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| Policy Area: State Governance | |
| Title of Policy: Member Participation by Electronic Means | Number: VBWD 100-04 Change 2 |
| Effective Date: March 31, 2023 | Review by Date: June 1, 2025 |
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I. Purpose

This issuance provides guidance for member participation by electronic means instead of attending a public meeting in-person and guidance for holding all-virtual public meetings.

II. References

- Virginia Freedom of Information Act; Virginia Code Section § 2.2-3708.2
- Virginia Freedom of Information Act; Virginia Code Section § 2.2-3708.3.
- Virginia Freedom of Information Act; Virginia Code Section § 2.2-3707.
- Virginia Freedom of Information Act; Virginia Code Section § 2.2-3701.

III. Policy

- a. Virginia Board of Workforce Development – Meetings Held Through Electronic Communication Means During Declared States of Emergency (Virginia Code Section §2.2-3708.2)

It is the policy of the Virginia Board of Workforce Development that it may meet by electronic communication without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with §44-146.17, or the locality in which the public body is located has declared a local state of emergency pursuant to Section §44-146.21, provided that:

- (i) The catastrophic nature of the declared emergency makes it impractical or unsafe to assemble a quorum in a single location, and
- (ii) The purpose of the meeting is to provide for the continuity of operations of the public body or the discharge of its lawful purposes, duties, and responsibilities.

The Virginia Board of Workforce Development meeting in accordance with (Section §2.2-3708.2) shall provide public notice, provide for public access, provide for public comment, and otherwise comply with the provisions of this chapter. The nature of the emergency, the fact that the meeting was held by electronic means, and the type of electronic communication means by which the meeting was held shall be stated in the minutes.

- b. Virginia Board of Workforce Development-Individual Remote Participation Instead of Attending an In-Person Public Meeting (Virginia Code Section §2.2-3708.3 B)

It is the policy of the Virginia Board of Workforce Development (VBWD) that members may participate in meetings of the Board by electronic means as permitted by *Virginia Code §2.2-3708.3*. All persons attending remotely shall be afforded the same opportunity to address the public body as persons attending the primary or central location. This policy shall apply to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting. This policy applies to all committees and subcommittees of the VBWD.

The member requesting remote participation must notify in writing, prior to the meeting, the board's Executive Director and Chair of the need to participate remotely due to one of the following reasons;

- i. The member has a temporary or permanent disability or other medical condition that prevent the member's physical attendance;
- ii. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance;
- iii. The member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
- iv. The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. No member may use remote participation due to personal matters more than two meetings per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

All remote participation requests and the decision and justification to approve or disapprove remote participation, shall be communicated in writing by the board's Executive Director after consultation with the board's Chair and shall be documented in the meeting minutes as described in §2.2-3708.3. Remote location need not be open to the public and may be identified in the minutes by a general description.

- c. Virginia Board of Workforce Development All-Virtual Public Meetings (Virginia Code Section §2.2-3708.3 C)

The VBWD may hold all-virtual public meetings. The decision to hold an all-virtual public meeting shall be made by the board's Executive Committee. The basis for the decision to hold an all-virtual public meeting shall be documented in the Executive Committee's minutes.

An all-virtual public meeting must adhere to guidance in §2.2-3708.3 C.

- i. The required meeting notice must identify that the meeting will be all-virtual and includes a statement that the meeting method will not change unless the public body

- provides a new meeting notice in accordance with the provision of §2.2-3707;
 - ii. Public access to the all-virtual public meeting is provided via electronic communication means;
 - iii. The electronic communication means used allows the public to hear all members of the public body participating in the all-virtual public meeting and when audio-visual technology is available, to see the members of the public body as well;
 - iv. A phone number or other live contact information is provided to alert the public body if the audio or video transmission of the meeting provided by the public body fails, the public body monitors such designated means of communication during the meeting, and the public body take a recess until public access is restored if the transmission fails for the public;
 - v. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting is made available to the public in electronic format at the same time that such materials are provided to members of the public body;
 - vi. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings which public comment is customarily received;
 - vii. No more than two members of the public body are together in any one remote location unless that remote location is open to the public to physically access it;
 - viii. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the public body votes to certify the closed meeting as required by subsection D of §2.2-3712;
 - ix. The public body does not convene an all-virtual public meeting
 - (a) more than two times per calendar year or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or
 - (b) consecutively with another all-virtual public meeting; and
 - x. Minutes of all-virtual public meetings held by electronic communication means are taken as required by §2.2-3707 and include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held. If a member's participation from a remote location is disapproved the disapproval shall be record in the minutes with specificity.
- d. All VBWD meetings including all-virtual meetings will comply with §2.2-3707 to include:
- i. For in-person meetings a quorum is physically assembled at one primary or central meeting location (2.2-3701); for all-virtual meetings members do not need to be assembled at one primary or central location to establish a quorum.
 - ii. Appropriate notice of the meeting has been provided at least three working days in advance of the date scheduled for the meeting and the notice identifies the meeting as in-person or all-virtual.
 - iii. A copy of the proposed agenda and agenda packets and, unless exempt, all materials that will be distributed to members of the public body and that have been made available to the staff of the public body in sufficient time for duplication and forwarding to all locations where public access will be provided shall be made

available to the public at the time of the meeting.

- iv. Minutes of all meetings shall be recorded as required by §2.2-3707. Votes taken during any meeting conducted through electronic communication means shall be recorded by name in roll-call fashion and included in the minutes.

- e. Local Workforce Development Boards

Local Workforce Development Boards must have a written policy, adopted by a recorded vote, that describes the circumstances under which an all-virtual public meeting will be held and the circumstances that remote participation at an in-person public meeting will be allowed that adheres to Virginia Code §2.2-3708.3. The policy must describe the process the board members will use to request remote participation, the process for approving or denying requests, and the process for documenting requests and decisions. The policy must state the number of times remote participation for personal matters or all-virtual public meetings can be used per calendar year, not to exceed the limitation set forth in §2.2-3708.3.

Once adopted, the policy shall be applied strictly and uniformly, without exception, to the entire membership and without regard to the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting.