

Virginia State Bar

Policy on Individual Remote Participation in Meetings and All-Virtual Meetings Pursuant to Virginia Code Section 2.2-3708.3

The Virginia State Bar (VSB) is committed to providing public access, both in person and through electronic communication means, to its public meetings. To that end, the VSB, through its Council, hereby adopts this policy to reflect its implementation of the Virginia Freedom of Information Act as that act applies to open meetings of public bodies. This policy shall apply strictly and uniformly, without exception, to all members of committees, subcommittees, or other entities of any public bodies that are part of the VSB.

As of ~~September~~ October 11, 20222024, the relevant statute is Va. Code § 2.2-3708.3. However, this policy applies until rescinded, revoked, or revised, regardless of any changes in the numbering of the relevant statute.

I. Individual Member Remote Participation (“Hybrid” in-person/remote meetings)

An individual member of a VSB public body may use remote participation instead of attending a public meeting in person if, before the public meeting, the member notifies the public body chair that one of the following applies:

1. The member has a temporary or permanent disability or other medical condition that prevents the member’s physical attendance; or
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, as defined in Va. Code § 2.2-3700, who must provide care for a person with a disability at the time the public meeting is held thereby preventing the member’s physical attendance;
or
3. The member’s principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting; or
4. The member is unable to attend due to a personal matter and identifies with specificity the nature of the personal matter. The member may not 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.

The public body must approve such participation through electronic communication means and record in its meeting minutes a general description of the remote location from which the member participated, but the remote location need not be open to the public. If the public body approves the member’s remote participation, the public body shall include in its minutes the reason for the member’s participation by electronic communication means. If the reason for the member’s remote participation is a personal matter, the minutes shall include the specific nature of the personal matter cited by the member.

If the VSB public body disapproves the member’s remote participation, such disapproval shall be recorded in the minutes with specificity.

For the purposes of determining whether a quorum is physically assembled, an individual member of a public body who is (i) a person with a disability as defined in Va. Code § 51.5-40.1 that prevents the member's physical attendance or (ii) a caregiver who must provide care for a person with a disability at the time the public meeting is held preventing the member's physical attendance and uses remote participation counts toward the quorum as if the individual were physically present. A member is considered absent and not counted for the purposes of a quorum for any portion of the meeting during which (i) audio-visual technology is available and the visual communication is voluntarily disconnected or otherwise fails or (ii) audio communication involuntarily fails.

II. All-Virtual Meetings (“All remote” participation)

The VSB adopts this policy for all-virtual meetings consistent with Va Code § 2.2- 3708.3.C. This ~~policy~~ section shall apply strictly and uniformly, without exception, to all members of committees, subcommittees, or other entities of any VSB public bodies except for any VSB public bodies with the authority to deny, revoke, or suspend a professional or occupational license.

The chair of the VSB public body will decide if the public body will hold an all-virtual meeting, provided that the public body does not convene an all-virtual meeting more than two times per calendar year or ~~25~~50 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater, and the VSB public body will not convene two consecutive all-virtual meetings. If the VSB public body convenes by an all-virtual meeting, the VSB public body will adhere to the notice requirements and technical requirements enumerated in Va. Code § 2.2-3708.3.C,¹ including, but not necessarily limited to:

1. Providing public notice as to whether the meeting will be in-person or all-virtual;
2. Providing public access via electronic communication means that allows the public to hear all members of the public body and to see the members if audio-visual technology is available;
3. Providing a phone number or other live contact information so that the public body can be alerted if the transmission of the meeting fails, and in the event of such failure, taking a recess until public access is restored;
4. Making available to the public a copy of the proposed agenda and public meeting materials in electronic format;
5. If public comment is customarily received, affording the public an opportunity to comment through electronic means, including by submitting written comments; and
6. Including in the meeting minutes that fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held.

¹ See Va. Code §2.2-3708.3.C.1-10.

A member is considered absent and not counted for the purposes of a quorum for any portion of the meeting during which (i) audio-visual technology is available and the visual communication is voluntarily disconnected or otherwise fails or (ii) audio communication involuntarily fails.

If an all-virtual meeting is held, no more than two members of the VSB public body may be together in one remote location unless that remote location is open to the public to physically access that location.

If a closed session is held during an all-virtual meeting, transmission of the meeting to the public must resume before the public body votes to certify the closed meeting as required by Va. Code § 2.2-3712.

**Adopted by the Virginia State Bar Council on September 7, 2022; amended
October 2024.²**

² The Council's October 2024 amendments align the policy with four bills passed in the 2024 General Assembly Session, specifically [HB 894](#), [HB 1040](#), [SB 85](#), and [SB 734](#).