

POLICY GOVERNING VIRTUAL MEETINGS AND REMOTE PARTICIPATION IN MEETINGS - DRAFT

All-Virtual Meetings

Occasions may arise when the Joint Facilities Advisory Commission is unable to form a physical quorum to conduct a public meeting. Under certain circumstances, Virginia law permits certain public bodies¹ to hold all-virtual public meetings using electronic means such as telephone or video conferencing, in which no physical quorum is otherwise required. The law limits the instances in which this may occur, prescribes procedures that must be followed when a public body holds an all-virtual public meeting, and requires that a written policy governing such meetings be adopted annually. This Policy, as hereafter set forth, sets forth the procedures under which the Joint Facilities Advisory Commission may hold an all-virtual public meeting.

The Joint Facilities Advisory Commission may hold an all-virtual public meeting in which no physical quorum is assembled under the following circumstances:

1. An indication of whether the meeting will be an in-person or all-virtual public meeting is included in the required meeting notice along with a statement notifying the public that the method by which the Joint Facilities Advisory Commission chooses to meet shall not be changed unless the Joint Facilities Advisory Commission provides a new meeting notice in accordance with the provisions of Va. Code § 2.2-3707; and
2. Public access to the all-virtual public meeting is provided via electronic communication means; and
3. The electronic communication means used allows the public to hear members of the Joint Facilities Advisory Commission participating in the all-virtual public meeting and, when audio-visual technology is available, to see members of the Joint Facilities Advisory Commission as well. When audio-visual technology is available, a member of the 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; and
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 Joint Facilities Advisory Commission fails, the Joint Facilities Advisory Commission monitors such designated means of communication during the meeting, and the Joint Facilities Advisory Commission takes a recess until public access is restored if the transmission fails for the public; and
5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of the Joint Facilities Advisory Commission for a meeting is made

¹ This policy is not applicable to the County Board, School Board, planning commissions, architectural review boards, board of zoning appeals, and any other board with the authority to deny, revoke or suspend a professional or occupational license.

available to the public in electronic format at the same time that such materials are provided to members of the Joint Facilities Advisory Commission; and

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; and

7. No more than two members of the Joint Facilities Advisory Commission are together in any one remote location unless that remote location is open to the public to physically access it; and

8. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the Joint Facilities Advisory Commission votes to certify the closed meeting as required by section D of Va. Code § 2.2-3712.

9. The Joint Facilities Advisory Commission 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 Va. 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; and

11. This policy shall not be applicable to electronic meetings held during declared states of emergency, which shall be governed by the applicable provisions of the Code of Virginia.

Remote Participation in Meetings

Occasions may arise when a member of the Joint Facilities Advisory Commission is unable to be physically present at the meeting. Under certain circumstances, Virginia law permits members to participate in meetings through electronic means such as telephone and video conferencing. The law limits the instances in which this may occur, prescribes procedures that must be followed when a member participates in a meeting through electronic means, and requires that a written policy governing such participation be adopted. This Policy, as hereafter set forth, sets forth the instances when a member may participate in a meeting electronically and the procedures that apply.

Circumstances When Remote Participation Is Permitted

A Joint Facilities Advisory Commission member may participate in a meeting through electronic means from a remote location not open to the public under the following circumstances:

1. a. A member shall notify the chair on or before the day of the meeting that such member is unable to attend the meeting due to a personal matter, and shall identify with specificity the nature of the personal matter. The Joint Facilities Advisory Commission shall record in its minutes the specific nature of the personal matter and a general description of the remote location from which the member participated.

b. Such participation by the member shall be limited each calendar year to two meetings or 25 percent of the meetings of the Joint Facilities Advisory Commission held per calendar year rounded up to the next whole number, whichever is greater.

2. A member may notify the chair that such member is unable to attend a meeting due to a temporary or permanent disability or other medical condition that prevents the member's physical attendance; or a family member's medical condition that requires the member to provide care for such family member; or the member is a caregiver as defined by VA. CODE § 2.2-3701 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. The Joint Facilities Advisory Commission shall record this fact and the remote location from which the member participated in its minutes.

3. A member may notify the chair that such member is unable to attend a meeting due to the member's principal residence being more than 60 miles from the meeting location identified in the required notice for the meeting. The Joint Facilities Advisory Commission shall record this fact and the remote location from which the member participated in its minutes.

4. If a member's participation from a remote location pursuant to any of the reasons stated above is disapproved because such participation would violate the provisions of this Policy, such disapproval shall be recorded in the minutes with specificity.

Procedural Requirements

Participation by a member of the Joint Facilities Advisory Commission as authorized above shall be only under the following conditions:

1. A quorum of the Joint Facilities Advisory Commission is physically assembled at the primary or central meeting location. 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 VA. CODE § 51.5-40.1, or who is a caregiver as defined in VA. CODE § 2.2-3701 for a person with a disability, and uses remote participation, counts towards the quorum as if the individual was physically present.

2. The Joint Facilities Advisory Commission makes arrangements for the voice of the member who is participating remotely to be heard by all persons at the primary or central meeting location.

3. This Policy shall be applied strictly and uniformly, without exception, to all members and without regard to the identity of the member requesting to participate remotely or the matters that will be considered or voted on at the meeting.

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