

VIRTUAL PUBLIC MEETINGS GUIDE FOR STATE AGENCIES

Overview

Oregon's Public Meetings Law requires state agencies that are conducting public meetings subject to this law to provide the general public with the opportunity to attend those public meetings (subject to specific exceptions) by telephone, video or other electronic or virtual means. The use of this technology allows for increased public attendance and, potentially, participation in public meetings that would otherwise not exist due to geographic and time limitations. However, with the increase in public meetings held virtually, or with a hybrid in-person/virtual format, there has also been an increase in the opportunity for disruptive conduct by members of the public that may derail a public meeting. This guide is intended to assist state agencies with managing virtual public meetings and to avoid or address disruptive conduct that may occur in an effective manner.

Compliance with the Public Meetings Law

This Guide does not address the requirements of the Public Meetings Law. For guidance, state agencies may consult with the agency's contact attorney at the Oregon Department of Justice, consider any guidance provided by the Oregon Government Ethic Commission, and consider guidance provided in the Attorney General's Public Records and Public Meetings Law Manual. The Oregon Attorney General's Public Records and Meetings Manual is available online: <https://www.doj.state.or.us/oregon-department-of-justice/public-records/attorney-generals-public-records-and-meetings-manual>

Public Attendance

When an agency holds a public meeting virtually or in a hybrid format, the agency should not adopt procedures that inhibit the public's ability to attend the public meeting. If the meeting is being held using a virtual meeting platform that offers the option to attend by video or by telephone, the public should be able to choose either option. This will help ensure access to the meeting. While a particular video conferencing platform may offer a registration option, a state agency should not require that the public register with the agency to attend a virtual public meeting.

During an in-person meeting, an agency may have a sign-in sheet available and request that public attendees sign the sign-in sheet. However, if a public attendee refuses to sign the sign-in sheet, the public attendee will still be permitted to attend the meeting. Similarly, the public may be asked to identify themselves on a virtual platform, but if they do not, the attendee will still be permitted to attend the meeting.

Public Comment

Unless a state agency is required by law to accept public comment at its public meetings, there is no requirement to allow the public an opportunity to make public comment on specific agenda items or on additional topics. If an agency does wish to allow the opportunity for public comment, the agency should indicate in its public meeting notice whether an opportunity for public comment will be provided. We further recommend that the public meeting notice explain the scope of

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public comments that will be allowed to ensure comments remain relevant to the business before the state agency conducting the meeting. For example, if the state agency allows for an open public comment period, the agency should include a statement that explains this agenda item is not an unlimited opportunity for comment on any topic:

“Public comment is limited to matters on the public meeting agenda or otherwise relevant to matters that may come before this agency. Comments will not be allowed that are longer than the time allotted by the chair or are disruptive to the agency’s conduct of its business.”

Role of Individual Presiding over the Meeting

In order to ensure that a public meeting is run effectively, the individual presiding over the meeting on behalf of the state agency has inherent authority to keep order and to impose any reasonable restrictions necessary for the efficient and orderly conduct of a meeting. This authority extends to public meetings conducted virtually or in a hybrid format.

To effectively manage a virtual public meeting and minimize disruptions, any individual presiding over the public meeting should ensure in advance that they are familiar with and have knowledge of the various functions of the virtual meeting platform that will be used for a public meeting. The presiding individual should be able, or be in close communication with agency staff who are able, to control the microphones and cameras of the various public meeting attendees. At the meeting itself, the presiding individual may:

- Require that microphones of members of the public be muted with cameras turned off unless authorized to speak by the presiding individual.
- Request, but not require that members of the public identify themselves by name on the virtual platform.
- Request, but not require that members of the public identify themselves by name when providing public comment.
- Limit the time provided for each individual offering public comment. To the extent feasible, provide an equal amount of time to each individual offering comment. However, the total amount of time available may be limited as necessary to ensure the agency can conduct its business. And, the agency is not required to accommodate every request to comment if there are more individuals seeking to comment than time permits.
- Require the public to seek permission to speak, such as using the “raise hand” feature in the virtual platform. Limit the public’s opportunity to speak to the time permitted during a public comment period and when otherwise called upon by the individual presiding over the meeting.
- Advise public participants that their comments need to relate to the topic at hand or, if the comment period is a general comment period, any comments provided must relate to business that may come before the agency.

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- Repeat any limits on public comment that were included on the notice for the public meeting, such as that comments will not be allowed that are longer than the time allotted by the chair or are disruptive to the agency's conduct of its business.

If an individual member of the public at a virtual public meeting continues to provide public comment past the time allotted, makes comments that are not relevant to matters that may come before the agency, or engages in comments or other behavior that disrupts the agency's ability to maintain order and conduct its business, the presiding individual may:

- Ask the individual to stop the offending conduct.
- Turn off the individual's microphone and/or camera.
- If turning off an individual's microphone and/or camera is not feasible or is not effective and a public attendee continues to engage in disruptive behavior, the presiding individual may ask the attendee to leave the meeting.
- If the presiding individual asks an attendee to leave the meeting and they do not comply, the presiding individual may exclude the attendee from the remainder of that meeting.
- If disruptions cannot be managed in a way that allows the state agency to conduct its business, end the meeting and reschedule for a different time, and consider whether a different format may be more appropriate for the next meeting.

Process Following a Meeting in which Disruptions Occur

A number of state agencies make recordings of their public meetings available online for the public to access after the date of the meeting. Beginning January 1, 2024, certain state boards and commissions that meet through electronic means will be required to publish recordings of those meetings on a website or hosting service. In each case, it is possible such recordings will capture disruptive comments or behavior by members of the public. Before making a recording available to the public to view or listen online that includes disruptive comments or behavior, consider whether the agency is required to publish the recording online. If it must, consider posting an advisory to the public when the recording may include content offensive to some viewers or listeners, such as profanity, sexual references or other offensive content. If the state agency has additional concerns or believes a recording likely captures criminal activity, we recommend consulting the agency's contact attorney at the Oregon Department of Justice before making the recording available online.