



COMMONWEALTH of VIRGINIA

Commission on Youth

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Policy on electronic meetings held through electronic communication means under § 2.2-3708.3 of the *Code of Virginia*

The *Code of Virginia* § 2.2-3708.3 (effective July 1, 2024) requires public bodies to at least once annually adopt a policy regarding remote participation by members and all-virtual meetings. Under these provisions, the Virginia Commission on Youth (VCOY) is adopting the policies as stated in this memo.

Remote meeting participation by individual VCOY members

It is the policy of the Virginia Commission on Youth (VCOY) that individual VCOY members may participate in meetings virtually as permitted by § 2.2-3708.3 of the *Code of Virginia*, with two exceptions. The allowance in statute for any member living more than 60 miles away from the meeting site to attend remotely will not be used by VCOY. Additionally, VCOY members participating remotely may not make motions or vote. 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. Whenever an individual member wishes to participate from a remote location, the law requires a quorum of the VCOY members to be physically assembled at the primary or central meeting location.

Members are permitted to participate in meetings remotely under the following three circumstances:

1. The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance. For purposes of determining whether a quorum is physically assembled, an individual member of a public body who is a person with a disability as defined in § 51.5-40.1 and uses remote participation counts toward the quorum as if the individual was physically present;
2. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance or the member is a caregiver who must provide care for a person with a disability at the time the public meeting is being held thereby preventing the member's physical attendance. For purposes of determining whether a quorum is physically assembled, an individual member of a public body who is a caregiver for a person with a disability and uses remote participation counts toward the quorum as if the individual was physically present; or

3. The member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter. However, the member may not use remote participation due to personal matters for 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.

When all procedural requirements are met, VCOY members participating in meetings remotely may take part in discussions, join in closed meetings, and otherwise participate fully as if such member was physically present, except that the member may not make motions or vote. If procedural requirements are not met, however, then members may only monitor the meeting remotely and cannot otherwise participate.

Requests for remote participation must be sent to VCOY staff, who will notify the VCOY Chair. Requests will be approved automatically unless the member's participation would violate FOIA. If participation is challenged, the matter will be put to a vote of the VCOY Members at the meeting. The request and reason for remote participation will be recorded in the meeting minutes.

All-Virtual Meetings

It is the policy of the VCOY that the VCOY may hold all-virtual public meetings pursuant to subsection C of § 2.2-3708.3 of the *Code of Virginia*. Whenever the VCOY holds an all-virtual public meeting, members and staff must comply with the following statutory requirements:

1. An indication of whether the meeting will be an in-person or all-virtual public meeting must be included in the required meeting notice along with a statement notifying the public that the method by which a public body chooses to meet shall not be changed unless the public body provides a new meeting notice in accordance with the provisions of § 2.2-3707;
2. Public access to the all-virtual public meeting is provided via electronic communication means;
3. 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. When audio-visual technology is available, a member of a public body shall, for purposes of a quorum, be considered absent from any portion of the meeting during which visual communication with the member is voluntarily disconnected or otherwise fails or during which audio communication involuntarily fails;
4. 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 takes a recess until public access is restored if the transmission fails for the public;
5. 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;

6. The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
7. 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;
8. 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;
9. The public body does not convene an all-virtual public meeting (i) more than two times per calendar year or 50 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual public meeting; and
10. 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 pursuant to these requirements is disapproved because such participation would violate the policy adopted pursuant to subsection D of § 2.2-3708.3, such disapproval shall be recorded in the minutes with specificity.

The policy of VCOY is to not convene an all-virtual public meeting more than one time per calendar year. Additionally, the policy of VCOY is to not hold votes during all-virtual public meetings. As long as all of the appropriate procedural requirements are met, members may conduct other business of VCOY, including but not limited to receiving staff briefings, hearing public comments, and discussing draft recommendations.

This policy applies to all committees, subcommittees, and advisory groups of VCOY.