
Policy #1110

Title: Code of Virginia Individual Remote Participation & Virtual Meetings by Electronic Means

Responsible Oversight Director: Executive Director

Original Policy Creation Date: May 2024

Date of Current Revision: Revised Policy (July 2024)

A. PURPOSE

The purpose of this policy is to establish a written policy, in accordance with §§ [2.2-3708.2](#) and [3708.3](#) of the Code of Virginia (Virginia Code) to allow for and govern participation of Southern Virginia Higher Education Center (“SVHEC”) Board of Trustees (“Board”) membership meetings by the means of electronic communication, including, all virtual meetings, and to specify the requirements for remote participation by members.

B. AUTHORITY

Virginia Code [Section 23.1-3122](#), as amended, grants authority to the Board of Trustees to establish rules and regulations for the institution. Section VIII (E) of the [Board of Trustees Bylaws](#) grants authority to the Executive Director to implement the policies and procedures of the Board relating to the SVHEC operations.

The membership of the Board interprets this policy, and this policy applies to the full Board, its designated subcommittees, and ad hoc committees.

This policy shall apply strictly and uniformly 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. This policy applies to all full Board and committee meetings of the Southern Virginia Higher Education Center’s Board of Trustees.

The policies of the SVHEC fall within the following framework and hierarchy and, therefore, are subject to compliance with laws and regulations instituted by higher levels of authority:

1. Federal laws and regulations
2. State laws and regulations
3. Board of Trustees policies
4. **SVHEC policies**
5. Departmental policies and procedures

In the event of a conflict between different levels in 1 through 5 above, the lower numerical heading shall take precedence over higher numerical heading.

C. DEFINITIONS

Board of Trustees Policy – Policy that is reviewed and approved by the Board of Trustees and falls into four categories, namely:

- I. Policy that governs the Board of Trustees or interaction with the Board;
- II. Policy that is designated by the General Assembly, Executive Branch or some other governmental entity as an item that must have the approval of the Board of Trustees;
- III. Policy that ensures basic rights and obligations to constituencies within the SVHEC that include but are not limited to employees and students; or
- IV. Policy generated directly by the Board of Trustees or a member thereof.

D. SCOPE

The scope of this policy extends to all members of the SVHEC Board.

E. POLICY STATEMENT

A. Member Electronic Participation

- i. Prior to a scheduled Board meeting, a member must notify the Chair or Board Secretary that he or she is unable to attend the meeting due to (a) a temporary or permanent disability or other medical condition that prevents physical attendance, (b) a family member’s medical condition that requires the member to provide care for such family member thereby preventing the member’s physical attendance, (c) a member’s residence is more than sixty (60) miles from the meeting location identified in the notice, or (d) a personal matter that prevents physical attendance.
 - 1. in the case of a personal matter, the member must identify with specificity the nature of the personal matter.
 - 2. Participation by a member pursuant to a personal matter 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.
- ii. A quorum of the Board members must be physically assembled at the primary or central meeting location for the Board to consider the participation of a remote member. A member who is a “person with a disability”, or member is the caregiver for a family member who is a “person with a disability” and who participates remotely counts toward the quorum that must be physically present. A “person with a disability” is a person who has a physical or mental impairment that substantially limits one or more of his major life activities or who has a record of such impairment.
- iii. The Chair, or in the Chair’s absence, the Vice Chair, shall recommend approval or disapproval of the participation to the Board member. If the Board approves the participation by majority vote, it must record in its meeting minutes, to include:
 - 1. the fact of the remote participation;
 - 2. the location of the remote participation (and the remote location need not be open to the public);

3. If a Board member's electronic participation is approved due to a temporary or permanent disability or other medical condition that prevented the member's physical attendance or a family member's medical condition that required the member to provide care for such family member, thereby preventing the member's physical attendance, the Board shall include this in its minutes.
 4. If a Board member's electronic participation is approved due to the distance between the member's principal residence and the meeting location, the Board shall include this in its minutes.
 5. If a Board member's electronic participation is approved due to a personal matter, the Board shall include this in its minutes and the specific nature of the personal matter cited by the member.
- iv. This policy must 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.
 - v. The Board may deny participation for personal matters only if participation would violate this policy. If a member's participation is disapproved, the disapproval and the reason for the disapproval shall be recorded in the minutes with specificity.
 - vi. The Board must plan for the voice of the remote participant to be heard by all persons at the primary or central meeting location.
 - vii. Should the requirements of this policy not be met, the Board member will be allowed to listen into the proceedings through an electronic means, if available.
 - viii. The Board will provide the public access to observe any meeting at which a member is permitted to participate by remote means. The Board will state in the notice for the meeting whether public comment will be taken at the meeting and will provide a means for submitting written comments.

In the event that multiple members opt to participate electronically impacting the ability to obtain a physical quorum, the Board members should consider compliance with all virtual meeting requirements pursuant to the Board's policy as subscribed in Section III.b.

B. All Virtual Meetings

Pursuant to applicable law and guidance, the Board adopts the following practice and procedures for participation of members of its body when the *intent is that all members participate electronically* and for such time public business will be conducted.

- i. Upon the decision by the Chair or Majority of the Board membership that a Board meeting will be held in an all-virtual format, the public body will issue a required meeting notice and include a statement notifying the public that the all-virtual meeting format will be used.
 1. This notice should include a statement that should the meeting format change, that subsequent notice will be issued and in accordance with Virginia Code § [2.2-3707](#).
- ii. The public body will provide for the general public to observe the all virtual meeting via electronic communications which allow the public to hear the Board members' deliberations, other than for any portion of the meeting that is closed pursuant to Virginia Code § [2.2-3711](#).
 1. If audio-visual technology is used, the electronic communication means should allow the public to also see the public body.

- 2. The Board will provide the public access to observe all-virtual meetings. The Board will state in the notice for the meeting whether public comment will be taken at the meeting or provide a means for submitting written comments.
- iii. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to the members of the public body for a meeting shall be made available to the public in electronic format at the same time that the materials are provide to the members of the public body.
- iv. No more than two members of the public body can be together or present in any one of the remote locations used during the all-virtual meeting unless that remote location is open to the public and physically accessible to the public.
- v. The Board is limited in convening meetings in the all-virtual format to two meetings or 50 percent of the meetings held each calendar year rounded up to the next whole number, whichever is greater.
- vi. The public body is prohibited from holding meetings in the all-virtual format consecutively with another all-virtual public meeting.
The public body will provide a phone number or other live contact information so the public can alert the public body of the audio or video transmission issues that interfere with their access, participation or viewing of the public bodies meeting.
 - 1. The public body will monitor such designated means of communication during the meeting.
 - 2. Should access fail, the public body shall take a recess until public access is restored (subject to reasonable time limitations).
 - 3. When audio-visual technology is available, for purposes of a quorum, any member must be considered absent from any portion of the meeting during which visual communication with the member is voluntarily disconnected or otherwise fails or during which audio communication involuntarily fails.
- vii. In the event the public body convenes a closed session during the all-virtual public meeting, transmission of the meeting to the public must resume before the public body votes to certify the closed meeting as required by subsection D of Virginia Code § 2.2-3712.
- viii. Minutes of all-virtual public meetings held by electronic communication means are 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.

C. STATE OF EMERGENCY DECLARATIONS

This policy shall be effective during ordinary times during which the Governor has not declared an emergency pursuant to Virginia Code § 44-146.17 or where the locality in which the body is located has declared a local state of emergency pursuant to Virginia Code § 44-146.21.

When an emergency has been declared, other provisions of law or declarations of Governor or the locality may prevail. In such cases, the Board must affirm 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.

In such cases, a physical quorum is not required for the conduct of public business.

In cases of emergency, the Board will:

1. Give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to members of the public body conducting the meeting;
2. Make arrangements for public access to such meeting through electronic communication means, including videoconferencing if already used by the public body;
3. Provide the public with the opportunity to comment at those meetings of the public body when public comment is customarily received; and
4. Follow other mandates of this policy and law.

D. EDUCATION AND COMPLIANCE

Members of the Board shall be made aware of this and any other Board policies as part of the new Board member orientation process. Any changes to this policy shall be communicated to the Board by the Chair or Board Liaison no later than the Board's next scheduled meeting. The Board Chair shall be responsible for ensuring annual compliance with the provisions of this policy.

F. Related

[§ 2.2-3708.2. Meetings held through electronic communication means \(virginia.gov\)](#)

[§ 2.2-3708.3. Meetings held through electronic communication means; situations other than declared emergency\(virginia.gov\)](#)

[FOIA Electronic Meetings Guide \(2023\)](#)

[§ 44-146.17. \(Effective July 1, 2023\) Powers and duties of Governor \(virginia.gov\)](#)

[§ 44-146.21. Declaration of local emergency \(virginia.gov\)](#)

5

**Procedures are not a part of the policy document. They are maintained separately.*

POLICY HISTORY (Original)

Policy Responsible Oversight Director: SVHEC Executive Director

Responsible Oversight Director's Signature

Date

Date of Presentation to Executive Committee of the Board of Trustees: July 23, 2024

Executive Committee Action: Approve the Policy

Reject the Policy

Board Chairman's or Designee's Signature

Date

Date of Presentation to Board of Trustees: September 4, 2024

Board Action: Approve the Policy

Reject the Policy

Board Chairman's or Designee's Signature

Date

Policy Creation Date: May 2024

Scheduled Review Date: May 2025