



## A quick guide to [Executive Order 22-01](#) impacting public meetings

As our State continues to respond to challenges brought on by the COVID-19 pandemic, Rhode Islanders need to have trust and confidence in their state and local government. We encourage public bodies and agencies to continue to operate as openly and transparently as possible.

On January 6, 2022, Governor Daniel J. McKee issued [Executive Order 22-01](#), which modifies certain provisions of the [Open Meetings Act \("OMA"\)](#) as part of the State's emergency response to COVID-19. This Executive Order is in place until February 4, 2022, unless renewed, modified, or terminated by subsequent executive order.

Similar to the prior Executive Order pertaining to the OMA (Executive Order 21-72, which expired on July 23, 2021), Executive Order 22-01 permits meetings to be held by virtual means for any purpose and makes clear that public bodies must provide remote access to their meetings, even if they are able to convene in person. Unlike Executive Order 21-72, Executive Order 22-01 does not modify any part of the Access to Public Records Act.

**The following is intended to serve as a quick guide to the [OMA](#) modifications contained in the Order.**





## OMA: What has changed as a result of Executive Order 22-01?

Public bodies **may now conduct meetings by telephone or audio or video conferencing**, provided that the public body ensures public access to the meeting through adequate, alternative means.

- **Adequate alternative means of public access:** Measures that provide transparency and permit timely and effective public access to the deliberations of a public body. Examples include telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body in real time.
- Any adequate alternative means of public access must be provided for free.
- Any meetings must provide adequate alternative means for public access, even if the members of the public body are able to convene in person.
- If a state or local law requires real-time participation by members of the public, any alternative means must provide for such participation.
- Any public body that conducts its proceedings under this executive order must ensure that any party required to appear before it is able to do so remotely.
- All other provisions of the OMA remain unchanged.

## Questions & Guidance

**If you have questions, our open government team is available to provide guidance on the OMA.**

Email [opengovernment@riag.ri.gov](mailto:opengovernment@riag.ri.gov) or call 401-274-4400.

*This guide is provided as a public service by the Office of Attorney General and is intended to assist public bodies and provide guidance concerning Executive Order 22-01. This guide does not address all questions about Executive Order 22-01's requirements and is not intended to replace Executive Order 22-01 or the Open Meetings Act. This guide should not be construed as legal advice. Public bodies should refer to their legal counsel when questions regarding compliance arise. Revised January 2022.*



## Frequently Asked Questions

### 1. Do meetings conducted via adequate alternative means have to pertain to an essential purpose?

**A:** No. Under [Executive Order 22-01](#), a public body may hold a meeting about any topic as long as the public has access through adequate alternative means and the other requirements of the [OMA](#) are satisfied.

### 2. What constitutes “adequate alternative means of public access”?

**A:** “Adequate alternative means” may include conferencing via telephone or video in a manner that allows the public to follow the meeting in real time. Any adequate alternative means of public access must be provided to the public at no cost.

The public body must make the teleconferencing number or audio/video link available to the public. The public body should provide this information in the meeting agenda or state in the agenda where the information is available.

### 3. Are there any exceptions to the requirement that public bodies have to provide adequate alternative means for public access to meetings?

**A:** No. Under [Executive Order 22-01](#), all meetings must offer adequate alternative means of public access. There are multiple free or low-cost technology options available.

### 4. What should be listed as the “place” of the meeting on the agenda for a virtual meeting?

**A:** The telephone number, URL address, or other means the public has of accessing the meeting should be listed as the “place” of the meeting. Additionally, if the meeting is being broadcast from one central location where members of the public body are present, that location should also be listed and the public body should permit members of the public to attend in person if doing so complies with public health considerations and social distancing guidelines.

### 5. Can a public body use a telephone, live streaming, or other similar technology service that requires participants to register for an account?

**A:** A public body may use a service that requires participants to register for an account so long as the service is available to the public at large and there is no cost associated with creating an account as a member of the public.



## Frequently Asked Questions

### 6. Can the Office of Attorney General recommend any virtual meeting services?

**A:** The Office of Attorney General cannot and does not endorse any particular virtual meeting services. However, we are aware of several little to no-cost services available for public bodies, such as Zoom, GoTo Meeting, and Webex.

### 7. Does a public body still have to post notice of the meeting as required in the OMA?

**A:** Yes. [Executive Order 22-01](#) does not suspend the OMA's notice requirements. Public bodies are required to post supplemental notice at least 48 hours prior to the meeting on the Secretary of State's website, at the principal office of the public body, and at one other prominent location within the public body. [See R.I. Gen. Laws §§ 42-46-6\(b\),\(c\)](#). If the physical locations where notice is usually posted are closed, notice may be affixed to the outside of the building. If a public body must convene an emergency meeting, the usual requirements of the OMA remain applicable – the agenda must be posted as soon as practicable. [See R.I. Gen. Laws § 42-46-6\(c\)](#).

### 8. Do the members of the public body have to be physically present in the same room to convene the meeting?

**A:** No. Consistent with [Executive Order 22-01](#), public body members may participate in the meeting from different locations via telephone or video conferencing.

### 9. If a public body is able to meet in person, does public access still have to be provided through adequate alternative means?

**A:** Yes. Under [Executive Order 22-01](#), any meetings occurring during the timeframe when the Executive Order is in effect must provide adequate alternative means for public access, even if the members of the public body are able to convene in person. Even if a public body convenes in person and social distancing guidelines permit in-person attendance by some members of the public, the meeting still must be made accessible to the public through adequate alternative means.

### 10. Can a public body hold a “hybrid meeting”?

**A:** Yes. The public body may hold a meeting where members of the public body and members of the public have the option to either attend in person or remotely.



## Frequently Asked Questions

### 11. Can a public body hold a virtual-only meeting?

**A:** Yes. Pursuant to [Executive Order 22-01](#), public bodies may meet using only virtual means and members of the public must be provided access through adequate alternative means.

### 12. Can the public body require citizen-participants to mute themselves during the meeting or can the public body mute all non-members?

**A:** Yes, under the [Open Meetings Act](#), which does not require a public body to hold an open forum session. [See R.I. Gen. Laws § 42-46-6\(d\)](#). Therefore, a public body may require members of the public to mute themselves. However, this answer is limited to the requirements of the OMA. Other local laws or statutes may impose additional requirements.

### 13. Under the Executive Order, is a public body required to comply with state and federal laws regarding nondiscrimination on the basis of disability?

**A:** Yes. The accessibility requirements under the [OMA](#) have not been suspended and a public body must ensure that all meetings convened pursuant to the OMA and the Executive Order are open and accessible to persons with disabilities. [See R.I. Gen. Laws § 42-46-13](#).

### 14. Does a public body need to stop a meeting if there are problems with the remote connection?

**A:** If there are problems with the remote connection that make it so that the public can no longer meaningfully access the meeting through adequate alternative means, then the public body should stop the meeting until remote access can be restored or re-schedule the meeting. [See Nassaney, et al. v. Richmond Town Council, OM 21-28](#). If an individual experiences connection issues and it is an isolated incident and there is no reason to believe that the problem was caused by the public body, then it will generally not be necessary to halt a meeting. [See Ahlquist v. Central Falls Detention Facility Corporation, OM 20-41](#).

### 15. Are the other requirements of the OMA still in place?

**A:** Yes. Besides the provisions of the [OMA](#) that are specifically modified by the Executive Order, the rest of the OMA's provisions and requirements remain in place.

