

Governor DeSantis' Executive Order Number 20-69, which allowed local government public meetings to not meet the physical quorum requirement, expired at 12:01 a.m. on Sunday, November 1, 2020. Upon expiration, unless otherwise allowed by statute, all public meetings of the Board of County Commissioners and other County bodies must have a quorum of the members of the body physically present in order to conduct public business.

All members of all County bodies should make a bona fide effort to be physically present at each scheduled public meeting of the body. A member who is not physically present, but appears virtually, does not count towards meeting the physical quorum requirement. Accordingly, the absence of a member can adversely affect the ability of the body to conduct its business.

The Florida Attorney General's Office has opined that, if a quorum of a local board is physically present, the participation of an absent member by telephone conference or other interactive electronic technology is permissible when such absence is due to extraordinary circumstances. Examples of extraordinary circumstances which have been recognized in Attorney General Opinions include serious medical conditions, illness, or physical disability.

At each meeting when a request for virtual participation has been made by a member of the body, the members physically present should make a determination of whether the member who is not physically present, but wishes to participate and vote virtually on the matter, is absent because of an extraordinary circumstance involving illness, serious medical condition, or physical disability. The board may, in its good judgement, determine that in light of the federal, state, and local emergencies due to COVID-19, an illness, physical disability, or serious medical condition of a member constitutes an extraordinary circumstance for virtual participation of a member. Discussion of details of a member's illness, physical disability, or serious medical condition should not be debated by the body to ensure that protected individual health information is not discussed and privacy interests are protected.

If the body finds that an extraordinary circumstance exists, the minutes of the meeting shall reflect that the absent member is appearing virtually, and that physical absence was excused. Additionally, if a member's absence and virtual appearance is known before the meeting notice or agenda is published, then that fact should be stated for the public to know of that circumstance.

A quorum must be physically present at all times for the conduct of public business. In that regard, it is important to recognize that recusal of a member who is physically present due to a conflict of interest may cause the failure of the body to have a quorum physically present and may preclude the conduct of public business for a particular item, even if there are other members appearing virtually. Again, the virtually appearing members do not count toward establishing a quorum.

When an extraordinary circumstance of a member of a body exists and the body determines to allow participation in a remote manner, the following guidelines must be adhered to:

- (1) The meeting room should be able to accommodate interactive communications media technology.
- (2) The technology used must allow the absent member to participate in discussions, to be heard by other board members and the public, and to hear discussions taking place during the meeting.

Though not necessarily applicable to the Disability Awareness Committee, in the event that a matter under consideration is quasi-judicial in nature and a member of the body is participating virtually, that member must take an oath and state that no other person is present with the member at the remote location and that the member will not accept communications of any type or nature during the course of the matter being considered.