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State of Rhode Island and Providence Plantations

Gina M. Raimondo
Governor

EXECUTIVE ORDER

20-46

June 12, 2020

FORTY-SECOND SUPPLEMENTAL EMERGENCY DECLARATION – PUBLIC MEETINGS AND PUBLIC RECORDS REQUESTS

WHEREAS, on March 9, 2020, I declared a state of emergency due to the dangers to health and life posed by COVID-19 and that declaration has been extended to at least July 4, 2020;

WHEREAS, on March 16, 2020, I issued Executive Order 20-05 enabling remote public meetings and providing certain relief relating to managing public records requests and appeals;

WHEREAS, on March 28, 2020, I issued Executive Order 20-14 announcing a stay-at-home requirement and further reducing the size of gatherings to 5 people, among other things, and that Executive Order had been extended to May 8, 2020;

WHEREAS, as a result of these directives, many public and private employees have been working remotely;

WHEREAS, many important functions of state and local government are executed in meetings of "public bodies," as that term is defined in the Open Meetings Act, Rhode Island General Laws § 42-6-1 et seq. (OMA);

WHEREAS, according to the public policy articulated in OMA, "[i]t is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy;"

WHEREAS, guidance on best practices for conducting public meetings remotely and otherwise can be found at the Rhode Island Department of Administration, Division of Information Technology website at http://www.doit.ri.gov/covid-19/;

WHEREAS, the Rhode Island Access to Public Records Act, Rhode Island General Laws § 38-2-1, et seq. (APRA), protects the public's right to access public records within statutory timeframes;

WHEREAS, on April 15, I issued Executive Order 20-25 superseding Executive Order 20-05 with updated OMA and APRA guidance and that Order has been extended by Executive Order 20-34 until June 14;

WHEREAS, on May 8, 2020, I issued Executive Order 20-32 lifting the stay-at-home order with limited re-openings and on May 29, 2020, I issued Executive Order 20-40 kicking off phase II re-opening; and

WHEREAS, as Rhode Island has begun a significant re-opening of its economic, cultural and civic life, the COVID-19 emergency remains, and the Rhode Island Department of Health (RIDOH) continues its critical role of managing and monitoring the development of the COVID-19 virus and of carrying out its many and growing responsibilities with limited resources and strained capacity.

NOW THEREFORE, I, GINA M. RAIMONDO, by virtue of the authority vested in me as Governor of the State of Rhode Island and Providence Plantations, pursuant to Article IX of the Rhode Island Constitution and the Rhode Island General Laws, including, but not limited to, Title 30, Chapter 15, and Title 23, Chapter 8, do hereby order and direct the following:

Open Meetings

1. Public bodies conducting meetings, as those terms are defined by OMA, continue to be relieved from the prohibitions regarding use of telephonic or electronic

communication to conduct meetings, contained in Rhode Island General Laws § 42-46-5(b), and are required to make provisions to ensure public access to the meeting of the public body for members of the public through adequate, alternative means.

a. Adequate alternative means of public access shall mean measures that provide transparency and permit timely and effective public access to the deliberations of the public body. Such means may include, without limitation, providing public access through telephone, internet, or satellite-enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring.

b. Where allowance for active, real-time participation by members of the public is a specific requirement of a state or local law, pursuant to which the proceeding is conducted, any alternative means of public access must provide for such participation.

c. A public body must offer its selected alternative means of access to its proceedings without subscription, toll, or similar charge to the public.

d. Any meetings occurring during the timeframe when this Executive Order is in effect must provide adequate alternative means for public access, even if the members of the public body are able to convene in person.

2. A public body that elects to conduct its proceedings under the relief provided in section (1) shall ensure that any party entitled or required to appear before it shall be able to do so through remote means, as if the party were a member of the public body and participating remotely.

3. All other OMA provisions shall remain unchanged and fully applicable to the activities of public bodies.

Public Records

4. The statutory timeframes within which to respond to an APRA request contained in Rhode Island General Laws § 38-2-3 and § 38-2-7 are hereby suspended for all pending and new public records requests submitted to RIDOH. RIDOH may extend the timeline for responding to a records request by an additional 20-business-day period, further to the extension provided in Rhode Island General Laws § 38-2-3(e), if

it notifies the requestor in writing before the regular statutory deadline for its response and states that the additional time is necessary for reasons related to the current COVID-19 emergency. Any such further extension of time must be related to the current COVID-19 emergency and be based on a reasonable belief that additional time is needed beyond the 20-business-day statutory extension. RIDOH may only assert one 20-business-day extension at a time and evaluate at a later date whether the second 20-business-day extension is necessary.

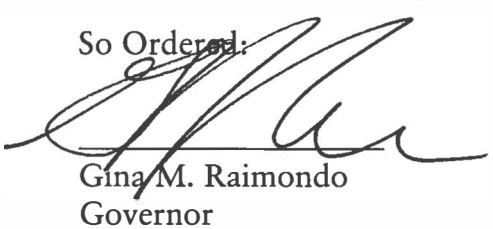
5. The requirements in Rhode Island General Laws § 38-2-3 providing that an agency or a public body permit inspection of records and produce records in "any and all media" in which they are capable of being provided is hereby suspended for all pending and new public records requests. It shall be sufficient for an agency or public body to provide such records electronically. Agencies and public bodies may continue to permit inspection or provide public records in other media, at their discretion. Any extensions of time invoked under Executive Orders 20-34 or 20-25 prior to the date of this Order remain valid.

6. The timeframes regarding administrative appeals of agency or public body decisions contained in Rhode Island General Laws § 38-2-8 are hereby suspended for all pending and new administrative appeals at RIDOH. RIDOH may extend the timeline within which its chief administrative officer may review his or her subordinate's determination and issue a decision regarding an administrative appeal by an additional 10 business days. Any such extension of time must be related to the current COVID-19 emergency and RIDOH must inform the requestor in writing within the regular 10 business day timeframe.

7. All other provisions of APRA shall remain unchanged and applicable to agencies and public bodies.

This Order supersedes Executive Order 20-25. It shall take effect immediately and remain in full force and effect until July 12, 2020 unless renewed, modified or terminated by subsequent Executive Order.

So Ordered:



Gina M. Raimondo
Governor