

Berrien County LEPC Board Policy and Procedures	
Title: Virtual/Digital Meeting Policy and Procedure	
Effective Date: June 21, 2022	Revision: 2.0
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Overview

To describe the manner virtual or digital meetings may be conducted to resolve board business.

Scope

This policy and procedure shall apply only to meetings that are required to be open to the public pursuant to the Michigan Open Meetings Act (OMA).

Authority

1. The Michigan OPEN MEETINGS ACT, [PA 267 of 1976](#), section 3a (MCL 15.263a) describes the manner and permitted circumstances for conducting remote meetings.
2. The Attorney General's guidance on OMA is located at: www.mi.gov/foia-ag.
3. "Article V – Meetings" of the LEPC By-Laws describes the manner meetings shall be conducted. The bylaws require:
 - a. General Committee Meetings - The meeting location shall be held in a place available to the general public.
 - b. Subcommittee Meetings – Shall be in compliance with the OMA, when applicable.

Policy

All meetings of the LEPC, and administrative activities associating with posting and recording meetings, shall comply with the OMA.

When allowed by the OMA, virtual or remote technology may be used to augment or replace the physical meeting place. When this occurs, all people physically present must have two-way communication capability with all people present in the virtual space at the appropriate times. Members shall not use peer-to-peer direct communications for private conversations at any time in the meeting (i.e. text messages, private chat, email etc.).

Public participants must have two-way communication capability during allotted public comment periods only. Members of the public shall have the ability to hear all parties that are present and/or virtually present. Public participants must not speak during times not designated for public comment, but must be able to hear all members – both virtually and physically present.

Meetings that are held in a public place, with no restrictions to member or public attendance in-person, may be broadcast virtually for the benefit of increased public viewing. Meetings conducted in this manner are not considered virtual meetings. Broadcasting, in this manner, does not require the LEPC to accommodate public participation of those viewing the broadcast and this service is not subject to the OMA. Members who only view a broadcasted meeting are not counted as being present for that meeting.

Virtual meetings or broadcasts will not be recorded or retained. Meeting minutes will serve as the record of events for the meeting. All exhibits must be attached to the minutes for record keeping. Retention of records will follow Michigan retention schedules.

The following procedures will be used to meet the intent of this policy.

Intent

The intent of this procedure is to:

1. Ensure the OMA is followed while using available technology to create efficiency and flexibility for the LEPC to conduct business.
2. Use virtual options to increase public availability and transparency. Caution must be used because virtual meetings can allow greater opportunity to anonymously disrupt and cause a meeting to adjourn if controls are not in place.

Procedure – Prerequisites for accommodating member absence

1. Members who will be absent for the following reasons must notify the secretary in writing no less than 72 hours before the meeting, to attend the meeting in a virtual manner:
 - a. due to military duty;
 - b. a medical condition where the member is a qualified individual with a disability; or
 - c. 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, if allowed by law.
2. The chair may grant or deny accommodations request from a result of a, b, or c above, based upon reasonableness (i.e. timeliness).

Procedure – Posting

1. Notice shall be posted on the LEPCs webpage no less than 18 hours before the meeting.
2. A posting to those who are signed up for the LEPCs public email newsletter shall also be made contemporaneously with the posting described above.
3. The postings must include:
 - a. Why the LEPC 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. A statement explaining that people who need accommodations for access related to a disability (ADA), must request reasonable accommodations 10 days before the meeting to tier2@berriencounty.org or by calling/ mailing the secretary (number/address provided). The Secretary will work with the Berrien County Administration Center to provide auxiliary aids or services for the meeting.
 - d. How members of the public may contact members of the LEPC to provide input or ask questions on any business that will come before the LEPC at the meeting. Advanced correspondence can be made to tier2@berriencounty.org, but instructions on using the chat feature and how public comment will be conducted at the meeting may also be included to satisfy this requirement.
4. A posting should also include instructions on what to do if a meeting is delayed because of technology issues. These instructions should cover the most common “problem” scenarios associated with hosting virtual meetings.
5. As with physical meetings, persons with disabilities may participate in the meeting, but must request reasonable accommodations in 10 days advance by contacting tier2@berriencounty.org .
6. The agenda must be made available to the public at least 2 hours before the electronic meeting begins on the LEPC webpage. It will also be sent to the publicly available email newsletter for the LEPC.
7. Requiring the public to register or otherwise provide names, other information, or otherwise to fulfill a condition precedent to attendance will not be allowed.

8. Those who want to request public comment time longer than 2 minutes, will be required to make the request to tier2@berriencounty.org 5 days in advance and provide their statement in writing. The chair will need a name or unique identifier to recognize the requestor if extended time is granted, but it need not be published in the minutes if it is requested to be suppressed by the speaker.
9. The Secretary may attach a vendor-specific instruction sheet, to set a meeting up, to this policy. It may be edited without the need to gain approval as a policy change. This checklist should be designed to aid in meeting setup and to help determine which features should be enabled and disabled when the meeting is setup.

Procedure – Hosting the Meeting

1. The Secretary, after properly posting the meeting notice, shall appoint a meeting moderator for the virtual meeting space. If not appointed, the Secretary will moderate the meeting.
2. The moderator will be responsible for ensuring the technology being used and manner of discussion will accommodate the meeting in an orderly manner.
3. The moderator should explain the technology being used at the onset of the meeting to ensure all attending are comfortable using the equipment and establish ground rules. A suggested script may be attached to this policy and may be changed by the Secretary at any time without the need to re-approve the policy.
4. The Secretary may attach a summarized “rules of behavior”, written in plain language, to this policy. It may be changed at any time without requiring approval to change the policy. This bulletin should be posted and should reside on the LEPC webpage.
5. The technology should be set to mute all participants at the beginning of the meeting. Unmuting shall occur on a one-at-a-time basis in an orderly manner. This concept parallels a physical meeting where a party requesting the floor must first be recognized before addressing the Committee.
6. Members of the public shall not be given the ability to unmute their lines during agenda topics that are not intended for public comment. The moderator shall be given the ability to mute members of the public at any time and shall disconnect public attendees if disruptive conduct occurs. Warnings need not be issued, however; may be given by the presiding official at their discretion. Those excused from a meeting for disruptive behavior must be blocked from re-admittance to that same meeting. This ability may require the use of two virtual tools that are linked together (i.e. Use of Zoom for members, broadcast onto YouTube for Public etc.). See public comment procedures below.
7. The LEPC Chairperson will determine if visual displays will be relevant to decisions that are made during the meeting. If so, then the virtual meeting room shall be capable of broadcasting them. To ensure accessibility to members of the public who cannot view these displays during the meeting, they shall be provided as part of the agenda before the meeting date. For agenda items, such as an educational presentation requiring no vote of the members, pre-distribution of the materials is not required.
8. When visual displays are not relevant to the business at hand, then an audio-only meeting may be used. If a meeting begins with the broadcasting of visual displays (Video of members as they speak, screen share of non-business related presentation, etc.) and an outage occurs, the meeting may continue as an audio only meeting.

Procedure – Roll Call

1. Members who are participating in a meeting electronically are counted as part of the quorum. A roll call of members will be conducted to confirm the member can hear the meeting and can be heard.
2. Any member who cannot meet the two-way communications requirement at any time during the meeting, will be considered absent from the point of discovery forward. This will be recorded in the minutes. If they are able to rejoin the meeting in a sustained manner (5

consecutive minutes), they will be readmitted upon their request and this will also be recorded in the minutes.

- a. When a motion has been introduced for action, only those who are present for the entire discussion will be eligible to vote. When a member drops connection during the discussion, the LEPC chairperson may allow the portions the member missed to be restated to allow their participation. Alternatively the chairperson may rule the member as absent for that portion of business and not record a vote for the member.
3. For each member of the LEPC attending the meeting remotely, a public announcement at the outset of the meeting, by the member, that they are attending the meeting remotely. This is to be included in the meeting minutes.
 - a. If the member is attending 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.
4. Roll call votes are the clearest way to make decisions during a conference call meeting and shall be used for all voting decisions during meetings with number of virtual participants.

Procedure – Presentations

1. Educationally driven presentations are often a part of the LEPC agenda. Presentations of this category should not be considered a matter of business and independently are not subject to the OMA.
2. If a presentation is being given that is relevant to a matter of business, it should be marked on the agenda as a business presentation and will be subject to the OMA in the manner that all other business will be conducted. The presentation materials shall be attached to the minutes.

Procedure – Public Comment

1. The public may request time to speak for up to 2 minutes during an open LEPC meeting.
2. The public must use the tools available by the meeting service to raise their hand or other substantially similar cue to request time.
3. The moderator will monitor these requests and will unmute the public participant after explaining the process to the requestor. The moderator will reasonably thank and mute the participant after their comments are provided. If the participant is near the end of a thought at the 2 minute mark, the moderator may allow reasonable time before muting. If it does not appear that the end of their comment is near by that time, the moderator shall mute the participant and announce that their time is expired. The Chairperson should then decide if the next commenter should be recognized or ask the first commenter if they could conclude their thoughts in a reasonable amount of time (defined by the Chairperson).
 - a. The purpose of ending a person's comments are to ensure business is conducted within the time allotted for the meeting and to keep the LEPCs focus upon those items that are on the agenda. Since the public has a mechanism to request time before the meeting and be placed on the agenda, the LEPC has no obligation to accommodate no-notice requests more than 2 minutes per person.
4. The chat box, if enabled, may be used to collect comments during the meeting from members of the public. If collected, they shall be read at the conclusion of the meeting by the moderator in a final public comment period, time permitting.
5. Written messages submitted to tier2@berriencounty.org at least 24 hours before the meeting, will be summarized by the Secretary during the public comment time and will be attached to the minutes.

Procedure – Voting

1. On any matter requiring a vote, a roll call vote must be conducted when any member is attending virtually. Voice votes are too difficult to discern in a virtual meeting and may give rise to question whether a vote was cast, able to have been cast (i.e. technology issues), or properly recorded. Roll call votes in a one-at-a-time manner are slower, but will be the most accurate way of recording votes.

Procedure – Subcommittees

1. Subcommittee meetings may be conducted in a virtual environment at any time in which the subcommittee is performing work that is not decisional and will be presented to the board for action. These meetings are not subject to the OMA.
 - a. A committee composed of less than a quorum of a full board is subject to the OMA, if the committee is effectively authorized to determine whether items will or will not be referred for action by the full board, citing OAG, 1977- 1978, No 5222, p 216 (September 1, 1977) . To conform to this opinion, all subcommittee business shall be brought to the full board for disposition. Subcommittees do not have authority to make a decision on behalf of the whole LEPC or withhold a matter from the LEPC in a closed session.
 - b. Based upon the assignment given to the subcommittee, they may make a recommendation to act, or to not recommend action, to the full LEPC provided they present the measure fully before the full board at an open meeting. The recommendation need not be developed in a public meeting, so long as it is presented to the LEPC in an open meeting.

Procedure – Rules of Conduct

1. Participants are encouraged to be respectful and considerate of the opinions of others.
2. Public commenters may refer to another person’s comments to debate ideas, but are discouraged from referring to the commenter in a derogatory manner.
3. Participants must be considerate of the time allocated for others to speak.
4. Demeaning, derogatory, profane, inflammatory, or vulgar language or actions is discouraged. Behavior that is disruptive to the efficient and orderly conduct of the meeting may result in attendee(s) being removed from the meeting.
5. A moderator will administer the rules. A moderator may:
 - a. Interrupt, warn, or terminate a participant’s statements when the statements exceed the time allotted;
 - b. Remove any individual from the meeting when that person is disrupting the orderly conduct of the meeting;
 - c. Call for a recess or an adjournment to another time when the lack of public decorum so interferes with the orderly conduct of the meeting as to warrant such action.

Review

1. This procedure will be reviewed by the EMC each 5th year. Suggested revisions will be presented to the LEPC as found necessary.

Record of Changes

Version	Change	Notes/Reason
1.0	Initial Draft	