



Can We Ban the Public From Our School Board Meeting and Live-Stream it Instead?

Governor Parson has now [ordered](#) the Department of Health and Senior Services to enforce social distancing and prohibit gatherings of more than 10 people statewide. Many school boards are trying to comply by holding meetings virtually. But many other districts are asking whether they can hold a face-to-face meeting, but prohibit the public from physically coming to the meeting. Instead, the district would live-stream it over the Internet. Should a school district consider this?

A Sunshine Law notice of meeting “shall identify the ... designated location where the public may observe and attend the meeting.” § 610.020.1, RSMo. Clearly a live-stream broadcast to the internet or even to a screen in another room permits one to “observe” the meeting. The unknown question is whether the General Assembly meant the right to “attend” the meeting includes the right to occupy *the same* room as the Board. We know that the Sunshine Law specifically allows the Board to meet by videoconference or conference call, so Boards can argue that being in the room is obviously not a priority. But the practice of prohibiting the public from coming to a face-to-face meeting and only allowing access by internet is not specifically addressed or authorized in the law, which makes it a risk.

The Sunshine Law is supposed to be “liberally construed” so that meetings, vote, actions, and deliberations of the government are “open to the public.” § 610.011, RSMo. And there is not an emergency exception yet in the law. (See below.) Even if the district uses the virtual meeting tools already discussed in the Sunshine Law, the Missouri Attorney General’s recent [Sunshine Law Guidance](#) states, “as a best practice it may be advisable for a public governmental body to postpone discussions and votes on higher-profile matters *until the ... public could resume attending and participating in meetings in person, ...*” (emphasis added).

No court has ruled on this issue! MSBA recommends that districts discuss this prior to implementation with their private attorneys. If the district decides to prohibit the public and instead live-stream their meetings, MSBA recommends the following:

1. Provide a location other than the Board meeting room where the public can watch the live-streamed meeting if they do not have a computer or internet access. Make sure the room is large enough for appropriate social distancing and remind attendees to wash their hands! It is possible no one will come, but if anyone complains or sues, this option will assist the district in demonstrating that it was attempting to accommodate all members of the public.
2. Communicate to the public that the reason for the change is due to the current health crisis and is not an attempt to hide the meeting from the public.

3. If your district usually incorporates public comment as part of the agenda, provide alternative methods for the public to communicate with the Board.
4. Avoid controversial or high-profile decisions until regular face-to-face meetings can resume.

Legislative Relief?

[House Bill 2725](#) (Mary E. Coleman) would allow school districts during a declared health emergency to ban the public from the face-to-face meeting and instead live-stream the meeting. Alternatively, districts that did not have the capacity to live-stream could record the meeting and post it on its website 24 hours later. However, credentialed members of the media would be allowed into the meeting room.

This bill has not passed but is positioned to be heard by the House when it reconvenes. Please note that this bill was heavily negotiated with the Missouri Press Association and other interested groups, which means that there are still many that expect governmental bodies like school districts to maintain transparency with the public, even during an emergency. Further, this bill indicates that many believe the Sunshine Law does not currently allow the district to exclude the public completely from meetings and that additional legislation is needed.

If your Board supports this legislation, now is a great time to contact your representatives!