



**WHAT HAPPENS IF YOU CANNOT HOLD A BOARD MEETING
DURING A PUBLIC HEALTH EMERGENCY?
Operational Actions in the Absence of a Board Meeting**

Many school boards have decided to close their schools or are preparing for long-term closures resulting from the outbreak of the coronavirus disease (COVID-19). We are aware that school closures may also result in the rescheduling or cancellation of school board meetings, which may restrict and complicate a variety of administrative operations. However, even without the ability to hold a school board meeting, it is important that board members and administrators are made aware of the range of actions that can be taken by school board staff, pending retroactive board approval. The following are some examples:

- Payroll for employees
- Payments to vendors subject to the authority that is ordinarily given to a business administrator to pay vendor bills between meetings (most payments are required by law to be made within a certain time frame)
- Declare an emergency and negotiate contracts without public advertising when there is a health and/or safety emergency
- Award of contracts (depending on nature and dollar value of contract)
- Suspension of staff (subject to notice of school board president)
- Discipline and suspension of students
- Enforce residency and attendance regulations (if home instruction is provided, students must participate in home instruction in order to be considered “present” for that day of instruction)
- Development and implementation of IEPs, 504s, IHPs, and home instruction plans
- Non-renewal of non-tenured staff (with notice to the school board on or before May 15)

School boards cannot, under any circumstances, delegate any of the following responsibilities, all of which may occur only if a school board specifically approves them:

REPLY TO

387 PARK AVENUE S
5TH FLOOR
NY, NY 10016
212 278 0058

450 MAIN STREET
METUCHEN, NJ 08840
732 243 9588
FAX: 732 243 9590

309 FELLOWSHIP RD
STE 200
MT LAUREL, NJ 08054
863 350 1030

- Approve change orders for construction projects
- Issue final approval of HIB investigations
- Various personnel actions, including finalization of tenure charges, transfer between buildings or across tenure positions, termination (other than non-renewal), appointment, and approval of staff travel
- Adopt the budget
- Approve field trips (unlikely to be an issue in event of closure)

We recommend that administrators review their existing policies to determine whether their school boards have provided them with particular authority to take action (ex: if a school board has a qualified purchasing agent, the bid threshold for the business administrator is up to \$40,000).

We continue to await further guidance from either the Department of Education or the Attorney General's Office regarding the possibility of additional methods by which public board meetings, including the required public participation component, may be conducted in the midst of a public health emergency, such as the COVID-19 pandemic. As you know, federal, State and local guidance is rapidly changing and The Busch Law Group is monitoring these updates on a constant basis. Should you have any questions regarding legal issues implicated by COVID-19, the firm's attorneys are available to assist you.

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