

BOARD OF EDUCATION

POLICY ON VIRTUAL MEETINGS OF COMMITTEES ESTABLISHED BY LAW

The Virginia Freedom of Information Act (“FOIA”), §§ [2.2-3700](#) et seq. of the Code of Virginia, authorizes “public bodies” to hold virtual meetings, under certain circumstances and with certain conditions. See Code § [2.2-3708.3](#). (FOIA’s definition of “public body” embraces the Board of Education (“Board”), as well as “any committee, subcommittee, or other entity however designated of the [Board of Education] created to perform delegated functions of the [Board of Education] or to advise the [Board of Education].” Code § [2.2-3701](#).) FOIA contains an exception to this general rule: local governing boards, local school boards, planning commissions, architectural review boards, zoning appeals board, and *boards with the authority to deny, revoke, or suspend a professional or occupational license* may not hold virtual meetings. Code § [2.2-3708.3](#)(C) (emphasis added). Because the Board has the authority to deny, revoke, or suspend teacher licenses, the Board is not permitted to hold a virtual meeting.

The General Assembly has directed the establishment of several advisory committees to the Board. These committees, whose authority is established by law, do not have any authority to deny, revoke, or suspend a license, and so are not prohibited from holding all-virtual meetings. The Code of Virginia requires public bodies holding all-virtual meetings to adopt a policy for such meetings. The Board has previously prescribed the practices for other forms of electronic meetings (e.g., remote participation by individual members) and directed that these practices apply to the Board’s advisory committees. For this reason, the Board adopts the following policy governing all-virtual meetings of such advisory committees to the Board whose existence is required by law (“Required Advisory Committees” or “RAC”).

The following practice and procedures apply when a meeting of a Required Advisory Committee is held in which all members participate electronically:

1. Upon the decision by the Chair of the Required Advisory Committee that a RAC meeting will be held in an all-virtual format, the Chair will cause the required meeting notice to include a statement notifying the public that the all-virtual meeting format will be used. This notice should include a statement that should the meeting format change, that subsequent notice will be issued and in accordance with FOIA.
2. The notice for the meeting shall also state whether public comment will be taken at the meeting and, if so, the approximate point of the meeting when public comment will occur. If public comment is to be received, the public must be given the opportunity to comment through electronic means, including by written comment.
3. The RAC will provide for public access to the all-virtual meeting by electronic communication means that allows the public to hear the RAC’s deliberations (other than for any portion of the meeting that is closed pursuant to FOIA). If audio-visual technology is available, the electronic communication means should allow the public to also see the

committee. If the RAC holds a closed meeting as authorized by FOIA, it must resume public access to the meeting prior to the committee members' vote to certify the closed meeting as required by FOIA.

4. The RAC will provide a monitored phone number or other live contact information to permit members of the public to alert the RAC that the audio or visual transmission of the meeting has failed. If the RAC is so alerted or is otherwise made aware that such transmission has failed, the committee must recess until public access is restored.
5. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to the members of the RAC for a meeting shall be made available to the public in electronic format at the same time that the materials are provided to the members of the committee.
6. No more than two members of the RAC may be together or present in any one remote location, unless that remote location is open to the public and physically accessible to the public.
7. Any RAC may not convene all-virtual meetings more than the greater of: (1) two meetings per calendar year; or (2) 25 percent of the meetings held each calendar year rounded up to the next whole number. An RAC is not permitted to hold two or more all-virtual meetings consecutively.
8. Minutes of all-virtual public meetings held by electronic communication means shall be taken as required by Virginia 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.