

September 21-23, 2022

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**APPROVAL OF THE BOARD OF VISITORS POLICY FOR CONDUCTING
MEETINGS BY ELECTRONIC COMMUNICATION MEANS**

WHEREAS, Chapter 597 of the Virginia Acts of Assembly – 2022 Session expands and clarifies the circumstances under which boards of visitors may conduct meetings by electronic communication means;

WHEREAS, this legislation permits certain public bodies, including governing boards of public education institutions, to hold all-virtual meetings in which all members participate remotely when there is not a declared state of emergency, provided electronic access is made available to the public and certain conditions are met;

WHEREAS, the legislation requires the adoption of written policies allowing for and governing participation of its members in meetings by electronic communication means;

WHEREAS, Chapter 447 of the Virginia Acts of Assembly – 2021 Special Session I requires the State Council of Higher Education in Virginia (SCHEV), in consultation with the Virginia Freedom of Information Advisory Council to work with the public institutions of higher education and technology experts to develop a minimal uniform standard for providing the public with real-time electronic access to meetings of the institutions' governing boards; and

WHEREAS, the minimal uniform standard announced by SCHEV in November 2021 requires institutions to post a meeting access policy on its governing board website;

RESOLVED, that the Board adopts the following "Board of Visitor Policy for Conducting Meetings by Electronic Means of Communication" effective immediately;

RESOLVED FURTHER, this 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; and

RESOLVED FURTHER, that any provisions of Article III of the Bylaws of the Board of Visitors that conflict with the provisions of this policy are hereby suspended so long as this resolution is approved by a three-fourths affirmative vote of all members present.

**POLICY FOR PARTICIPATION OF BOARD OF VISITORS MEMBERS IN MEETINGS BY
ELECTRONIC MEANS OF COMMUNICATION**

Participation by members of the Board of Visitors in meetings through electronic means of communication may occur in the following ways:

- A. The Board and any of its committees separately may conduct all-virtual public meetings in which all who participate do so remotely, provided that the following requirements are met:
1. Designation of an all-virtual meeting and the electronic communication means by which members of the public may access the meeting are disclosed in the public notice of the meeting, as well as a statement that the method by which the Board or committee of the Board chooses to meet shall not be changed unless the Board or committee of the Board provides a new meeting notice that complies with the provisions of Va. Code § 2.2-3707.
 2. The electronic communication means used for an all-virtual meeting must allow the public to hear all members of the Board or committee participating in the meeting and, when audio-visual technology is available, to see the members of the Board or committee as well.
 3. Any interruption of audio or video in the means of electronic communication shall result in a suspension of action at the meeting until repairs are made and public access is restored. The public notice of the meeting shall include a telephone number or other live contact information to alert the Board or committee if the audio or video transmission fails.
 4. 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 shall be made available to the public in electronic format at the same time that such materials are provided to members of the public body.
 5. If the all-virtual meeting is a meeting in which public comments are customarily received, the public must be afforded the opportunity to comment through electronic means, including by way of written comments.
 6. The minutes of an all-virtual meeting specify that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held.
 7. No more than two members of the Board or committee may be together in one remote location unless that remote location is open to the public to physically access it.

The Board or any individual committee may not convene an all-virtual meeting under the following conditions: i) more than two times per calendar year or 25% of the meetings held per calendar year rounded up to the next whole number, whichever is greater; or ii) consecutively with an all-virtual meeting.

- B. Additionally, and subject to the requirements below and in Section C, an individual member may participate in a Board or committee meeting by electronic communication means if in advance of the meeting the member notifies the Rector or respective committee chair and the Secretary to the Board that he or she is unable to attend the meeting due to i) the member's own disability or medical condition, or the member's need to care for a family member due to the family member's medical condition; or ii) a personal matter.
1. The Board or committee member's location need not be open to the public; however, when requesting remote participation, the member must identify with specificity the reason for not attending in person and the remote location for participation.
 2. The Rector or committee chair must approve the request to participate by electronic communication means. All requests will be assessed in accordance with the guidelines set forth herein as applied to the membership in its entirety and without regard for the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting
 3. The Board or committee shall record in its minutes the reason for not attending the meeting in person and the remote location from which the member participated. The location may be described in the minutes in general terms. If the request to participate by electronic communication means is disapproved by the Rector or relevant committee chair, such disapproval shall be recorded in the minutes with specificity.

Such remote participation by a member for a personal matter shall be limited each calendar year to two meetings or 25% of the meetings held per calendar year, rounded up to the next whole number, whichever is greater.

These provisions regarding remote participation of individual Board members apply to meetings of the full Board and to each of its committees separately.

C. Provision of Electronic Access to the Public

1. The public shall be provided with real-time electronic access to witness regularly-scheduled meetings of the full Board held in the usual meeting location. "Witness" shall mean to observe or listen.
2. "Real-time electronic access" shall mean that members of the public can witness the meeting from the beginning until adjournment of any part of the meeting that is not a "closed meeting" pursuant to Va. Code § 2.2 - 3711.
3. Real-time electronic access may be provided through video or audio livestream. Live-streamed video must comply with the *Americans with Disabilities Act* (ADA) and Section 508 of the *Rehabilitation Act of 1973*.