

COMMISSION ON EARLY CHILDHOOD CARE AND EDUCATION (ECCE)

GENERAL POLICY FOR REMOTE PARTICIPATION IN COMMISSION MEETINGS AND MEETINGS CONDUCTED VIRTUALLY

I. PURPOSE

The purpose of this document is to establish a written policy, in accordance with §§ 2.2-3708.2 and 3708.3 of the Code of Virginia (Virginia Code), to allow for and govern remote participation in the Commission on Early Childhood Care and Education (Commission) membership meetings; to specify the requirements for remote participation by individual members; and identify the conditions under which the full Commission may conduct business remotely.

II. AUTHORITY

The membership of the Commission interprets this policy.

This policy must 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.

III. POLICY

A. Remote Participation in Commission Meetings by Individual Members

Pursuant to applicable law and guidance, the Commission adopts the following practice and procedures for the participation of members of its body who cannot physically attend meetings for which public business will be conducted.

1. Prior to a scheduled Commission meeting, a member must notify the Chair or designated staff at the Virginia Early Childhood Foundation (VECF) that he or she is unable to attend the meeting due to (a) a temporary or permanent disability or other medical condition that prevents physical attendance, (b) a family member's medical condition that requires the member to provide care for such family member thereby preventing the member's physical attendance, (c) a member's residence is more than 60 miles from the

meeting location identified in the notice, or (d) a personal matter that prevents physical attendance.

- a. In the case of a personal matter, the member must identify with specificity the nature of the personal matter.
 - b. Participation by a member pursuant to a personal matter is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater.
2. A quorum of the Commission members must be physically assembled at the primary or central meeting location for the Commission to consider the participation of a remote member.
3. Requests for remote participation shall be approved unless such participation would violate this policy or the provisions of the Virginia Freedom of Information Act. Any approval or disapproval of remote participation under this policy shall be noted in the meeting minutes in accordance with subsection B of § 2.2-3708.3 of the *Code of Virginia*, including:
 - a. The fact of the remote participation;
 - b. The location of the remote participation, which does not need to be open to the public; and
 - c. Whether the remote participation is because of
 - (a) a temporary or permanent disability or other medical condition that prevents physical attendance;
 - (b) a family member's medical condition that requires the member to provide care for such family member thereby preventing the member's physical attendance;
 - (c) a member's residence is more than 60 miles from the meeting location identified in the notice, or
 - (d) a personal matter that prevents physical attendance. In the case of a personal matter, the specific nature of the personal matter should be disclosed in the minutes.

4. The Commission may deny participation for personal matters only if participation would violate this policy. If a member's participation is disapproved, the disapproval and the reason for the disapproval shall be recorded in the minutes with specificity.
5. The Commission must plan for the voice of the remote participant to be heard by all persons at the primary or central meeting location.
6. Should the requirements of this policy not be met, the Commission member will be allowed to listen to the proceedings through an electronic means, if available.
7. The Commission will provide the public access to observe any meeting at which a member is permitted to participate by remote means. The Commission will state in the notice for the meeting whether public comment will be taken at the meeting and will provide a means for submitting written comments.

B. All Virtual Meetings

Pursuant to applicable law and guidance, the Commission adopts the following practice and procedures for participation of members of its body when the intent is that all members participate electronically and for such time public business will be conducted.

1. Upon the decision by the Chair or Majority of the Commission membership that a Commission meeting will be held in an all-virtual format, the Commission will issue a required meeting notice and include a statement notifying the public that the all-virtual meeting format will be used.
 - a. This notice should include a statement that, should the meeting format change, a subsequent notice will be issued in accordance with Virginia Code 2.2-3707.
2. The Commission will provide for the general public to observe the all virtual meeting via electronic communications, which allow the public to hear the Commission members' deliberations, other than for any portion of the meeting that is closed pursuant to Virginia Code § 2.2-3711.
 - a. If audio-visual technology is used, the electronic communication means should allow the public to also see the Commission members.
 - b. The Commission will provide the public access to observe all-virtual meetings. The Commission will state in the notice for the meeting whether public comment will be taken at the meeting or provide a means for submitting written comments.

3. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to the members of the Commission for a meeting shall be made available to the public in electronic format at the same time that the materials are provided to the members of the Commission.
4. No more than two members of the Commission can be together or present in any one of the remote locations used during the all-virtual meeting unless that remote location is open to the public and physically accessible to the public.
5. The Commission is limited in convening meetings in the all-virtual format to two meetings or 25 percent of the meetings held each calendar year rounded up to the next whole number, whichever is greater.
6. The Commission is prohibited from holding meetings in the all-virtual format consecutively with another all-virtual public meeting.
7. The Commission will provide a phone number or other live contact information so the public can alert the Commission of the audio or video transmission issues that interfere with their access, participation, or viewing of the public bodies meeting.
 - a. The Commission will monitor such designated means of communication during the meeting.
 - b. Should access fail, the Commission shall take a recess until public access is restored (subject to reasonable time limitations).
8. In the event the Commission convenes a closed session during the all-virtual public meeting, transmission of the meeting to the public must resume before the Commission votes to certify the closed meeting as required by subsection D of Virginia Code § 2.2-3712.
9. Minutes of all-virtual public meetings held by electronic communication means are taken as required by Virginia Code § 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.

STATE OF EMERGENCY DECLARATIONS

This policy shall be effective during ordinary times during which the Governor has not declared an emergency pursuant to Virginia Code § 44-146.17 or where the locality in which the body is located has declared a local state of emergency pursuant to Virginia Code § 44-146.21.

When an emergency has been declared, other provisions of law or declarations of the Governor or the locality may prevail. In such cases, the Commission must affirm that (i) the catastrophic nature of the declared emergency makes it impracticable 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 Commission or the discharge of its lawful purposes, duties, and responsibilities.

In such cases, a physical quorum is not required for the conduct of public business.

In cases of emergency, the Commission will:

- A. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the Commission conducting the meeting;
- B. Make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the Commission;
- C. Provide the public with the opportunity to comment at those meetings of the Commission when public comment is customarily received; and
- D. Follow other mandates of this policy and law.

EDUCATION AND COMPLIANCE

Members of the Commission shall be made aware of this and any other Commission policies as part of the new Commission member orientation process. Any changes to this policy shall be communicated to the Commission by the Chair or VECF no later than the Commission's next scheduled meeting. The Commission Chair shall be responsible for ensuring annual compliance with the provisions of this policy.

REFERENCES

[§ 2.2-3708.2. Meetings held through electronic communication means.](#)

[§ 2.2-3708.3. Meetings held through electronic communication means; situations other than declared emergency.](#)

[FOIA Electronic Meetings Guide \(2022\)](#)

[§ 44-146.17. \(Effective July 1, 2023\) Powers and duties of Governor.](#)

[§ 44-146.21. Declaration of local emergency.](#)