



KENTUCKY NONPROFIT GOVERNANCE & COVID-19 FAQ

Working remotely and social distancing can certainly pose challenges for nonprofit governance. The good news is that KNN worked with a number of partners in recent years to modernize Kentucky's laws so that your organization's board of directors can utilize technology to fulfill its governance responsibilities.

Q. Can my board of directors meet via phone or Zoom or similar technology?

A. Yes, KRS says that as long as all board members can communicate simultaneously in real time and the board has a quorum as outlined in the organization's bylaws, the board can meet and take action.

Q. Can my board of directors vote via email?

A. Your board may take action via unanimous written consent if certain conditions are met, as outlined in KRS. The definition of unanimous written consent includes an electronic signature, including email and fax. To utilize this method of taking action, an organization's bylaws would permit use of unanimous written consent, all board members must participate, and all must agree or disagree to take the same action – "unanimous."

Q. What if ALL of my board members cannot respond via email or if they do not all agree and will not act unanimously?

A. Simply schedule a conference call or other meeting where members can simultaneously communicate with one another – in this instance, only a quorum is needed. Remember: check your bylaws for the required advance notice for board meetings and the definition of a quorum. If your bylaws are silent on any required advanced notice for board meeting, KRS says there must be two days advance notice.

Q. We are a membership organization with voting members – can my members vote via email?

A. If a nonprofit organization is a membership organization, certain board votes may also require the approval of the organization's members. The organization's articles of incorporation and/or bylaws should outline the manner of election or appointment, qualifications and voting rights and procedures, which may include meeting via remote communication such as email. *Care should be taken to distinguish between members with voting rights (the right to elect board members and/or officers, for example), members with nonvoting membership rights and "members" whose connection with the nonprofit is financial or other support. KRS allows membership organizations to use electronic voting if the bylaws permit it. Note: an organization's members are not the same as an organization's governing board members.

Q. What if our bylaws are silent on all of these issues?

A. If your organization's articles of incorporation and/or bylaws are silent on these issues, you should be in good shape. You will only likely have issues if your articles of incorporation and/or bylaws prohibit any of the above actions.

See next page for more information and resources.



ADDITIONAL RESOURCES

Here are some great resources for your board as they navigate governance during COVID-19 and perhaps beyond:

- [KNN's Principles & Practices for Nonprofit Excellence in Kentucky Tools: Guide & Planning & Implementation Workbook](#)
[Download at kynonprofits.org/learn/principles-practices](https://kynonprofits.org/learn/principles-practices)
- [BoardSource](#)
[Visit BoardSource.org](https://www.boardsource.org)
- [House Bill 440 Summary](#)
[Visit kynonprofits.org/sites/default/files/HB440%20One%20sheet%20-%202pg%20-%20Updated%208.24.pdf](https://kynonprofits.org/sites/default/files/HB440%20One%20sheet%20-%202pg%20-%20Updated%208.24.pdf)
- [House Bill 443 Summary](#)
[Visit kynonprofits.org/sites/default/files/HouseBill443Effective071418_1.pdf](https://kynonprofits.org/sites/default/files/HouseBill443Effective071418_1.pdf)
- [Kentucky Nonprofits & COVID-19 Resource Page](#)
[Visit kynonprofits.org/coronavirus](https://kynonprofits.org/coronavirus)
- [Join KNN for our weekly Virtual Town Hall Meetings on Thursdays at 10:30 am EDT.](#)
[Visit kynonprofits.org/coronavirus for more information and to register.](https://kynonprofits.org/coronavirus)
- [Sign up to receive our regular email updates.](#)
[Visit members.kynonprofits.org/subscription-signup?](https://members.kynonprofits.org/subscription-signup?)

This document is not meant to serve as legal advice.
Legal counsel may be needed to address your organization's unique circumstances.

Learn more at kynonprofits.org/coronavirus