

POLICY 2.1

STATE EXECUTIVE COUNCIL FOR CHILDREN’S SERVICES

2.1.3 *Individual Participation in State Executive Council Meetings by Electronic Means*

2.1.3.1 *Scope Purpose*

- ~~A. This policy shall apply to any individual member of the State Executive Council for Children’s Services (SEC) without regard to the identity of the member requesting remote (electronic) participation or the matters that will be considered or voted on at the meeting.~~
- ~~B. This policy shall apply to any public meeting of the SEC or any committees established by the SEC.~~

To set the parameters of electronic participation in meetings of the State Executive Council for Children’s Services (SEC) or any committees established by the SEC.

2.1.3.2 *Authority*

~~§ 2.2-3708.2 of the Code of Virginia.~~

- A. Section [2.2-3708.2](#) of the Code of Virginia provides that “Any public body, or any joint meetings thereof, may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor has declared a state of emergency in accordance with § [44-146.17](#) or the locality in which the public body is located has declared a local state of emergency pursuant to § [44-146.21](#), provided 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 public body or the discharge of its lawful purposes, duties, and responsibilities.”
- B. Section [2.2-3708.3.B](#) of the Code of Virginia provides that “Individual members of a public body may use remote participation instead of attending a public meeting in person if, in advance of the public meeting, the public body has adopted a policy as described in subsection D...”

2.1.3.3 *Applicability Definitions*

~~An individual member may participate in a meeting of the SEC or a public meeting of any committee established by the SEC through electronic communication from a remote location for the following reasons:~~

- ~~A. A temporary or permanent disability or other medical condition prevents the member from attending the meeting in person or;~~
- ~~B. A personal matter prevents the member from attending the meeting in person.~~

~~“All virtual public meeting” means a public meeting conducted by the State Executive Council using electronic communication means during which all members of the SEC who participate do so remotely rather than being assembled in one physical location and to which public access is provided through electronic communication means as defined by [§2.2-3701](#) of the Code of Virginia.~~

~~“Caregiver” means any adult who provides care for a person with a disability as defined in [§51.5-40.1](#) of the Code of Virginia. A caregiver shall either be related by blood, marriage, or adoption to or the legally appointed guardian of the person with a disability for whom they are caring.~~

~~“Meeting” means a meeting as defined by [§2.2-3701](#) of the Code of Virginia.~~

~~“Member” means any member of the State Executive Council or any committees established by the SEC.~~

~~“Notify” or “notifies” for the purpose of this policy means written notice, including, but not limited to, email or letter, but does not include text messages or messages exchanged on social media.~~

~~“Remote participation” means participation by any individual member of the SEC by electronic communication means in a public meeting where a quorum of the SEC is physically assembled, as defined by [§2.2-3701](#) of the Code of Virginia.~~

2.1.3.4 ~~Procedures~~

- ~~A. Notification: The member requesting to participate through electronic communication from a remote location must notify the SEC chair or committee chair on or before the day of the meeting.~~
- ~~B. Quorum: In order for any member to be approved to participate in a meeting of the SEC or a public meeting of any committees established by the SEC through electronic communication, a quorum of the SEC or a simple majority of the committee must be physically assembled at the primary or central meeting location identified in the public notice required for the meeting.~~

- ~~C. *Technological requirement:* Arrangements shall be made for the voice of the remote participant to be heard by all persons at the primary or central meeting location.~~
- ~~D. *Documentation:* The reason the member is unable to attend the meeting and the remote location from which the member participates shall be recorded in the meeting minutes. The nature of the personal matter as provided in Section 2.1.3.3 shall also be included in the minutes.~~
- ~~E. *Limitation:* Members may only participate through electronic communication due to personal matters pursuant to subsection B. of 2.1.3.2. above for no more than two meetings of the SEC or the committee each calendar year.~~
- ~~F. *Approval Process:* Individual participation from a remote location shall be approved by the other members of the SEC or committee unless such participation would violate this policy or the provisions of the Virginia Freedom of Information Act (FOIA). If a member's participation from a remote location is challenged, then the other members of the SEC or committee shall vote whether to allow such participation. If the other members of the SEC or committee votes to disapprove of the member's participation because such participation would violate this policy, such disapproval will be recorded in the minutes with specificity.~~

2.1.3.4 Remote Participation of Members

2.1.3.4.1 Mandatory requirements

Regardless of the reasons why the member is participating in a meeting from a remote location by electronic communication means the following conditions must be met for the member to participate remotely:

- A. *A quorum of the SEC must be physically assembled at the primary or central meeting location. To determine whether a quorum is physically assembled, an individual member of the SEC 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. Further, an individual member of the SEC who is a caregiver for a person with a disability and uses remote participation counts toward the quorum as if the member was physically present.*
- B. *Arrangements have been made for the voice of the remotely participating member to be heard by all persons at the primary or central meeting location. If, at any point during the meeting, the voice of the remotely participating member is no longer able to be heard by all persons at the meeting location, the remotely participating member shall no longer be permitted to participate remotely and will be considered absent from the meeting (for the purposes of a quorum).*

- C. *This policy shall not prohibit or restrict any individual member of the SEC who is using remote participation from voting on matters before the SEC.*

2.1.3.4.2 Process to request remote participation

- A. *On or before the day of the meeting, and at any point before the meeting begins, the requesting member must notify the SEC Chair or the Office of Children’s Services (OCS) Executive Director that they are unable to physically attend a meeting due to (i) a temporary or permanent disability or other medical condition 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 held, thereby preventing the member's physical attendance, (ii) a family member's medical condition that requires the member to provide care for such family member, thereby preventing the member's physical attendance, (iii) their principal residence location more than 60 miles from the meeting location, or (iv) a personal matter and identifies with specificity the nature of the personal matter.*
- B. *If the requesting member is unable to physically attend the meeting due to a personal matter, the requesting member must state the nature of the personal matter with specificity. There is no limit to the number of times that a member may participate remotely for the other authorized purposes listed in A (i)-(iii) above. Remote participation due to a personal matter (A (iv), above) 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.*
- C. *The requesting member is not obligated to provide independent verification regarding the reason for their nonattendance, including the temporary or permanent disability, other medical condition, or the family member's medical condition that prevents their physical attendance at the meeting.*
- D. *The Chair (or OCS Executive Director if the requesting member is the Chair) shall promptly notify the requesting member whether their request is in conformance with this policy and, therefore, approved or disapproved.*

2.1.2.4.3 Process to confirm approval or disapproval of participation from a remote location

When a quorum of the SEC has assembled for the meeting, the SEC shall vote to determine whether:

- A. *The Chair's decision to approve or disapprove the requesting member's request to participate from a remote location was in conformance with this policy, and*
- B. *All persons at the primary or central meeting location can hear the voice of the remotely participating member.*

2.1.2.4.4 Recording in the minutes

- A. *If the member is allowed to participate remotely due to a temporary or permanent disability or other medical condition, a family member's medical condition that requires the member to provide care to the family member, or because their principal residence is located more than 60 miles from the meeting location the SEC shall record in its minutes (1) the SEC's approval of the member's remote participation; and (2) a general description of the remote location from which the member participated.*
- B. *If the member is allowed to participate remotely due to a personal matter, such matter shall be cited in the minutes with specificity, as well as how many times the member has attended remotely due to a personal matter and a general description of the remote location from which the member participated.*
- C. *If a member's request to participate remotely is disapproved, the disapproval, including the grounds upon which the requested participation violates this policy or the Virginia Freedom of Information Act, shall be recorded in the minutes with specificity.*

2.1.2.4.5 Dealing with Objections to Electronic Member Participation

It shall be assumed that a member can participate under the permissions listed above unless another member objects once the Chair states it at the beginning of the meeting. At such time, if any other member objects, the Chair shall call for a vote on the matter. If a member disapproves of electronic participation due to a violation of the SEC's electronic participation and meeting policy, then it will be recorded with specificity. If the vote is such that the member will not be permitted to participate electronically, the member should be advised that they may only monitor/witness the meeting, and the member is not permitted to participate (e.g., vote, discuss). The outcome of any vote on the member's electronic participation shall be documented in the minutes accordingly.

2.1.2.4.6 Closed session

If the SEC goes into closed session, the member participating remotely shall ensure that no third party can hear or otherwise observe the closed meeting.

2.1.2.4.7 Strict and uniform application of this policy

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. The Chair shall maintain the member's written request to participate remotely and the written response for one year or other such time required by records retention laws, regulations, and policies.

2.1.3.5 Council Subcommittees

Any committee, subcommittee, or other entity designated by the SEC to perform delegated functions of the SEC or to advise the SEC shall comply with this policy regarding electronic member participation.

2.1.3.6 Policy Review

The State Executive Council for Children's Services shall review and readopt this policy annually as required by [§2.2-3708.3.D](#).