

Clermont County Interpretation of Ohio AG Public Meeting Guidance

From: Jason Fountain
Sent: Sunday, March 15, 2020 10:33 AM
To: Ramos, Ernie; Nesbit, Julianne
Subject: Re: District Advisory Council Meeting

Julianne,

After speaking with you yesterday I was able to review the Attorney General's advisory letter in relation to the OMA and the rules set forth in the Ohio Sunshine Law Manual. Note that, being at home this weekend, I was unable to complete any detailed case law or other legal research regarding the issues you raised, but can follow up with that this week.

As I understand it, the DAC has a very real and understandable concern in convening its annual public meeting convened pursuant to RC 3709.03. Based upon my reading of the Attorney General's letter and his application of the OMA to these unusual circumstances, the AG has advised that a public body such as the DAC can meet the OMA's "in person" meeting requirement though participation by telephone or video conferencing.

The AG believes "it is reasonable to read the OMA's "in person" requirement as permitting a member of a public body to appear at a public meeting via teleconference. This interpretation gives effect to both R.C. 121.22 and R.C. 3701.13. It is also consistent with the United States Centers for Disease Control's recent guidance, issued in response to the national COVID-19 epidemic, to use videoconferencing for meetings when possible."

The AG also opined that live streaming the meeting to allow remote or internet access may also comply with the requirement of public access. However, it is important to ensure that, other than the issues specifically addressed in the AG's letter, all other provisions of the OMA must still be complied with as normal, including notice, entering executive session, and taking meeting minutes, for example. Of course, strict compliance is also still required with R.C. 3709.03 setting forth the powers and duties of the DAC, including the organization of an executive committee if necessary.

The AG cautions, and I would highlight, that the AG's guidance is meant to apply very specifically to this unique and unprecedented situation, and should not be read as providing general authority to modify the usual statutory requirements in any other circumstance.

I appreciate you thinking critically about our compliance under these circumstances, and your reaching out to Ernie and I for guidance! While I can check my "work emails" from my phone, my phone does not notify me automatically of new emails, so if you need to reach me for anything further today or after hours, please don't hesitate to call my cell at (513) 256-3518.

Jason