

Electronic Meeting Notices

Associations are required by law to notify members of certain types of meetings—board and annual meetings, for example. Requirements for how and when notice is given vary by state; however, unless it’s specifically prohibited by statute or the governing documents, giving notice by electronic transmission may be acceptable.

While certain other restrictions may apply, and not all electronic transmission means are appropriate, adding electronic meeting notices to your arsenal can be a convenient and quick way to spread the word about association meetings to your members.

Here are several types of electronic notification devices and programs that you can use for this task, though not all are created equal:

Facsimile (Fax): Sending a meeting notice by facsimile transmission may not be considered effective notice because the owner can claim he or she did not receive it. Indeed, many facsimile machines do not verify whether outgoing transmissions were successfully received on the other end. Correspondingly, there is often no means of substantiating that a facsimile was sent. This leaves open the possibility that the person sending the faxes might fail to send notice to, say, a vocal opponent of the board, and still claim that such notice was sent. For these reasons, associations should not deliver meeting notices by facsimile.

E-mail: Some states have already passed laws that permit associations to deliver meeting notice by e-mail. Where state law or the governing doc-

uments now merely require that written notice be delivered, the Uniform Commercial Code (UCC) defines “written” or “writing” as “printing, type-writing or any other reduction to tangible form.” Similarly, the Uniform Electronic Transactions Act (ETA) states, “If a law requires a record to be in writing, an electronic record satisfies the law.”

E-mail and facsimile transmission differ in two ways. First, the e-mail sender can request receipt confirmation from the recipient. Second, even if the e-mail recipient doesn’t confirm receipt, the sender can configure his or her e-mail software to keep copies of messages in the Sent-Items folder. This creates a record of the time, e-mail address and full text of the sent notice.

Some states require the association to obtain written authorization from an owner before it can send meeting notices by e-mail. As part of the authorization, associations should ask owners not to block receipt confirmation. If a receipt can be confirmed, then delivery is proven.

Website Postings: Does “posting” meeting notice on the official association website constitute a legal meeting notice? If the law allows the association to deliver notice “by electronic transmission,” does any actual “transmission” take place by posting notice to a website? The answer may be moot since the owner’s authorization is the real key. The owner who has agreed to receive notice by website posting must take action—visiting the site to read the notice—just like he or she must take action to open first-class mail or open an e-mail to read the notice.