

Gatherings and Face Mask Order

2. General capacity limitations at gatherings.

a. Indoor gatherings:

1. Are prohibited at residential venues, except where no more than 10 persons from no more than 2 households are gathered. Such gatherings should be held consistent with guidance issued by the Department of Health and Human Services for such gatherings; and
2. Are prohibited at non-residential venues, except where no more than 10 persons from no more than 2 households are gathered.

7. Face mask requirement at gatherings.

- a. All persons participating in gatherings are required to wear a face mask.
- b. As a condition of gathering for the purpose of transportation, transportation providers must require all staff and patrons to use face masks, and must enforce physical distancing among all patrons to the extent feasible.
- c. Except as provided elsewhere in this order, a person responsible for a business, store, office, government office, school, organized event, or other operation, or an agent of such person, must prohibit gatherings of any kind unless the person requires individuals in such gatherings (including employees) to wear a face mask, and denies entry or service to all persons refusing to wear face masks while gathered.
- d. A person responsible for a business, store, office, government office, school, organized event, or other operation, or an agent of such person, may not assume that someone who enters the facility without a face mask falls within one of the exceptions specified in section 8 of this order, including the exception for individuals who cannot medically tolerate a face mask. An individual's verbal representation that they are not wearing a face mask because they fall within a specified exception, however, may be accepted.
- e. A person responsible for a child care organization or camp, or an agent of such person, must not allow gatherings unless face masks are worn by all staff. Children must wear face masks as indicated below:
 1. All children 2 years and older when on a school bus or other transportation provided by the child care organization or camp;
 2. All children 4 years and older when in indoor hallways and indoor common areas;
 3. All children 5 years and older when in classrooms, homes, cabins, or similar indoor settings.
- f. Participants in gatherings for any exercise activities, group fitness, or organized sports must comply with face mask requirements listed in MDHHS's document entitled Guidance for Athletics issued February 7,

2021.

8. **Exceptions to face mask requirements.** Although a face mask is strongly encouraged even for individuals not required to wear one (except for children under the age of 2), the requirement to wear a face mask in gatherings as required by this order does not apply to individuals who:
- a. Are younger than 5 years old, outside of a child care organization or camp setting (which are subject to requirements set out in section 7(e));
 - b. Cannot medically tolerate a face mask;
 - c. Are eating or drinking while seated at a food service establishment or at a private residence;
 - d. Are exercising outdoors and able to consistently maintain 6 feet of distance from others;
 - e. Are swimming;
 - f. Are receiving a medical or personal care service for which removal of the face mask is necessary;
 - g. Are asked to temporarily remove a face mask for identification purposes;
 - h. Are communicating with someone who is deaf, deafblind, or hard of hearing and whose ability to see the mouth is essential to communication;
 - i. Are actively engaged in a public safety role, including but not limited to law enforcement, firefighters, or emergency medical personnel, and where wearing a face mask would seriously interfere in the performance of their public safety responsibilities;
 - j. Are engaging in a religious service;
 - k. Are giving a speech for broadcast or to an audience, provided that the audience is at least 12 feet away from the speaker; or
 - l. Are participating in a testing program specified in MDHHS's document entitled Guidance for Athletics issued February 7, 2021, and are engaged in practice or competition where the wearing of a mask would be unsafe.

15.263 Meetings, decisions, and deliberations of public body; requirements; attending or addressing meeting of public body; COVID-19 safety measures; tape-recording, videotaping, broadcasting, and telecasting proceedings; accommodation of absent members; remote attendance; rules; exclusion from meeting; exemptions.

Sec. 3.

(1) All meetings of a public body must be open to the public and must be held in a place available to the general public. All persons must be permitted to attend any meeting except as otherwise provided in this act. The right of a person to attend a meeting of a public body includes the right to tape-record, to videotape, to broadcast live on radio, and to telecast live on television the proceedings of a public body at a public meeting. The exercise of this right does not depend on the prior approval of the public body. However, a public body may establish reasonable rules and regulations in order to minimize the possibility of disrupting the meeting. For a meeting of a public body held in person before April 1, 2021, the public body shall do both of the following:

(a) To the extent feasible under the circumstances, ensure adherence to social distancing and mitigation measures recommended by the Centers for Disease Control and Prevention for purposes of preventing the spread of COVID-19, including the measure that an individual remain at least 6 feet from anyone from outside the individual's household.

(b) Adopt heightened standards of facility cleaning and disinfection to limit participant exposure to COVID-19, as well as protocols to clean and disinfect in the event of a positive COVID-19 case in the public body's meeting place.

(2) All decisions of a public body must be made at a meeting open to the public. For purposes of any meeting subject to this section, except a meeting of any state legislative body at which a formal vote is taken, the public body shall, subject to section 3a, establish the following procedures to accommodate the absence of any member of the public body due to military duty, a medical condition, or a statewide or local state of emergency or state of disaster declared pursuant to law or charter or local ordinance by the governor or a local official, governing body, or chief administrative officer that would risk the personal health or safety of members of the public or the public body if the meeting were held in person:

(a) Procedures by which the absent member may participate in, and vote on, business before the public body, including, but not limited to, procedures that provide for both of the following:

(i) Two-way communication.

(ii) For each member of the public body attending the meeting remotely, a public announcement at the outset of the meeting by that member, to be included in the

meeting minutes, that the member is in fact attending the meeting remotely. If the member is attending the meeting remotely for a purpose other than for military duty, the member's announcement must further identify specifically the member's physical location by stating the county, city, township, or village and state from which he or she is attending the meeting remotely.

(b) Procedures by which the public is provided notice of the absence of the member and information about how to contact that member sufficiently in advance of a meeting of the public body to provide input on any business that will come before the public body.

(3) All deliberations of a public body constituting a quorum of its members must take place at a meeting open to the public except as provided in this section and sections 7 and 8.

(4) A person must not be required as a condition of attendance at a meeting of a public body to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance.

(5) A person must be permitted to address a meeting of a public body under rules established and recorded by the public body. The legislature or a house of the legislature may provide by rule that the right to address may be limited to prescribed times at hearings and committee meetings only.

(6) A person must not be excluded from a meeting otherwise open to the public except for a breach of the peace actually committed at the meeting.

(7) This act does not apply to the following public bodies, but only when deliberating the merits of a case:

(a) The Michigan compensation appellate commission operating as described in either of the following:

(i) Section 274 of the worker's disability compensation act of 1969, 1969 PA 317, MCL 418.274.

(ii) Section 34 of the Michigan employment security act, 1936 (Ex Sess) PA 1, 421.34.

(b) The state tenure commission created in section 1 of article VII of 1937 (Ex Sess) PA 4, MCL 38.131, when acting as a board of review from the decision of a controlling board.

(c) The employment relations commission or an arbitrator or arbitration panel created or appointed under 1939 PA 176, MCL 423.1 to 423.30.

(d) The Michigan public service commission created under 1939 PA 3, MCL 460.1 to 460.11.

(8) This act does not apply to an association of insurers created under the insurance code of 1956, 1956 PA 218, MCL 500.100 to 500.8302, or other association or facility formed under that act as a nonprofit organization of insurer members.

(9) This act does not apply to a committee of a public body that adopts a nonpolicymaking resolution of tribute or memorial, if the resolution is not adopted at a meeting.

(10) This act does not apply to a meeting that is a social or chance gathering or conference not designed to avoid this act.

(11) This act does not apply to the Michigan veterans' trust fund board of trustees or a county or district committee created under 1946 (1st Ex Sess) PA 9, MCL 35.602 to 35.610, when the board of trustees or county or district committee is deliberating the merits of an emergent need. A decision of the board of trustees or county or district committee made under this subsection must be reconsidered by the board or committee at its next regular or special meeting consistent with the requirements of this act. "Emergent need" means a situation that the board of trustees, by rules promulgated under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, determines requires immediate action.

(12) As used in subsection (2):

(a) "Formal vote" means a vote on a bill, amendment, resolution, motion, proposal, recommendation, or any other measure on which a vote by members of a state legislative body is required and by which the state legislative body effectuates or formulates public policy.

(b) "Medical condition" means an illness, injury, disability, or other health-related condition.

History: 1976, Act 267, Eff. Mar. 31, 1977 ;-- Am. 1981, Act 161, Imd. Eff. Nov. 30, 1981 ;-- Am. 1986, Act 269, Imd. Eff. Dec. 19, 1986 ;-- Am. 1988, Act 158, Imd. Eff. June 14, 1988 ;-- Am. 1988, Act 278, Imd. Eff. July 27, 1988 ;-- Am. 2016, Act 504, Eff. Apr. 9, 2017 ;-- Am. 2018, Act 485, Eff. Mar. 29, 2019 ;-- Am. 2020, Act 228, Imd. Eff. Oct. 16, 2020 ;-- Am. 2020, **Act 254, Imd. Eff. Dec. 22, 2020**
Admin Rule: R 35.621 of the Michigan Administrative Code.

15.263a Electronic public meetings; telephonic or video conferencing; permissibility under certain circumstances; 2-way communication required; advance notice of electronic meetings; availability of agenda; registration requirement prohibited; remote participation limited to military duty or medical condition.

Sec. 3a.

(1) A meeting of a public body held, in whole or in part, electronically by telephonic or video conferencing in compliance with this section and, except as otherwise required in this section, all of the provisions of this act applicable to a nonelectronic meeting, is permitted by this act in the following circumstances:

(a) Before March 31, 2021 and retroactive to March 18, 2020, any circumstances, including, but not limited to, any of the circumstances requiring accommodation of absent members described in section 3(2).

(b) On and after March 31, 2021 through December 31, 2021, only those circumstances requiring accommodation of members absent for the reasons described in section 3(2). For the purpose of permitting an electronic meeting due to a local state of emergency or state of disaster, this subdivision applies only as follows:

(i) To permit the electronic attendance of a member of the public body who resides in the affected area.

(ii) To permit the electronic meeting of a public body that usually holds its meetings in the affected area.

(c) After December 31, 2021, only in the circumstances requiring accommodation of members absent due to military duty as described in section 3(2).

(2) A meeting of a public body held electronically under this section must be conducted in a manner that permits 2-way communication so that members of the public body can hear and be heard by other members of the public body, and so that public participants can hear members of the public body and can be heard by members of the public body and other participants during a public comment period. A public body may use technology to facilitate typed public comments during the meeting submitted by members of the public participating in the meeting that may be read to or shared with members of the public body and other participants to satisfy the requirement under this subsection that members of the public be heard by others during the electronic meeting and the requirement under section 3(5) that members of the public be permitted to address the electronic meeting.

(3) Except as otherwise provided in subsection (8), a physical place is not required for an electronic meeting held under this section, and members of a public body and members of the public participating electronically in a meeting held under this section that occurs in a physical place are to be considered present and in attendance at the meeting for all purposes.

(4) If a public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body shall, in addition to any other notices that may be required under this act, post advance notice of a meeting held electronically under this section on a portion of the public body's website that is fully accessible to the public. The public notice on the website must be included on either the homepage or on a separate webpage dedicated to public notices for nonregularly scheduled or electronic public meetings that is accessible through a prominent and conspicuous link on the website's homepage that clearly describes its purpose for public notification of nonregularly scheduled or electronic public meetings. Subject to the requirements of this section, any scheduled meeting of a public body may be held as an electronic meeting under this section if a notice consistent with this section is posted at least 18 hours before the

meeting begins. Notice of a meeting of a public body held electronically must clearly explain all of the following:

(a) Why the public body is meeting electronically.

(b) How members of the public may participate in the meeting electronically. If a telephone number, internet address, or both are needed to participate, that information must be provided specifically.

(c) How members of the public may contact members of the public body to provide input or ask questions on any business that will come before the public body at the meeting.

(d) How persons with disabilities may participate in the meeting.

(5) Beginning on the effective date of the amendatory act that added this section, if an agenda exists for an electronic meeting held under this section by a public body that directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body shall, on a portion of the website that is fully accessible to the public, make the agenda available to the public at least 2 hours before the electronic meeting begins. This publication of the agenda does not prohibit subsequent amendment of the agenda at the meeting.

(6) A public body shall not, as a condition of participating in an electronic meeting of the public body held under this section, require a person to register or otherwise provide his or her name or other information or otherwise to fulfill a condition precedent to attendance, other than mechanisms established and required by the public body necessary to permit the person to participate in a public comment period of the meeting.

(7) Members of the general public otherwise participating in a meeting of a public body held electronically under this section are to be excluded from participation in a closed session of the public body held electronically during that meeting if the closed session is convened and held in compliance with the requirements of this act applicable to a closed session.

(8) At a meeting held under this section that accommodates members absent due to military duty or a medical condition, only those members absent due to military duty or a medical condition may participate remotely. Any member who is not on military duty or does not have a medical condition must be physically present at the meeting to participate.

History: Add. 2020, Act 228, Imd. Eff. Oct. 16, 2020 ;-- **Am. 2020, Act 254, Imd. Eff. Dec. 22, 2020**



Township Meetings and Facilities Under Open Meetings Act amendment ([Senate Bill 1246](#)), and REVISED MDHHS Emergency Order December 18, 2020-- “Gatherings and Face Mask Order”

Under the previous MDHHS Order expiring Dec. 20, 2020, and the order issued [December 18, 2020](#), and effective December 21, 2020, **ALL indoor meetings of a public body must be held completely virtually**, if at all, between **Dec. 18, 2020, and Jan. 15, 2021**. See Page 6 for more on the Order.

The Open Meetings Act, as amended by [SB 1246](#), allows virtual meetings to be held for any reason through March 30, 2021.

Open Meetings Act Options for Electronic Meetings

While it had not been signed into law as of Dec. 21, Senate Bill 1246 was approved by both houses of the Legislature and sent to the governor for her signature, amending the Open Meetings Act to provide:

From March 18, 2020, until March. 30, 2021:

- **Physical quorum and location NOT required.** Meetings held “electronically” (*by telephonic or video conferencing*) in whole or in part **since March 18, 2020, and through March 30, 2021**, if held in compliance with new section 3a. and the OMA provisions regarding nonelectronic (*in-person*) meetings, are valid under any circumstances, **including but not limited to**, absence of any member of the public body due to:
 - Military duty
 - Medical condition, defined as “an illness, injury, disability, or other health-related condition”
 - Statewide or local state of emergency or state of disaster declared pursuant to law or charter or local ordinance by the governor or a local official, governing body, or chief administrative officer that would risk the personal health/safety of the public or members of the public body

From March 31, 2021, through Dec. 31, 2021:

Electronic meetings will be allowed **only in limited circumstances:**

- **Military duty and medical condition.** These circumstances apply to individual members, and only those members may participate remotely. The other members must be physically present to participate. A member of a public body may **participate** electronically due to the following:
 - Military duty (***Only the member absent due to military participation may participate remotely.***)
 - Medical condition defined as an illness, injury, disability or other health-related condition (***Only the member absent due to this reason may participate remotely.***)
 - Any other member who is not on military duty or does not have a medical condition must be physically present at the meeting to participate.
- **Statewide or local state of emergency or state of disaster.** This circumstance could apply to individual members or the entire public body, allowing a meeting to be held completely electronically, without a quorum physically present.
 - Statewide or local state of emergency or state of disaster declared pursuant to law or charter or local ordinance by the governor or a local official, governing body, or chief administrative officer that would risk the personal health/safety of the public or members of the public body.
 - Only to permit the electronic meeting of a public body that usually holds its meetings in the affected area, and only to permit the electronic attendance of a member of the public body who resides in the affected area.

IF a meeting is allowed (by future order or statute) to be held in person before April 1, 2021 (NOT an option under MDHHS Order through Jan. 15, 2021):

The OMA requires that in a meeting of a public body held in person before April 1, 2021, the public body must do both of the following:

- To the extent feasible under the circumstances, ensure adherence to social distancing and mitigation measures recommended by the Centers for Disease Control and Prevention for the purposes of preventing the spread of COVID -19, including the measure that an individual remain at least 6 feet from anyone from outside the individual's household.
- Adopt heightened standards of facility cleaning and disinfection to limit participant exposure to COVID-19, as well as protocols to clean and disinfect in the event of a positive COVID-19 case in the public body's meeting place.

Starting Jan. 1, 2022:

Military duty. All meetings must be conducted in-person, including a quorum of all other attendees physically present in the meeting place, with the **sole exception** of a member participating electronically due to:

- Military duty (*Only the member absent due to military participation may participate remotely.*)
- Any other member who is not on military duty or does not have a medical condition must be physically present at the meeting to participate.

Conducting electronic meetings (and meetings with members participating electronically):

- An electronic meeting must be conducted in a manner that permits two-way communication between members and participants (*at a minimum--everyone can hear everyone else*).
- Technology may be used to facilitate typed public comments during the meeting submitted by members of the public participating in the meeting that may be read to or shared with members of the public body and other participants to satisfy the requirement that members of the public be permitted to address the electronic meeting (*public comment period and public hearings*) and be heard by others during the electronic meeting.
- Members of a public body and the public participating electronically in a meeting are considered present and in attendance at the meeting for all purposes. (*Including voting for members of the public body participating electronically*)
- Each member of the public body attending a meeting remotely must announce at beginning of meeting they are participating remotely and, except for military absence, must identify the county, city, township, or village and state from which they are attending remotely.
- If a public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body must, in addition to other notices that may be required under the OMA, post advance notice of a meeting held electronically on a portion of the website that is fully accessible to the public—on either the homepage or a separate webpage dedicated to public notices for special meetings or electronic public meetings with a “prominent and conspicuous” link on the website’s homepage that clearly describes its purpose for public notification of special meetings or electronic public meetings.
 - Any scheduled meeting of a public body to be held as an electronic meeting must have notice posted at least 18 hours before the meeting begins.
 - Notice must clearly explain all of the following:
 - Why the public body is meeting electronically
 - How members of the public may participate in the meeting electronically. If a telephone number, internet address, or both are needed to participate, that information must be provided specifically
 - How members of the public may contact members of the public body to provide input or ask questions on any business that will come before the public body at a meeting
 - How persons with disabilities may participate in the meeting

- If an agenda exists for an electronic meeting and the public body directly or indirectly maintains an official internet presence that includes monthly or more frequent updates of public meeting agendas or minutes, the public body must make the agenda available at least two hours before the electronic meeting begins on a portion of the website that is fully accessible to the public. This “publication” of the agenda does not prohibit subsequent amendment of the agenda at the meeting.
- A public body cannot require a person to register or provide his or her name or other information, or require a person to otherwise fulfill a “condition precedent” as a condition of participating in an electronic meeting, other than mechanisms established and required by the public body necessary to permit the person to participate in a public comment period of the meeting. *(Log-in information may be required by the virtual meeting platform/software/service.)*
- Members of the public are excluded from participating in a closed session of a public body held electronically, if that closed session complies with the act.