

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 4, SECTION 2-4.2 ENTITLED "MEETING PARTICIPATION BY ELECTRONIC COMMUNICATION; MEETING MINUTES; ATTENDANCE AT CLOSED MEETINGS; DEFINITIONS; WHEN REMOTE PARTICIPATION ALLOWED; MINUTE REQUIREMENTS WHEN REMOTE PARTICIPATION APPROVED; WHEN REMOTE PARTICIPATION NOT APPROVED; QUORUM REQUIRED; WHEN ALL VIRTUAL MEETINGS ALLOWED" OF THE POLICIES OF THE SUFFOLK CITY SCHOOL BOARD - FIRST READING AND ADOPTION

BE IT ORDAINED, by the School Board of the City of Suffolk, Virginia that Chapter 2, Article 4, Section 2-4.2 entitled "Meeting Participation by Electronic Communication; meeting minutes; attendance at closed meetings; definitions; when remote participation allowed; minute requirements when remote participation approved; when remote participation not approved; Quorum Required; when all virtual meetings allowed" of the Policies of the Suffolk City School Board, be, and the same is hereby amended as follows:

Section 2-4.2. Meeting Participation by Electronic Communication; meeting minutes; attendance at closed meetings; definitions; when remote participation allowed; minute requirements when remote participation approved; when remote participation not approved; Quorum Required; when all virtual meetings allowed.

— A. Except as provided hereafter, or as otherwise permitted by law, the School Board shall not conduct any meeting wherein the public business is discussed or transacted through telephonic, video, electronic, or other electronic communication means where the members are not physically assembled. This policy is applied strictly and uniformly, without exception, to the entire membership of the School Board 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.

- B. The minutes of meetings conducted in accordance with this policy, if any, include
- (i) the identity of the members of the committee who participated in the meeting through electronic communication means,
 - (ii) the identity of the committee members who were physically assembled at one physical location, and
 - (iii) the identity of the members of the committee who were not present at the location identified in
 - (ii) but who monitored such meeting through electronic communication means.

C. Members of the School Board are permitted to attend any closed meeting held by any committee of the School Board or any committee created to advise the School Board. The minutes of the committee, if any, include the identity of any School Board member who attends a closed meeting of the committee.

D. For purpose of this policy the following definitions apply:

"All-virtual public meeting" means a public meeting (i) conducted by the School Board using electronic communication means, (ii) during which all members of the School Board who participate do so remotely rather than being assembled in one location, and (iii) to which public access is provided through electronic communication means.

"Caregiver" means an adult who provides care for a person with a disability as defined in Va. Code § 51.5-40.1. A caregiver must be either related by blood, marriage, or adoption to or the legally appointed guardian of the person with a disability for whom the caregiver is caring.

"Committee" means a committee, subcommittee, or other entity however designated of the School Board created to perform delegated functions of the School Board or to advise the School Board. It does not exclude any such committee, subcommittee, or entity because it has private sector or citizen members.

"Electronic communication" means the use of technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities to transmit or receive information.

"Remote participation" means participation by an individual member of the committee by electronic communication means in a public meeting where a quorum of the committee is otherwise physically assembled.

E. Members of the School Board or of any committee appointed by the School Board may use remote participation instead of attending a meeting in person if, in advance of the meeting, each committee member seeking to use remote participation notifies the committee chair that:

- (i) the member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance; for purposes of determining whether a quorum is physically assembled, a member of the School Board who is a person with a disability as defined in Va. Code § 51.5-40.1 and uses remote participation counts toward the quorum as if the member was physically present;
- (ii) a family member has a medical condition that of a member of the member's family requires the School Board member to provide care that prevents the School Board member's physical attendance; or the member is a caregiver who must provide care for a person with a disability at the time the meeting is being held thereby preventing the member's physical attendance; for purposes of determining whether a quorum is physically assembled, a member of the School Board 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;
- (iii) the member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting.
- (iv) that such member is unable to attend the meeting due to a personal matter and identifies with specificity the nature of the personal matter and the remote location from which the member plans to participate. However, 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 up to the next whole number, whichever is greater. A member of the School Board may only use remote participation for meeting of the School Board due to personal matters is limited each calendar year to two meetings of the School Board.

- (v) the member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting.

~~F. The chair reports such requests, if any, to the Board at the beginning of each meeting. Those members of the Board assembled at the primary meeting location must consider the requests for remote participation from each member seeking to use remote participation prior to the member participating in the meeting. The requests, as reported by the chair, and the votes on each member's request are recorded in the minutes.~~

Individual participation from a remote location will be approved unless such participation would violate this policy or the Virginia Freedom of Information Act, Va. Code § 2.2-3700 et seq. If a member's participation from a remote location is challenged, the School Board will vote whether to allow such participation. If the School Board 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.

G. If participation in a public meeting by a member of the School Board or by a member of a committee appointed by the School Board is through electronic communication means is approved pursuant to subsection E above, the School Board or committee of the School Board records in its minutes

- (i) the identity of the member or members of the School Board or committee of the School Board who participated in the meeting through electronic communication means;
- (ii) the identity School Board members who were physically assembled at one physical location; and
- (iii) the remote location from which the member participated. However, the remote location need not be open to the public and may be identified in the minutes, if any, by a general description.

H. If participation is approved due to a temporary or permanent disability or other medical condition, or medical condition of a family member, the School Board or committee of the School Board also includes in its minutes the fact that the member participated through electronic communication means due to a temporary or permanent disability or other medical condition that prevented the member's physical attendance or the medical condition of a family member. If participation is approved due to a personal matter, the School Board or committee of the School Board also includes in its minutes the specific nature of the personal matter cited by the member. If participation is approved because the member's principal residence is more than 60 miles from the meeting location, the School Board includes in its minutes the fact that the member participated

through electronic communication means due to the distance between the member's principal residence and the meeting location.

I. If a member's participation from a remote location is disapproved, such disapproval is recorded in the minutes with specificity.

J. A school board member or member of any committee appointed by the School Board may participate in a meeting by electronic means pursuant to subsection E above only when:

- (1) a quorum of the School Board is physically assembled at one primary or central meeting location; and
- (2) the School Board will arrange for the voice of the remote participant to be heard by all persons at the primary or central meeting location.

K. ~~The School Board may hold an all virtual meeting~~ meet by electronic communication means without a quorum physically assembled at one location when the Governor has declared a state of emergency in accordance with Va. Code § 44-146.17, or the locality in which the School Board is located has declared a local state of emergency pursuant to Va. Code § 44-146.21, provided:

- (a) the catastrophic nature of the declared emergency makes it impractical or unsafe to assemble a quorum in a single location, and
- (b) ~~the purpose of the meeting is to address the emergency.~~ provide for the continuity of operations of the School Board or the discharge of its lawful purposes, duties, and responsibilities. If it holds a meeting pursuant to this section, the School Board shall:
 - (i) gives public notice using the best available method given the nature of the emergency contemporaneously with the notice provided members of the School Board; and
 - (ii) make arrangements for public access to the meeting through electronic communications means, including videoconferencing if already used by the School Board;
 - (iii) provides the public with the opportunity to comment at those meetings when public comment is customarily received; and
 - (iv) otherwise complies with the provisions of the Virginia Freedom of Information Act.

For any meeting conducted pursuant to this section, the nature of the emergency, the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held, ~~shall be~~ are stated in the minutes of the meeting. The provisions of this section are applicable only for the duration of the declared emergency.

(Adopted March 12, 2009; Ordinance Number 08/09-28; Effective Date: July 1, 2009; Revised April 14, 2016; Ordinance Number 15/16-20; Effective Date: July 1, 2016; Revised October 12, 2017; Ordinance 17/18-6; Effective Date: October 12, 2017; Revised Date: February 14, 2019; Ordinance 18/19-61; Effective Date: February 14, 2019;

Ordinance 22/23-79, Revised/Effective: May 11, 2023; Ordinance 23/24-20, Revised/Effective: November 9, 2023)

Legal Authority - Virginia Code §§ 2.2-3701, 2.2-3707, 2.2-3708.3, ~~2.2-3711, 2.2-3712~~ as amended. Acts 2020, c. 1283, 2.2-3710, and 51.5-40.1.

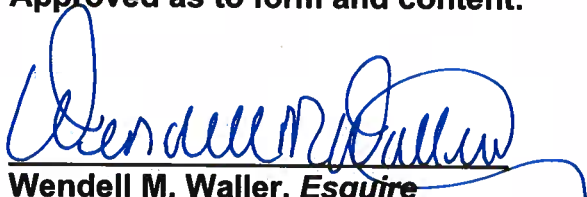
BE IT FURTHER ORDAINED that all phrases, clauses, sentences, paragraphs, subsections, sections and chapters of the School Board's Policy Manual not amended or repealed shall remain in full force and effect.

FIRST READING AND ADOPTION: _____

EFFECTIVE DATE: _____

TESTE: _____
CLERK

Approved as to form and content:



Wendell M. Waller, Esquire
School Board Attorney