

The following summary of section 149 of Public Act No. 21-2 (June Special Session) was drafted by counsel at the FOIC. It is provided only as a guide. The FOIC has not yet issued any formal rulings regarding the new requirements and procedures in section 149 of Public Act No. 21-2, which took effect on July 1, 2021. While every effort has been made to ensure an accurate interpretation of its provisions, the public is encouraged to consult an official copy of the public act.¹

Section 149 of Public Act No. 21-2:
A Primer Regarding Public Meetings Held Using Electronic Equipment

Section 149 of Public Act No. 21-2 authorizes public agencies to hold a public meeting solely or in part using electronic equipment² *until* April 30, 2022, and establishes requirements and procedures for holding such meetings. Section 149 of Public Act No. 21-2 does not require a public agency to hold meetings using electronic equipment.

Agencies that hold a public meeting using electronic equipment must comply with the requirements and procedures set forth in section 149 of Public Act No. 21-2, and in accordance with the provisions of section 1-225 of the Freedom of Information (“FOI”) Act.

❖ **Regular Meetings Held Solely or In Part Using Electronic Equipment³**

➤ Notice and Agenda:

- Not less than 48 hours before a public agency conducts a regular meeting using electronic equipment, the agency must provide:

(1) Direct notification in writing or by electronic transmission⁴ to each member of the public agency; and

(2) Post a notice that the agency intends to conduct the meeting solely or in part using electronic equipment. Such notice must be posted as follows:

i) in the agency’s regular office or place of business;

¹ <https://www.cga.ct.gov/2021/ACT/PA/PDF/2021PA-00002-R00SB-01202SS1-PA.PDF>

² "Electronic equipment" is defined in section 147 of Public Act 21-2 as “any technology that facilitates real-time public access to meetings, including, but not limited to, telephonic, video or other conferencing platforms”.

³ These requirements do not apply to meetings of the General Assembly.

⁴ "Electronic transmission" is defined in section 147 of Public Act 21-2 as “any form or process of communication not directly involving the physical transfer of paper or another tangible medium, which (A) is capable of being retained, retrieved and reproduced by the recipient, and (B) is retrievable in paper form by the recipient.”

ii) in the office and on the website of the Secretary of the State for any state or quasi-public agency; in the clerk's office for any agency of a political subdivision of the state; or in the clerk's office for each municipal member of any multitown district or agency; and

iii) on the agency's website, if available.

- Not less than 24 hours before a public agency conducts a regular meeting using electronic equipment, the agency must post a meeting agenda. Such agenda must be posted as follows:

i) in the agency's regular office or place of business;

ii) in the office and on the website of the Secretary of the State for any state or quasi-public agency; in the clerk's office for any agency of a political subdivision of the state; or in the clerk's office for each municipal member of any multitown district or agency; and

iii) on the agency's website, if available.

- The notice and agenda must (1) be posted in accordance with the provisions of section 1-225 of the FOI Act and (2) include instructions for the public to attend and provide comment or otherwise participate in the meeting, if permitted.

➤ **Additional Requirements for Regular Meetings Held *Solely* Using Electronic Equipment:**

- If a public agency intends to hold a regular meeting solely using electronic equipment, the agency must:

(1) Provide any member of the public, upon request, with a physical location and any electronic equipment necessary to attend the meeting in real-time.

a. Such request must be submitted in writing and not less than 24-hours prior to the meeting.

(2) Allow such individual the same opportunities to provide comment or otherwise participate in the meeting as would be afforded if the meeting was held in person, with the following exception:

a. The public agency is not required to adjourn or postpone a meeting if such person loses the ability to participate because of an interruption, failure or degradation of such person's connection to the meeting by electronic equipment.

(3) Record or transcribe the meeting, except for any portion of an executive session.

- a. Any recordings or transcriptions must be posted on the agency's website and made available to the public to view, listen to and copy in the agency's office or regular place of business not later than 7 days after the meeting.
- b. Any recordings or transcriptions must be available to the public for at least 45 days after the meeting.

(4) If a quorum of the members of a public agency attend a meeting by means of electronic equipment from the same physical location, permit members of the public to attend the meeting from that physical location.

- If a member of a public agency loses the ability to participate because of an interruption, failure or degradation of that member's connection to the meeting by electronic equipment, the public agency is not required to adjourn or postpone a meeting unless such member's participation is necessary to form a quorum.

❖ **Special Meetings Held Solely or in Part Using Electronic Equipment**⁵

➤ Notice and Agenda:

- The notice and agenda must:
 - (1) Be posted not less than 24 hours prior to the special meeting in accordance with the provisions of section 1-225 of the FOI Act;
 - (2) Include whether the special meeting will be conducted solely or in part using electronic equipment; and
 - (3) Include instructions for the public to attend and provide comment or otherwise participate in the meeting, if permitted.

❖ **Votes Taken By Roll Call at Regular and Special Meetings Held Using Electronic Equipment:**

- Any vote taken at a meeting during which any member of the public agency participates using electronic equipment must be taken by roll call, unless the vote is unanimous.

❖ **Minutes for Regular and Special Meetings Held Using Electronic Equipment:**

- The minutes for a meeting during which any member of the public agency participates using electronic equipment must list the members who attended the meeting in person and those members who attended the meeting using electronic equipment.

⁵ These requirements do not apply to public meetings of the General Assembly.

- The minutes must also be made available and posted in accordance with the provisions of section 1-225 of the FOI Act.

❖ **Participation at Regular and Special Meetings Held Using Electronic Equipment:**

- Opportunity for Public to Comment or other Otherwise Participate:
 - A public agency is not required to offer members of the public who attend a meeting using electronic equipment the opportunity for public comment or other participation if such opportunity is not required for members of the public who attend a public meeting in person.
- Requirement for Member of Public Agency and Public to Identify Self:
 - Any member of a public agency or the public who participates orally in a meeting held using electronic equipment must make a “good faith effort” to state such person’s name and title, if applicable, at the outset of each occasion that such person participates orally during an uninterrupted dialogue or series of questions and answers.

❖ **Interruption of Regular or Special Meeting Due to the Failure, Disconnection or Degradation of Electronic Equipment - Resumption of Meeting:**

- If a meeting is interrupted due to the failure, disconnection or, in the chairperson’s determination, unacceptable degradation of electronic equipment, or if a member necessary to form a quorum loses the ability to participate due to the failure, disconnection or degradation of the member’s connection, the public agency may resume the meeting in accordance with the following:
 - The meeting may be resumed not less than 30 minutes and not more than 2 hours from the time of interruption or the chairperson’s determination.
 - The meeting may be resumed:
 - (1) in person, if a quorum is present in person, or
 - (2) if a quorum is restored by means of electronic equipment, solely or in part by such equipment.
 - If a meeting is resumed, then the public agency must:
 - (1) Restore electronic access to the public if such capability has been restored; and
 - (2) Post, if practicable, a notification on the agency’s website of the expected time of resumption or of the adjournment or postponement of the meeting.

- At the beginning of any meeting, the public agency may announce what preplanned procedures are in place for resumption of a meeting that is interrupted.

❖ **Interruption of Regular or Special Meeting Held Using Electronic Equipment Due to Disorderly Conduct:**

- If a meeting is interrupted by any person or groups of persons attending such meeting by electronic equipment so as to render the orderly conduct of such meeting unfeasible and order cannot be restored, the public agency may terminate such person's or group of persons' attendance by electronic equipment until such person or persons conforms to order, or, if need be, until such meeting is closed.