

# Virtual Meetings and Sunshine Act Compliance

On April 20, 2020, Act 15 became effective, providing authority for public meetings to be conducted virtually during the COVID-19 emergency declared by Pennsylvania Governor Tom Wolf. Act 15 allows an agency or the board of political subdivisions included in a declaration of disaster emergency to comply with the Pennsylvania Sunshine Act (65 Pa.C.S. §§ 701-716) by conducting its meetings through the use of an authorized telecommunications device during the public health crisis.

However, political subdivisions should proceed with caution regarding Act 15 as recently the Lackawanna County Court of Common Pleas issued a temporary injunction enjoining the Scranton School District from furloughing over 200 employees due to violations of Act 15 and the Sunshine Act at the School District's September 14, 2020 meeting. The meeting was advertised via public notice which advised that the meeting would be conducted virtually via Zoom, and that the public would be able to view the meeting on the School District's YouTube channel. However, due to technical failures, the YouTube channel was unavailable and members of the public that had not signed up in advance to view or speak at the meeting were disconnected from the Zoom platform. Despite the technical failures, the Board of School Directors continued with the meeting. Due to the public's inability to view the meeting, the injunction was granted.

The Court held that the Sunshine Act is intended to provide the public the right to observe and participate in public meetings. As such, the technical failures of the School District's YouTube channel and Zoom platform violated the public's rights and the fact that the School District provided virtual access via the School District's Facebook page more than two hours after the start of the meeting did not cure the violation since the Facebook page was not advertised in the notice. Uploading the meeting to YouTube the following day was also determined not to be a cure for the Sunshine Act violation.

The main takeaways here are:

1. do not continue with a public meeting after technical failures shut down a streaming link; and
2. be sure to provide all methods of viewing the meeting in the notice advertising a public meeting.