

# Sounding Board

*A publication of the Audubon Center of the  
North Woods Charter School Division*

*Promoting Quality Charter School Governance*

ISSUE 12



## MN §13D Guidance for Charter School Boards During Emergencies

**This is an unprecedented time for charter schools, and school boards are grappling with questions they have never faced before. The Audubon Center of the North Woods (ACNW) recommends, with respect to the Governor’s [Emergency Executive Order 20-02](#) and the COVID-19 outbreak, that school boards move meetings to an electronic format. However, this means that open communication and transparency are more important than ever. Minnesota Statutes provide some clear guidance on open meetings during a pandemic like this, specifically MN §13D.021.**

### MN §13D, Open Meeting Law

Subdivision 1. Conditions. A meeting governed by this section and section 13D.01, subdivisions 1, 2, 4, and 5, may be conducted by telephone or other electronic means so long as the following conditions are met:

- (1) the presiding officer, chief legal counsel, or chief administrative officer for the affected governing body determines that an in-person meeting or a meeting conducted under section 13D.02 is not practical or prudent because of a health pandemic or an emergency declared under chapter 12;
- (2) all members of the body participating in the meeting, wherever their physical location, can hear one another and can hear all discussion and testimony;
- (3) members of the public present at the regular meeting location of the body can hear all discussion and testimony and all votes of the members of the body, unless attendance at the regular meeting location is not feasible due to the health pandemic or emergency declaration;

- (4) at least one member of the body, chief legal counsel, or chief administrative officer is physically present at the regular meeting location, unless unfeasible due to the health pandemic or emergency declaration; and
- (5) all votes are conducted by roll call, so each member's vote on each issue can be identified and recorded.

Subd. 4. Notice of regular and all member sites. If telephone or another electronic means is used to conduct a regular, special, or emergency meeting, the public body shall provide notice of the regular meeting location, of the fact that some members may participate by telephone or other electronic means, and of the provisions of subdivision 3. The timing and method of providing notice is governed by section 13D.04 of the Open Meeting Law.

## If the Board at your school should move to electronic meetings, follow these steps:

1. The Board Chair officially determines an in-person meeting is not practical (MN 13D.021, Subd. 1(1)). This should be noted in both the posting and the meeting agenda.
2. Select a preferred method of virtual meeting and the technology needed to execute it effectively (e.g. conference call, Zoom, GoTo Meeting, Microsoft Teams, Google Hangouts, etc.).
3. Provide notice to school stakeholders about the change and which meetings will be affected (MN §13D.05 Subd. 5). Post this notice on the school's website, at the school (if feasible), and anywhere else that the school might usually notice meetings (e.g. social media, email to families), per routine Open Meeting Law practice (MN §13D.02, Subd 4).
4. Provide the call-in/connection information on the meeting notice to encourage public participation (MN §13D.05 Subd. 4).
5. Ensure that at least one member of the Board or the School Leader is present at the regular meeting location, if feasible (MN §13D.021, Subd. 1(4)). If not feasible, this should be noted in both the posting and on the meeting agenda.
6. Confirm that all members of the Board and all members of the public can hear the discussion and votes of the Board (MN §13D.021, Subd. 1(2)(3)). If possible, Board members should test this out prior to the actual meeting.
7. **Take all votes at all electronic meetings by roll call**, and record them in the minutes (MN 13D.021, Subd. 1(5)).
8. Continue with regular follow-up items for board meetings, such as posting meeting minutes online, etc., per Open Meeting Law.

**Reminder:** Notice must be provided in advance consistent with provisions of Open Meeting Law, for regular meetings, special meetings, or emergency meetings (MN §13D.04).

**Reminder:** Under ordinary circumstances, the posting of a board meeting at which member(s) may participate from remote sites via video must provide information about ALL of the sites from which members will be participating, including the regular meeting location and the other specific location(s) which must all be accessible to the public (MN §13D.02, Subd. 4). However, if a Board Chair determines it is not prudent or practical to conduct a meeting per MN §13D.02, this step is not required.

## Effective practices to consider for remote board meetings:

- At the outset of the meeting, establish quorum by roll call.
- Ask everyone to mute their microphones when they are not speaking to limit background noise.
- Limit distractions. These meetings won't last forever, and remember that you are tasked with making decisions for and about other people's children and other people's money (in the form of public tax dollars). This is critical work and requires your full attention.
- If people are together in the same room, consider purchasing a USB speakerphone so everyone can be heard clearly without interference from multiple microphones. (ACNW uses the eMeet M0 Conference Speaker for 8-10 people, which seems to work well for observing board meetings remotely.)
- Identify yourself every time you speak. This will help the secretary or note-taker document the meeting for the minutes. (Reporting requirements are still the same; you are required to record and post minutes from all meetings.)
- Avoid status reporting. Now is the time to leverage consent agendas, which many include past meeting minutes, committee reports, staff reports, and various other updates that do not require independent discussion.
  - **Note:** This does *not* include financial statements or reports. As with any board meeting, this should be a roll call vote. Per MN §13D.01, Subd. 4(b): "The vote of each member must be recorded on each appropriation of money, except for payments of judgments, claims, and amounts fixed by statute."
- Use this critical "face time" (even if it is on the phone) to discuss, disagree, and decide. Tough decisions do not usually get made over email; it is important that you are present and engaged, even when participating in a meeting remotely.

## Emergency Meetings

MN §13D, Open Meeting Law, also allows for emergency meetings. This is a meeting called to address a situation that requires immediate board consideration and probably action, such as a response to a school fire, a school safety issue, or in this case, a pandemic. The board determines when an emergency meeting is needed. Good faith effort must be made to notify the news media (and your authorizer!) that have requested notice in the same manner as notice is given to board members. If the situation allows for a three-day notice, hold a special meeting (MN §13D.04, Subd. 2).

Emergency meetings are described specifically in MN §13D.04:

- Subd. 3. **Emergency meetings.** (a) For an emergency meeting, the public body shall make good faith efforts to provide notice of the meeting to each news medium that has filed a written request for notice if the request includes the news medium's telephone number.
- (b) Notice of the emergency meeting shall be given by telephone or by any other method used to notify the members of the public body.
  - (c) Notice shall be provided to each news medium which has filed a written request for notice as soon as reasonably practicable after notice has been given to the members.
  - (d) Notice shall include the subject of the meeting. Posted or published notice of an emergency meeting is not required.

- (e) An “emergency” meeting is a special meeting called because of circumstances that, in the judgment of the public body, require immediate consideration by the public body.
- (f) If matters not directly related to the emergency are discussed or acted upon at an emergency meeting, the minutes of the meeting shall include a specific description of the matters.
- (g) The notice requirement of this subdivision supersedes any other statutory notice requirement for a special meeting that is an emergency meeting.

Under normal circumstances, board meetings must be planned for in advance and cannot simply be scheduled at any time since that would violate MN §13D. However, if the board determines that it is dealing with an emergency as specified in statute (above), then it should follow Open Meeting Law in terms of posting and noticing an emergency meeting. Emergency meetings may be open or closed in accordance with all requirements and specifications of MN §13D.

## Contact us

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ACNW School Leaders: As you navigate closures and planning for the future, please feel free to reach out to me at any time at (612) 331-4181. ACNW staff work remotely but have access to the office phone line. We will do our best to be as responsive as possible.

Sincerely,



Erin E. Anderson  
Director of Charter School Authorizing  
Audubon Center of the North Woods  
(612) 331-4181  
43 Main Street SE, Suite 507  
Minneapolis, MN 55414

