

STATE OF INDIANA  
ALCOHOL AND TOBACCO COMMISSION

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**Electronic Meeting Policy**

**I. PURPOSE**

The purpose of this policy is to explain the legal requirements and process by which members of the Indiana Alcohol and Tobacco Commission (“Commission” or “ATC”) may participate in a public meeting using electronic means of communication.

**II. POLICY**

In order to facilitate participation in public meetings when physical presence is not feasible or possible, it is the policy of the Commission to allow participation at public meetings by means of electronic communication in accordance with Ind. Code § 5-14-1.5 *et seq.*

**III. LEGAL AUTHORITY**

According to Indiana’s Open Door Law (“ODL”), set forth in IC 5-14-1.5 *et seq.*, any official action of a public agency be conducted and taken openly, unless otherwise expressly provided by statute, so that the people of the State of Indiana may be fully informed.<sup>1</sup> As such, the ODL requires that all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them.<sup>2</sup> A member of the governing body of a public agency who is not physically present at a public meeting of the governing body may participate in a meeting by any electronic means of communication that permits the member, all other members participating in the meeting, and all members of the public physically present at the place where the meeting is conducted to simultaneously communicate with each other during the meeting.<sup>3</sup>

In order to be in compliance with ODL requirements, the adoption of a policy setting parameters around virtual meetings is mandatory for electronic participation.<sup>4</sup> Additionally, a copy of the policy adopted by the governing body of a public agency must be posted on the agency’s Internet website.<sup>5</sup>

**IV. DEFINITIONS**

- A. **ELECTRONIC COMMUNICATION** – A means of communication that permits all members participating in the meeting—including members physically present at the place of the meeting, members that are not physically present at the place of the meeting, and all members of the public physically present at the place where the meeting is conducted—to simultaneously communicate with each other during the meeting. (See IC 5-14-1.5-3.6(b)).

<sup>1</sup> IC 5-14-1.5-1.

<sup>2</sup> IC 5-14-1.5-3(a).

<sup>3</sup> IC 5-14-1.5-3.6(b).

<sup>4</sup> IC 5-14-1.5-3.6(f).

<sup>5</sup> IC 5-14-1.5-3.6(h).

- B. EXECUTIVE SESSION (IC 5-14-1.5-2(f)) – A meeting from which the public is excluded, except the governing body may admit those persons necessary to carry out its purpose. The governing body may also admit an individual who has been elected to the governing body but has not been sworn in as a member of the governing body.
- C. FINAL ACTION (IC 5-14-1.5-2(g)) – A vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order.
- D. GOVERNING BODY (IC 5-14-1.5-2(b)) – Two (2) or more individuals who are any of the following:
- (1) A public agency that is a board, a commission, an authority, a council, a committee, a body, or other entity and takes official action on public business.
  - (2) The board, commission, council, or other body of a public agency which takes official action upon public business.
  - (3) Any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated. An agent or agents appointed by the governing body to conduct collective bargaining on behalf of the governing body does not constitute a governing body for purposes of this chapter.
- E. OFFICIAL ACTION – Means to: (1) receive information; (2) deliberate; (3) make recommendations; (4) establish policy; (5) make decisions; and/or (6) take final action.
- F. PRIMARY LOCATION – The designated physical location at which a public meeting of a public agency is held or originates, or to which meeting participants are connected.
- G. PUBLIC AGENCY (IC 5-14-1.5-2(a)) – Any board, commission, department, agency, authority, or other entity, by whatever name designated, exercising a portion of the executive, administrative, or legislative power of the State of Indiana.
- H. PUBLIC BUSINESS (IC 5-14-1.5-2(e)) – Any function upon which a public agency is empowered or authorized to take action.
- I. PUBLIC MEETING (IC 5-14-1.5-2(c)) – A gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. It does not include:
1. Any social or chance gathering not intended to avoid this chapter;
  2. Any on-site inspection of any project; program; or facilities of applicants for incentives or assistance from the governing body;
  3. Traveling to and attending meetings of organizations devoted to betterment of government;
  4. A caucus;
  5. A gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or final action on the terms of a request or an offer of public financial resources;

6. An orientation of members of the governing body on their role and responsibilities as public officials, but not for any other official action; or
7. A gathering for the sole purpose of administering an oath of office to an individual.

## **V. PROCEDURES**

### **A. Minimum Physical Participation Required**

1. At any public meeting, the minimum number of members who must be physically present at the primary location where the meeting is conducted must be the greater of:
  - a. two (2) of the members; or
  - b. one-third (1/3) of the members.
2. Each member of the governing body is required to physically attend at least one (1) meeting of the governing body annually.
  - a. This requirement does not apply to a governing body if at least fifty-one percent (51%) of the governing body membership consists of individuals with a disability (as described in IC 12-12-8-3.4) or individuals with a significant disability (as described in IC 12-12-8-3.6), or both.

### **B. Participation by Electronic Means of Communication**

1. Electronic communication is permitted only if the member uses a means of communication that permits all members participating in the meeting, and all members of the public physically present at the place where the meeting is conducted, to simultaneously communicate with each other during the meeting.
2. A member who wishes to participate in a meeting by electronic means shall make reasonable efforts to notify the Chair no fewer than two (2) days prior to the meeting in order for arrangements to be made for the electronic meeting. The Chair shall make a determination on whether or not the member may participate in the meeting via electronic means using the following factors:
  - a. Whether the member's presence via electronic communication will allow for the greater of two (2) or one-third (1/3) of the members to be physically present at the primary location.
  - b. How many requests the member has made to participate via electronic communication.
  - c. The basis for the request to participate via electronic communication.


**C. Quorum & Voting**

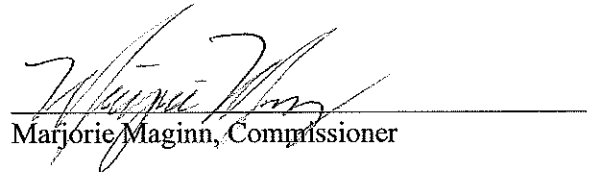
1. A member who participates in a meeting by electronic communication is considered to be present at the meeting, shall be counted for purposes of establishing a quorum, and may vote at the meeting. IC 5-14-1.5-3.6(e).
2. All votes of the governing body during an electronic meeting must be taken by roll call vote. IC 5-14-1.5-3.6(c)(2).

**D. Electronic Meetings During Disaster Emergency**

1. If a disaster emergency (declared in accordance with IC 10-14-3-2 and/or IC 10-14-3-29) is in effect for all or part of the area within the governing body's jurisdiction, the members of a governing body are not required to be physically present at a meeting if:
  - a. Meeting in person would present an imminent risk to the health or safety of the members of the public and the governing body who attend the meeting because of the particular danger, threat, or emergency conditions that are the basis for the declaration of the disaster emergency; and
  - b. The members are of the governing body of a school corporation or charter school, one (1) or more schools within the jurisdiction of the governing body of the school corporation or the charter school are closed at the time of the meeting because of the particular danger, threat, or emergency conditions that are the basis for the declaration of the disaster emergency.
2. The members of a governing body may meet by any means of electronic communication, if the following are satisfied:
  - a. At least a quorum of the members of the governing body participate in the meeting by means of electronic communication or in person; and
  - b. The public is able to simultaneously attend and observe the meeting. However, this subdivision does not apply to a meeting held in executive session.
3. Electronic meetings held during a disaster emergency shall comply with all other legal requirements set forth in IC 5-14-1.5-3.7.

Approved on this 6<sup>th</sup> day of February, 2024.

  
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Jessica Allen, Chair

  
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Marjorie Maginn, Commissioner

  
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James W. Payne, Vice Chair

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Mark A. Jones, Commissioner