



# West Virginia AFL-CIO

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February 24, 2021

The Honorable Roger Hanshaw  
Speaker of the House of Delegates  
Room 228M , Building 1  
State Capitol Complex  
Charleston, WV 25305

House Speaker Hanshaw,

Article 3, Section 16 of the West Virginia Constitution states that the right of public assembly is held inviolate. “The right of the people to assemble in a peaceable manner, to consult for the common good, to instruct their representatives, or to apply for redress of grievances, shall be held inviolate.”

For the better part of a year, the State Capitol has remained closed due to the COVID pandemic. The public is prohibited from entering unless invited to a meeting, according to the Capitol Police.

During this 2021 regular legislative session, House and Senate galleries are largely empty, and there is no method for anyone to directly observe the proceedings. Members of the press can sit in the hall outside the chambers or in limited seating in the galleries, but have much reduced access.

Unfortunately, it appears the legislative leadership has taken advantage of person-to-person contact limitations resulting from this health care crisis to pull the shades on visibility and access, and forcefully manage the legislative process with greatly reduced opportunities for accountability from citizens, the press and political opponents.

The House of Delegates has provided video streaming of the daily floor sessions for several years, but only audio streaming from its four committee rooms, while the Senate has provided video streaming of not only floor sessions, but also committee meetings, which are archived on the Legislature’s website.



**One Voice, One Agenda, One Movement!**

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“OUR MISSION IS TO BE A POWERFUL, EFFECTIVE ADVOCATE FOR ALL WORKING FAMILIES IN WEST VIRGINIA”

Because of the lack of space in three of the four House committee rooms, all House committee meetings are now divided between the House chamber and the East Wing Government Organization Committee Room (215 E), which is large enough to allow social distancing. Although the House leadership has had months to contemplate public access issues related to the current pandemic no additional equipment was installed in 215 E to provide for video streaming, even though the Governor has received billions of dollars in federal aid related to the pandemic.

In a bizarre twist of logic, the House leadership has declared that because no video of committee meetings in 215 E was possible, when committee meetings take place in the House chamber, that streaming would also be limited to just audio, despite the fact the chamber is fully equipped to stream video.

Interested members of the public are left trying to decipher from the audio streaming (which from 215 E is often weak and spotty) which members are speaking (chairs tend to refer to the members by district number rather than name) and to whom they are addressing their questions or comments.

To make matters worse, the House changed a longstanding rule requiring that committee chairs assigned legislation provide a timely public hearing on a particular bill upon formal request. The new rule leaves it to the discretion of the chair. In just the first week of the legislative session, the House Government Organization Chair denied a request by a member for a public hearing on legislation affecting more than 100,000 people in more than 50 different professions.

There has been no indication the House is offering virtual participation via Zoom or other such application, as the Senate has occasionally. But even if the House were offering virtual participation, committee meeting agendas in both the House and Senate are frequently not posted in a timely fashion so that interested members of the public can learn what bills are to be discussed and take the initiative to request access.

In addition, House and Senate committee chairs often produce “committee substitutes” for existing bills that can vary greatly from the original. While the original legislation is accessible online, those committee substitutes are not, making it impossible for anyone listening to the proceedings to follow exactly what is being considered.

The bills passed by the House and Senate so far significantly affect all West Virginians, and some legislation directly impacts hundreds of thousands of professionals and their clients, students and teachers, health care facilities and their patients.

West Virginia Code 6-9A-2 and 3, and the Senate and House of Delegate rules require their committees and joint committees to make all meetings open to the public, which must be able to participate. The House and Senate must provide reasonable notice of any meeting and the date, time, place and agenda. While 6-9A-2(5) allows for meetings to be held by electronic means, neither the Senate nor the House have provided adequate notice nor electronic means to allow the public to participate, which is in violation of the statute. Nothing in the Governor’s COVID-related executive orders allows for suspension of these requirements.

There are facilities at the Capitol to allow in-person meetings such as both chambers, the Culture Center, and conference rooms in building 6. In addition, the West Virginia AFL-CIO has numerous highly skilled, licensed electricians and communications technicians on standby, willing to assist with the installation of needed equipment to allow for video streaming and online participation, should the Legislature need such support.

Wherefore, the undersigned respectfully request that both the Senate and House fully comply with chapter 6-9A within five business days, in keeping with the time requirements set by the state Freedom of Information statute, given that this is an issue of public access to information in the midst of a fast-paced session.

Otherwise, we may consider options allowed under 6-9A-6.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. D. Sword', with a stylized, cursive script.

Joshua D. Sword  
President

A handwritten signature in blue ink, appearing to read 'Andrew P. Walters', with a stylized, cursive script.

Andrew P. Walters  
Secretary-Treasurer

CC: Governor Jim Justice  
Senate President Craig Blair

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