

Northeastern Ohio Synod Supplemental Considerations for Electronic Meetings.

On December 15, 2020, the ELCA Office of the Secretary released a revised document entitled "Considerations for Electronic Meetings." To provide more specific information to that document, this material cites specific references to the Ohio Revised Code, and provides more detail concerning some parliamentary options.

Please note that nothing in either the ELCA document or this material can offer specific advice on legal issues. If particular situations arise because of local governing documents, or interpretation of particular language/issues is required, congregations should consult an attorney.

The following questions and answers follow the format of the ELCA December 15 document.

Where do we look to determine if we can have electronic meetings? What do these state laws say?

Chapter 1702 of the Ohio Revised Code (ORC) governs Nonprofit Corporation Law and is a general reference whose provisions should be upheld. Section 1702.17 gives rules for Meetings of Voting Members. The most relevant portions of that section that apply to remote meetings are:

(B) If so provided in the articles or the regulations, meetings of voting members may be held either within or without this state or solely by means of authorized communications equipment.

(C) Unless the articles or regulations provide otherwise, the voting members and proxyholders who are not physically present at a meeting of voting members may attend the meeting by the use of authorized communications equipment that enables the voting members and proxyholders an opportunity to participate in the meeting and to vote on matters submitted to the voting members, including an opportunity to read or hear the proceedings of the meeting, participate in the proceedings, and contemporaneously communicate with the persons who are physically present at the meeting. Any voting member who uses authorized communications equipment under this division is deemed to be present in person at the meeting whether the meeting is held at a designated place or solely by means of authorized communications equipment. The directors may adopt procedures and guidelines for the use of authorized communications equipment in connection with a meeting of voting members to permit the corporation to verify that a person is a voting member or proxyholder and to maintain a record of any vote or other action taken at the meeting.

there is a definition of authorized communications equipment in section 1702.01

(Q) "Authorized communications equipment" means any communications equipment that provides a transmission, including, but not limited to, by telephone, telecopy, or any electronic means, from which it can be determined that the transmission was authorized by, and accurately reflects the intention of, the member or director involved and, with respect to meetings, allows all persons participating in the meeting to contemporaneously communicate with each other.

If needed, here do we look in our congregation constitution to see if electronic meetings are authorized?

We never updated our constitution to include these provisions. Does this mean we can't hold an electronic meeting?

If the governing documents do not have such a clause/authorization, unless there's an explicit prohibition, section 1702.17 (C) quoted above may apply – see the ELCA document for more information and consideration.

Are there special rules we need to establish for an orderly electronic meeting?

Please see the ELCA document. You may not need any or all of these provisions as cited – this will depend upon the exact form of your meeting, and the electronic technology platform used to hold it.

Please note that all of these issues often require someone to “administer” the electronic meeting – that is, to watch for people who request recognition so that they may obtain the floor, to recognize people who raise issues of privilege, etc. Since people may be at multiple remote locations, and their microphones may be muted, tracking the meeting is very important.

How do we take a vote?

In addition to the material in the ELCA document, please note that voting is covered in *Robert's Rules of Order* (12th Edition), Section 45. Especially, 45:18-21 and 45:42) provide that unless the governing document provide otherwise, that voters have a general right to the secrecy of a recorded¹ ballot. In remote or hybrid meetings, this can become a problem under certain conditions that will need to be addressed.

In addition to the methods cited in the ELCA document, *Robert's* does provide for a mailed-in ballot under certain conditions. Please note that “mailed-in” may cover actual mailing via the Postal Service, or alternative methods of submission, such as drop off at a given site.

First, legally, there is the issue of the ability to vote only if there has been the opportunity for you to be actively or passively involved in the meeting, and either make comments, or hear comments from others. The logistics of dealing with anything that can be amended, voting on amendments, then debating the amended motions subsequently, until something is finally voted on, make complex issues difficult (realistically impossible?) to do via mail ballot. But if a situation is less complex, it can be authorized.

¹ A recorded ballot is one in which public disclosure is made of the voter (by casting a roll call vote) or which involves a written ballot (where names are not normally attached to ballots, but the issuance of ballots is controlled by giving blank forms only to authorized voters. A general procedural vote, such as a motion to adopt the agenda or to adopt special Rules of Procedure, is not normally a recorded vote in a technical sense.

Second, there must have been an opportunity for full discussion and an opportunity for amendments/floor nominations. Once a motion has been finalized, the assembly (those members present) can choose to authorize a vote by mail. The above-referenced Section 45 of *Robert's* provides more specifics on this issue, including:

- that ballots will be distributed only to those who were present at the meeting (in person, video, or phone - this is a must to prohibit absentee ballots – which means that an accurate record must be made of everyone who was in attendance, wherever/however, including all members how were present via the technology platform connection)
- Specific procedures for distribution and return of ballots. Will they be mailed to each person who attended the meeting, or will they be available for pickup at the church office, or ? when/how will they be returned – dropped off in a box at the church, mailed or?
- Deadline date – when do they need to be received? If mailed, postmarked by when, or received by when?

Be sure you carefully outline procedures in as much detail as necessary, so that people can understand how this works.

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