SUNY Charter Schools Institute
The State University of New York

GUIDE TO OPEN MEETINGS LAW

FOR CHARTER SCHOOLS AUTHORIZED BY THE STATE UNIVERSITY OF NEW YORK BOARD OF TRUSTEES

AUGUST 2026

INTRODUCTION

A charter school education corporation's board of trustees is required to follow New York State's Open Meetings Law. Public Officers Law, Article 7 (hereinafter, "OML"). OML requires public notice of board meetings so the public may attend and observe the meetings, while also identifying what types of board activities may be done out of public view. The full text of OML can be accessed on the website of the Committee on Open Government ("COOG").

This guidance details a board's obligations under OML. If you have any questions regarding the information provided in this guidance, please contact the Legal Department of the SUNY Charter Schools Institute (the "Institute") at charter.legal@suny.edu.

DISCLAIMER

Nothing implied or stated in this guidance should be construed to be legal advice. The SUNY Charter Schools Institute (the "Institute") is not a law firm and this guidance should not be interpreted as creating an attorney-client or legal advisor relationship. For questions regarding your specific situation, please consult a qualified attorney. This guidance contains general information and may not reflect current statutes, case law, or other legal developments. The Institute does not guarantee the guidance's content is correct, complete, or up-to-date.

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OML CHECKLIST

Upon Charter Approval:

- [ ] Adopt an OML policy regarding public participation and recording and post it on the education corporation's website. The board may use the model OML policy provided by the Committee on Open Governement ("COOG") available in **Appendix A** of this document.

Five to Ten Days Before Each Meeting:

- [ ] Five to ten days before each meeting, mail a notice of the time and place of the meeting to the usual address of each trustee.

Three Days Before Each Meeting:

- [ ] Post a notice at a designated school facility and on the education corporation's website.
- [ ] The notice must include the meeting date, time, and all locations where board members will participate and be counted toward a quorum.
- [ ] Send such notice to the news media. Many boards choose to do this by creating an email listserv of local news outlets and sending their annual board meeting schedule at the beginning of the school year.

One Day Before Each Meeting:

- [ ] At least 24 hours prior to the meeting, post all the meeting materials to be discussed at the meeting on the education corporation's website.

During Each Meeting:

- [ ] Ensure a quorum of members is present at the noticed meeting location(s) that are open and accessible to the public. **In order for a board member to count toward quorum via remote videoconferencing, the board member must either:**

  1. Videoconference from a location that is open to the public and whose address was included in the meeting notice; or,
  2. Qualify for an "extraordinary circumstance." The board must have previously adopted a resolution authorizing such remote videoconferencing under extraordinary circumstances and have met all the conditions listed on page 5 of this guidance.

- [ ] If entering executive session, ensure that while in public session a motion is made that clearly identifies the reason for the executive session and demonstrates that it meets one of the permitted exceptions under the OML.

Within One to Two Weeks After Each Meeting:

- [ ] Draft meeting minutes within two weeks of each board meeting (one week for executive sessions). The minutes must include a summary of all motions, resolutions, and matters formally voted on, the final vote of each board member, and the result of the vote.
- [ ] The minutes must be posted on the education corporation's website within two weeks of each

board meeting (one week for executive sessions). The record of the final votes must be kept indefinitely.

Within 30 Days After Each Meeting:

- [ ] Provide a copy of the meeting minutes to the Institute within 30 days via Epicenter. Draft minutes are acceptable if they have not yet been approved.

APPLICABILITY

The New York State Charter Schools Act of 1998 states charter schools are subject to OML.[1]

Under OML, the "public body" is the education corporation's board of trustees, making all meetings of the board of trustees subject to the OML requirements.

Further, Charter Agreement Section 7.2, available on the Institute's Legal Compliance website, provides:

> **7.2** Freedom of Information and Open Meeting Laws. The Education Corporation shall maintain and implement policies in order to ensure that it is in compliance with Articles Six ("**FOIL**") and Seven ("**Open Meetings Law**") of the New York Public Officers Law and all corresponding regulations.
>
> (b) The Education Corporation shall: (i) promulgate an Open Meetings Law policy that is accessible to parents in each school; (ii) post notices and provide a media advisory in accordance with the Open Meetings Law regarding each Education Corporation Board meeting; and (iii) take and maintain minutes of all meetings and executive sessions of the Education Corporation Board and its committees, if any.

The education corporation may be placed on probation, have its charter revoked, or risk denial of renewal for repeated and egregious violations.

Board Committees and Subcommittees

Any board committee or subcommittee consisting of only members of the board falls into the definition of a "public body" and needs to comply with the requirements of OML when it discusses or conducts public business.[2] A committee that includes some board members and non-board members may still need to comply with the requirements of OML if the board members make up a "core membership" of the committee and the committee is "essentially a committee of the Board."[3]

Therefore, if the committee is made up entirely of board members or is "essentially a committee of the Board," it is considered a "public body" and must comply with OML.

MEETING REQUIREMENTS

Meeting Defined

A "meeting" is defined by OML as "the official convening of a public body for the purpose of conducting public business, including the use of videoconferencing for attendance and participation by the members of the public body." This includes all regularly scheduled board and committee meetings, as well as special and emergency board meetings.

1. Education Law § 2854(1)(e).
2. *See* N.Y. Pub. Off. Law § 102(2); *see also* N.Y. Comm. on Open Gov't, OML-AO-5068 (Mar. 18, 2011).
3. *See* N.Y. Comm. on Open Gov't, OML-AO-4158 (Mar. 15, 2006).

The most important factors for determining if the board is "meeting" and therefore subject to OML are:

1. Whether the board is conducting or discussing school-related business; and,
2. Whether there is a quorum of the board present. A quorum is defined as a majority of the total membership of the board, regardless of whether there are vacancies or absences.

If a board takes action without a quorum present, the action is void and must be re-voted on at a meeting where a quorum is present.

If a quorum of trustees is discussing school business, assume OML applies unless a specific exception exists.

Note: Non-voting trustees do not count toward quorum.

Social gatherings, graduation ceremonies, and trainings are not considered meetings under OML as long as no school-related business is discussed. Board retreats may pose a mixed of purposes. While many board retreats include aspects of board training and getting to know each other which would not be open to the public, strategic planning sessions constitute school-related business and therefore are subject to the public requirements of OML. With mixed purposes, a portion of the day may not be open to the public, but another portion may need to be open and will require the applicable notices. OML specifically exempts times when the board convenes for quasi-judicial purposes such as student discipline hearings and emplyee discipline matters. As these are not public meetings under OML, no notice needs to be given and the public has no right to attend.

Location

Meetings must be held in at least one accessible, public place. If the meeting is held at a privately-owned facility, the owner or operator must be willing to invite in members of the public. Boards must make all reasonable efforts to ensure that meetings are held in a space where the public can be adequately accommodated. Boards must make reasonable efforts to permit persons with disabilities to have barrier-free access to their meetings.

Remote Participation

As discussed in detail below, there are only two situations in which a board member may participate in a meeting remotely: from a noticed public location or under extraordinary circumstances.

<u>From a Noticed Public Location</u>

A board member participating through remote videoconferencing may count toward quorum and may fully participate and vote in a meeting as long as:

1. The remote location is identified in the meeting notice; and,
2. The remote location is open to the public.

If the remote location is not properly noticed or not open to the public, the board member may not count toward quorum. If there is a quorum of members at other location(s) open to the public, the board member may then participate and vote in the meeting remotely via videoconference despite not being properly noticed or open to the public. If the board member is not visible (i.e., teleconferencing or audio-only), they may not count toward quorum nor vote during meetings.

Can A Trustee Attend Remotely ?

Situation	Counts towards Quroum?	Public Access Required?
Remote location address listed in the meeting notice and open to the public	Yes	Yes
Extraordinary circumstances adopted under policy	Yes	No
Audio only participation (teleconference)	No	N/A
Private location not listed in meeting notice	No	N/A

Under Extraordinary Circumstances

Until July 15, 2028, OML allows public bodies, in their discretion, to allow for remote attendance by members at locations not open to the public under extraordinary circumstances.[4] OML includes a non-exhaustive list of examples of extraordinary circumstances "including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting." In order for a member under extraordinary circumstances to count toward quorum from a remote location not open to the public, the following conditions must be met:

a. The board must first adopt a resolution authorizing remote videoconferencing;
b. The board must draft and post on its website procedures that set forth the board's definition of "extraordinary circumstances";
c. Members must be physically present at meetings unless they meet the definition of "extraordinary circumstances" and there must be at least one physical location where the public can attend the meeting;
d. All members must be able to be heard, seen, and identified during the meeting;
e. The minutes must identify which member(s) participated remotely;
f. The public notice of the meeting must state videoconferencing will be used, where the public can view and/or participate in the meeting, where required documents and records will be posted or available, and the physical location(s) where the public can attend the meeting;
g. The public portions of the meeting must be recorded and posted to the board's website within five business days and shall remain available for a *minimum of five years*;
h. Members of the public must be allowed to view the meeting via video and participate in the meeting, to the extent allowed in person, via videoconference in real time; and,
i. The board must maintain an official website.

Note: The board must utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disability ("ADA") and corresponding guidelines.

The board of trustees may use the model resolution and model procedures for member

4. OML § 103-a.

videoconferencing under extraordinary circumstances provided by the COOG available in **Appendix B** and **Appendix C**, respectively, of this document.

As long as all of the above requirements are met (except for the in-person requirement of c), members may fully participate and vote at meetings held remotely via videoconferencing during a **state disaster emergency** declared by the governor, or a local state of emergency proclaimed by the chief executive of a county, city, village, or town, if the board determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the board to hold an in person meeting.

Executive Sessions

Once a meeting is called into open session, any member of the board may bring a motion and, if a majority of the board votes in approval, the board may go into an executive session. Executive session is closed to the public, but the meeting must first open in public session before going into executive session.

OML provides a list of the only reasons a board may enter an executive session:

a. Matters which will imperil the public safety if disclosed;
b. Any matter which may disclose the identity of a law enforcement agent or informer;
c. Information relating to current or future investigation or prosecution of a criminal offense which would imperil effective law enforcement if disclosed;
d. Discussions regarding proposed, pending or current litigation;
e. Collective negotiations pursuant to article fourteen of the civil service law;
f. The medical, financial, credit or employment history of a particular person or corporation, or matters leading to the appointment, employment, promotion, demotion, discipline, suspension, dismissal or removal of a particular person or corporation;
g. The preparation, grading or administration of examinations; and,
h. The proposed acquisition, sale or lease of real property or the proposed acquisition of securities, or sale or exchange of securities held by such public body, but only when publicity would substantially affect the value thereof.[5]

The motion to go into executive session must identify the subject matter of the discussion with particularity to ensure one of the above reasons is met. As a common example, a motion for executive session cannot be made for the purpose of discussing "personnel matters" under OML § 105(1)(f). There needs to be further specificity of the personnel matter without stating the individual's name. Instead of "personnel matters," the motion to go into executive session could be made, for example, to "discuss the discipline of a staff member" or to "discuss the employment history of a particular person."

Matters discussed in a lawfully convened executive session are confidential and recording of such sessions is prohibited.[6] Board members, education corporation officers, and employees are prohibited from disclosing confidential information acquired in the course of their official duties.[7] The only exceptions to this rule are if the board collectively decides to release such information or a board member is compelled to disclose such information pursuant to legal proceedings.

All members of the board may attend executive sessions, unless it pertains uniquely to a trustee (e.g., a related party transaction). The board may allow non-trustees to attend any executive session, but should exercise careful discretion given the confidential nature of the information. A board should limit attendance to those having special knowledge or expertise that relate to the subject of the executive

5. OML § 105(1).
6. *See Stephenson v. Bd. of Educ. of Hamburg Cent. School Dist.*, 31 Misc. 3d 1227 (Sup. Ct. Erie Co. 2011).
7. General Municipal Law § 805-1(a)(b).
8. *See Matter of Crapster*, 22 Ed. Dep't Rep. 29 (1982).

session. This may include the board's counsel, the school leader, or other administrators. Inviting non-trustees into executive session does not make the session open to the general public.

With certain limited exceptions, no official action can be taken on issues discussed in executive session without first returning to open session pursuant to a motion and majority vote.[8] According to OML, the board may not vote to appropriate money during an executive session. If the board takes an action during an executive session, minutes must reflect the action, date, and vote.

Common Executive Session Topics

Topic	Executive Session Allowed
Individual employee discipline	Yes
Individual employee performance	Yes
Budget discussion	No
Academic results	No
Strategic planning	No
Pending litigation	Yes
Collective bargaining	Yes

Public Participation

Though the public has a right to know about, attend, and observe open meetings, there is no requirement that the board allow members of the public to speak at board meetings. However, it is good practice to allow the public, including teachers, parents, and students, to be heard. According to Charter Agreement section 7.2(b), boards must adopt reasonable rules for public comments that apply evenly and fairly to all members of the public, while also maintaining the efficient and productive conduct of the meeting. Boards may justifiably restrict the public from offering commentary on matters involving privacy issues otherwise protected by law. Boards may also restrict the use of signs, banners, and visual displays brought into a meeting by the public if such material obstructs the view of other attendees, violates the fire code, or contains obscene language.[9]

Meetings may be photographed, broadcast, webcast, or otherwise recorded and/or transmitted by audio or video means. Boards may adopt reasonable rules governing the use of cameras and recording devices, but such rules must be written, conspicuously posted, and provided to the public upon request.

The board of trustees may use the model OML policy provided by the COOG available in **Appendix A** of this document.

9. *See* N.Y. Comm. on Open Gov't, OML-AO-5296 (June 12, 2012).
10. Education Law § 226(3).

OML OBLIGATIONS OF THE EDUCATION CORPORATION

Notices

When the board determines it will hold a "meeting" to which OML applies, the public must be provided the proper notice. Notice of the time and place of every meeting must be mailed to the usual address of each trustee five to ten days before each meeting.[10]

In addition, OML contains the following notice requirements:

1. For meetings scheduled more than one week in advance, notice must be given at least 72 hours prior to the meeting. For meetings scheduled less than one week in advance, notice must be given "to the extent practicable" at a "reasonable time prior" to the meeting;
2. The notice must provide the date, time, and public location(s) of the meeting;
3. The notice must be sent to the news media. Most boards have an email distribution list for this purpose; and,
4. The notice must be posted at a designated school facility and on the education corporation's website.

If there is a change to the meeting details after the regular notice has come out, the school should post and send to the media a new notice providing the new information to the extent practicable.

Note: If board meetings are held on a consistent basis in the same place and at the same time, it is acceptable to post a yearly schedule at the beginning of each school year at a designated school facility and online.

Meeting Materials

Boards should provide "to the extent practicable at least twenty-four hours prior to the meeting" any proposed resolutions or policies that are scheduled to be discussed at the board meeting. If materials fall under one of the exceptions from public disclosure under the Freedom of Information Law ("FOIL"), they are not required to be provided to the public. For more information on FOIL, see the Institute's Guide to FOIL on its Legal Compliance website.

If the board maintains a website, it must post these materials on the website prior to the meeting. If records are generated too close in time to the start of the public meeting to be posted online, it is recommended that the board provide paper copies at the meeting. Schools are allowed to charge the same fees for producing paper copies as permitted under FOIL. There is no requirement that boards provide an agenda or summary of discussion points prior to the meeting, however, it is a best practice to post such materials prior to the meeting. Boards may discuss or vote on materials that were not originally scheduled to be discussed, but any new resolution or policy subject to FOIL must be added to the board's website after the meeting.

Meeting Minutes

Formal minutes must be taken at all board meetings and must include a record or summary of:

1. The trustees attending, trustees absent, and if any are attending via videoconference.
2. All motions, proposals, resolutions, and other matters formally voted on including the vote to adjourn the meeting.
3. The final vote of each board member on each item including the election of officers; and,
4. The result of any vote.

Board minutes should not be a verbatim transcript of everything said at a meeting, however, they need to provide sufficient detail as to the proposal or resolution to allow the reader to understand the action that took place. For example, stating that a contract was voted to be amended is insufficient. The minutes must reflect how the contract was amended by the vote. It is highly recommended that the appended minutes include a copy of the substance of any proposal or resolution.

Note: The record of votes may not be destroyed.

Minutes of board meetings must be made available to the public and posted to the education corporation's website within two weeks of the meeting. Minutes of executive sessions need to be prepared only when actions are taken by formal vote and must consist of a record or summary of the final determination, date, and votes. If the minutes fall into a FOIL exception such as student privacy, the minutes are not required to be made public, though they are still required to be prepared. Minutes from an executive session need to be made available to the public and posted to the education corporation's website within one week of the executive session.

Under the Monitoring Plan of the Charter Agreement, minutes must be submitted to the Institute within 30 days. In many instances these will be draft minutes and may be indicated as such. This includes all minutes from each of its meetings, committee meetings, and executive sessions.

There is no requirement under the law to approve the meeting minutes, but it is best practice to ensure the minutes accurately reflect the conduct of the board. Minutes may be amended to clarify what actually occurred at a meeting, but not to reflect a change of mind which occurred after the meeting. Minutes may be amended or corrected only upon the majority vote of the board.

APPENDIX A
MODEL OML POLICY

PUBLIC ACCESS TO MEETINGS OF _____
(Insert name of education corporation's Board of Trustees)

Section 1 Purpose and scope:

a. The people's right to witness and observe the governmental decision-making process in action is basic to our society. Access to public portions of meetings of public bodies must be protected and maintained.

b. We adopt these guidelines in order to provide direction concerning the procedures by which public meetings of this public body may be photographed, recorded and broadcast.

Section 2 Recording and Broadcasting Public Portions of Meetings:

a. The public portion of any meeting of a public body may be photographed, recorded and broadcast.

b. A public body may adopt reasonable rules governing the location of equipment and personnel used to photograph, record or broadcast the public portion of a meeting in order to ensure that the use of such equipment does not detract from or interfere with the deliberative process.

c. There is no privacy interest in statements made during public portions of meetings of public bodies. Distaste or embarrassment shall not constitute a basis for prohibiting or limiting the photographing, recording or broadcasting of those present at a meeting.

Section 3 Rules for Recording and Broadcasting Public Portions of Meetings:

a. Operation of equipment to photograph, record or broadcast a meeting is permitted unless it is obtrusive, disruptive, or interferes with the deliberative process or the right of persons in attendance to observe or listen to the proceedings.

b. Use of equipment necessary to photograph, record or broadcast is permitted without notice to or express permission from the public body or those in attendance at the meeting.

c. Use of equipment necessary to photograph, record or broadcast is permitted in a supervised or unsupervised manner.

d. Use of special lighting or large equipment necessary to photograph, record or broadcast a meeting is permitted unless it is obtrusive or disruptive.

e. Personnel who operate equipment necessary to photograph, record and/or broadcast a meeting shall be permitted to move about the room, as long as such movement does not disrupt or interfere with the deliberative process.

f. Use of equipment necessary to photograph, record and/or broadcast a meeting shall not be limited to a location from which such equipment is not reasonably capable of photographing, recording and/or broadcasting.

g. Persons operating equipment necessary to photograph, record and/or broadcast shall be given a reasonable opportunity to modify their actions in order to avoid interference with the deliberative process.

Section 4 Public notice:

These rules governing the operation of equipment necessary to photograph, record or broadcast a meeting shall be posted in a designated location. Written copies of such rules shall be provided upon request, free of charge, to those in attendance at or who seek to attend a meeting.

Section 5 Severability:

If any provision of these regulations or the application thereof to any person or circumstances is adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or impair the validity of the other provisions of these regulations or the application thereof to other persons and circumstances.

APPENDIX B
MODEL RESOLUTION FOR MEMBER VIDEOCONFERENCING

MODEL Resolution No. ____

[PUBLIC BODY]

WHEREAS, by passing Chapter 56 of the Laws of 2022 ("Chapter 56"), the New York State Legislature amended Section 103 of the Open Meetings Law; and

WHEREAS, Chapter 56 adds Section 103-a of the Open Meetings Law, permitting the [PUBLIC BODY] to authorize its members to attend meetings by videoconferencing under extraordinary circumstances; and

WHEREAS, Section 103-a(2)(a) requires the [PUBLIC BODY] to adopt a resolution following a public hearing authorizing the limited use of videoconferencing under such circumstances; and

WHEREAS, Section 103-a(2) allows for hybrid meetings by requiring "that a minimum number of members are present to fulfill the public body's quorum requirement in the same physical location or locations where the public can attend"; and

WHEREAS, Section 103-a(2)(c) requires that members be physically present at any such meeting "unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances . . . including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting"; and

WHEREAS, in accordance with Section 103-a(2)(d), any members attending by videoconference must, excerpt during executive session, be "heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon"; and

WHEREAS, Section 103-a(2)(g) requires that any meeting where a member attends by videoconference be recorded, posted to the [PUBLIC BODY] webpage within five business days, and transcribed upon request; and

WHEREAS, Section 103-a(2)(h) requires that members of the public be permitted to attend and participate, if authorized, in any meeting by videoconference when a member attends by videoconference.

BE IT RESOLVED, that the [PUBLIC BODY] authorizes its members who experience an extraordinary circumstance, as described above and further defined by any rules or written procedures later adopted, to attend meetings by videoconference: (i) as long as a quorum of the members attend in-person at one or more locations open to the public; (ii) as long as the member can be seen, heard, and identified while the open portion of the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and be it further

RESOLVED, that the [PUBLIC BODY] shall create written procedures further governing its use of videoconferencing by its members in compliance with Chapter 56 of the Laws of 2022.

APPENDIX C
MODEL PROCEDURES FOR MEMBER VIDEOCONFERENCING

MODEL Procedures for Member Videoconferencing
Pursuant to Public Officers Law § 103-a

In compliance with Public Officers Law (POL) § 103-a(2)(a), the [PUBLIC BODY], following a public hearing, authorized by resolution on [insert date] the use of videoconferencing as described in POL § 103-a.

The following procedures are hereby established to satisfy the requirement of POL § 103-a(2)(b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member and public attendance.

1. [PUBLIC BODY] members shall be physically present at any meeting of the [PUBLIC BODY] unless such member is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term "extraordinary circumstances" includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member's physical attendance at such meeting.
3. If a member is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the member must notify [REPRESENTATIVE OR CHAIR OF PUBLIC BODY] no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given. If extraordinary circumstances present themselves on an emergent basis within four days of a meeting, the [PUBLIC BODY] shall update its notice as soon as practicable to include that information. If it is not practicable for the [PUBLIC BODY] to update its notice, the [PUBLIC BODY] may reschedule its meeting.
4. If there is a quorum of members participating at a physical location(s) open to the public, the [PUBLIC BODY] may properly convene a meeting. A member who is participating from a remote location that is not open to in-person physical attendance by the public shall not count toward a quorum of the [PUBLIC BODY] but may participate and vote if there is a quorum of members at a physical location(s) open to the public.
5. Except in the case of executive sessions conducted pursuant to POL § 105, the [PUBLIC BODY] shall ensure that its members can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon. This shall include the use of first and last name placards physically placed in front of the members or, for members participating by videoconferencing from private locations due to extraordinary circumstances, such members must ensure that their full first and last name appears on their videoconferencing screen.
6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL § 103-a shall include which, if any, members participated by videoconferencing from a private location due to such extraordinary circumstances.

7. The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing will (or may) be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.

8. The [PUBLIC BODY] shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the [PUBLIC BODY] website within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.

9. If members of the [PUBLIC BODY] are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the [PUBLIC BODY] shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The [PUBLIC BODY] shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.

10. Choice 1:

    Open meetings of the [STATE PUBLIC BODY OR AUTHORITY] conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall be broadcast pursuant to the requirements of POL § 103(f) and shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, "disability" shall have the meaning defined in Executive Law § 292.

    Choice 2:

    Open meetings of the [ALL OTHER PUBLIC BODIES] conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, "disability" shall have the meaning defined in Executive Law § 292.

11. The in-person participation requirements of POL § 103-a(2)(c) shall not apply during a [state disaster emergency declared by the governor pursuant to Executive Law § 28 or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to § 24 of the Executive Law] if the [PUBLIC BODY] determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the [PUBLIC BODY] to hold an in-person meeting.

12. These procedures shall be conspicuously posted on the [PUBLIC BODY] website.

Charter Schools Institute
The State University of New York

www.newyorkcharters.org

H. Carl McCall SUNY Plaza
353 Broadway
Albany, New York 12246

518-445-4250