if physical attendance would be unreasonably difficult. In such case, the member should notify the chair as soon as possible and provide the reason that physical attendance would be unreasonably difficult, along with any facts supporting the request.
4. At the start of the meeting, the chair (or the person chairing the meeting) must announce the name of any remote participants and the reasons for their remote participation. This information should also be recorded in the meeting minutes.
5. Any documents expected to be included in the meeting should be distributed in advance, and any documents used during the meeting should be listed in the meeting minutes.
6. All votes taken during any meeting in which a member participates remotely must be conducted by roll call vote.

7. At the start of an executive session in which any member participates remotely, each remote participant must state that no other person is present and/or able to hear the discussion at the remote location, unless the presence of that person is approved by a simple majority vote of the public body.
8. If technical difficulties arise during the meeting, the chair (or the person chairing the meeting) must decide how to address. Suspension of the meeting is recommended. If technical difficulties result in the disconnection of the remote participant, that fact and the time of disconnection should be noted in the meeting minutes.

If you have any questions about compliance with the Open Meeting Law, please contact Attorneys Elka Sachs ([esachs@kb-law.com](mailto:esachs@kb-law.com)) or Bettina Toner ([btoner@kb-law.com](mailto:btoner@kb-law.com)).