

**COMMISSION ADOPTED POLICY**  
***Remote Participation***



**First Adopted:** July 28, 2015

**Revised:** June 25, 2024  
**Effective:** July 1, 2024

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**1.0 Purpose and Need**

- a. Except as provided in this policy, the HRSD Commission ("Commission") does not conduct any meeting wherein public business is discussed or transacted through telephonic, video, electronic, or other electronic communication means where the Commissioners are not physically assembled. In accordance with the Virginia Freedom of Information Act, § 2.2-3701 et seq. of the Code of Virginia of 1950, as amended (the "Act"), the Commission desires to adopt this policy to reflect (1) when individual Commissioners may participate remotely in public meetings and (2) when all virtual public meetings are allowed.
- b. This policy is intended to apply to Commission meetings, committee, subcommittee or other Commission established public meetings (collectively referred to as "HRSD Public Meetings"). As permitted under VA Code §2.2-3708.3(D), the Commission adopts this policy on behalf of its committees, subcommittees, and any other entity however designated of the Commission that performs delegated functions of the Commission or advises the Commission. This policy shall apply to any committee, subcommittee, or other designated entity's use of individual remote participation and all-virtual public meetings and shall be interpreted to give it such effect.
- c. This policy shall apply to the entire membership of the Commission and without regard to the identity of the Commissioner requesting remote participation or the matters that will be considered or voted on at the HRSD Public Meeting.
- d. The policy shall not prohibit or restrict any individual member of the Commission who is participating in an all-virtual meeting or who is using remote participation from voting on matters before the Commission.

**2.0 Definitions**

- a. **Caregiver** – An adult who provides care for a person with a disability as defined in Va. Code § [51.5-40.1](#) and is related by blood, marriage, or adoption to, or is the legally appointed guardian of, the person with a disability for whom they are caring.
- b. **Personal matter** – Examples include but are not limited to personal, family or business matters that prevent attendance at the meeting

location; severe weather conditions or unexpected traffic or travel conditions that prevent travel to the meeting location.

- c. ***Physical disability or other medical condition of Commissioner*** – Examples include but are not limited to temporary hospitalization or confinement to home, contagious illness, or any temporary or permanent physical disability that prevents travel to the meeting location by the Commissioner.
- d. ***Medical condition of a family member of a Commissioner*** – is limited to those situations in which the family member's medical condition requires the Commissioner to provide care for the family member and thus prevents the Commissioner from physically attending the meeting.
- e. ***Quorum*** - Four members of the Commission physically assembled in one location shall constitute a quorum for a Commission Meeting. For purposes of determining whether a quorum is physically assembled, a Commissioner who uses remote participation counts toward the quorum as if they were physically present if the Commissioner is (i) a Caregiver , or (ii) a person with a disability as defined in Va. Code § [51.5-40.1](#).

### **3.0 Guiding Principles for Individual Commissioners to Participate Remotely in HRSD Public Meetings when a Quorum is Physically Present**

- a. Commissioners shall make every effort to physically attend every meeting of the Commission. However, the Commission desires to adopt this policy to allow for Commissioners to participate remotely in those circumstances recognized under Va. Code § 2.2-3708.3(B) when physical attendance is not reasonably possible.
- b. When a Commissioner participates remotely in an HRSD Public Meeting, the Commissioner shall avoid using a mobile device while driving.

### **3.1 Procedures for an Individual Commissioner to Participate Remotely in an HRSD Public Meeting**

- a. In order to permit a Commissioner to participate in an HRSD Public Meeting by electronic means, a quorum must be physically assembled at the noticed meeting location. Arrangements also must be made for the voice of the remote participant to be heard by all persons at the noticed meeting location.

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- b. In advance of a properly noticed HRSD Public Meeting, a Commissioner who is unable to attend shall notify the Chair of the Commission or the Committee one of the following reasons the Commissioner cannot attend:
- (1) the Commissioner has a physical disability or medical condition that prevents the Commissioner from physically attending the meeting;
  - (2) the Commissioner is a person with a disability as defined in Va. Code § [51.5-40.1](#) and the disability prevents the member's physical attendance;
  - (3) a family member of the Commissioner has a medical condition that requires the Commissioner to provide care for the family member and prevents the Commissioner from attending the meeting;
  - (4) the Commissioner is a Caregiver who must provide care for a person with a disability at the time the HRSD Public Meeting is being held;
  - (5) the Commissioner's principal residence is located more than 60 miles from the meeting location identified in the required notice for the meeting and the Commissioner accordingly desires to participate remotely; or
  - (6) the Commissioner has a personal matter which prevents the Commissioner from attending the meeting. The Commissioner shall identify with specificity the nature of the personal reason the Commissioner cannot attend.
    - (a) Remote participation due to a personal matter is limited to three (3) meetings per Commissioner per calendar year out of the twelve (12) required meetings of the Commission held each calendar year.
    - (b) Remote participation in a Committee meeting for personal reasons is limited to two (2) meetings per calendar year.
- c. The specific reason that the Commissioner is unable to attend the meeting and the remote location from which the Commissioner participates will be recorded in the meeting minutes. The remote location does not need to be open to the public and it may be identified in the minutes by a general description.
- d. Individual participation from a remote location must be approved by majority vote of a quorum of the Commissioners physically assembled at the noticed meeting location. If the HRSD Commission votes to disapprove of a Commissioner's participation from a remote location

because such participation would violate this policy, such disapproval will be recorded in the minutes with specificity.

#### **4.0 Guiding Principles for All-Virtual HRSD Public Meetings**

The Commission desires that whenever possible all HRSD Public Meetings should be conducted in person in accordance with FOIA and all laws and regulations governing open public meetings. However, the Commission recognizes that certain circumstances may arise where it is in the best interest of the Commission that an all-virtual meeting be held. This policy recognizes in accordance with Va. Code § 2.2-3708.2 when all virtual meetings may be held due to a declared emergency. Additionally, the Commission has determined that it would be in its the best interest to adopt a policy pursuant to Va. Code § 2.2-3708.3(D) to allow for all-virtual HRSD Public Meetings in accordance with Va. Code § 2.2-3708.3(C).

#### **4.1 Procedures for All-Virtual HRSD Public Meetings When There is a Declared Emergency**

- a. The Commission may 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 Commission is located has declared a local state of emergency pursuant to Va. Code § 44-146.21, provided:
  - (1) The catastrophic nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location; and
  - (2) The purpose of the meeting is to provide for the continuity of operations of the Commission or the discharge of its lawful purposes, duties, and responsibilities.
- b. If it holds a meeting pursuant to this section, the Commission shall:
  - (1) Give public notice using the best available method given the nature of the emergency contemporaneously with the notice provided Commissioners;
  - (2) Make arrangements for public access to the meeting through electronic communications means, including videoconferencing if already used by the Commission; and

- (3) Provide the public with the opportunity to comment at those meetings when public comment is customarily received.
- c. 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 stated in the minutes of the meeting.

#### **4.2 Procedures for All-Virtual HRSD Public Meetings When There is No Declared Emergency**

- a. In order to hold an all-virtual HRSD Public Meeting when there is no declared emergency, the following procedures must be followed:
  - (1) The required meeting notice for the HRSD Public Meeting will indicate that the meeting will be an all-virtual meeting and contain a statement notifying the public that this all-virtual meeting method shall not be changed unless HRSD provides a new meeting notice in accordance with the provisions of Va. Code § [2.2-3707](#);
  - (2) Public access to the all-virtual public meeting is provided via electronic communication means;
  - (3) The electronic communication means used allows the public to hear respectively all Commissioners participating in the all-virtual public meeting and, when audio-visual technology is available, to see Commissioners as well. When audio-visual technology is available, a Commissioner shall, for purposes of a quorum, 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;
  - (4) A phone number or other live contact information is provided to alert the Commission if the audio or video transmission of the meeting provided by HRSD fails. HRSD must monitor such designated means of communication during the meeting, and the HRSD Public Meeting, as appropriate, shall take a recess until public access is restored if the transmission fails for the public;
  - (5) A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to the Commissioners for the HRSD Public Meeting is made available to the public in electronic format

at the same time that such materials are provided to the Commissioners;

- (6) The public is afforded the opportunity to comment through electronic means, including by way of written comments, at those public meetings when public comment is customarily received;
- (7) No more than two members of the Commission are together in any one remote location unless that remote location is open to the public to physically access it;
- (8) If a closed session is held during an all-virtual public HRSD Public Meeting, transmission of the meeting to the public resumes before the Commissioners vote to certify the closed meeting as required by subsection D of Va. Code § 2.2-3712;
  - (a) Limitation on virtual HRSD Public Meetings.
    - (1) **Commission Meetings.** The Commission shall not convene an all-virtual public Commission meeting (i) more than six (6) times per calendar year based on a schedule of twelve (12) meetings per calendar year, or 50% of the Commission meetings held per calendar year, whichever is fewer; or (ii) consecutively with another all-virtual HRSD Commission Meeting.
    - (2) **Committee or Sub-Committee Meetings.** Committees or Sub-Committees of the Commission shall not convene an all-virtual public meeting (i) more than 50% of the number of those meetings per calendar year, or (ii) consecutively with another all-virtual public meeting of the Committee or Sub-Committee; and
  - (b) Minutes of all-virtual HRSD Public Meetings held by electronic communication means are taken as required by Va. 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. If the participation of a Commissioner from a remote location pursuant to this subsection is disapproved because such participation would violate this policy, such disapproval shall be recorded in the minutes with specificity.

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**5.0 Responsibility and Authority**

In accordance with Va. Code § 2.2-3708.3(D) this policy must be reviewed and adopted annually. Accordingly, the O&N Committee shall review this policy annually for presentation to and adoption by the Commission.

Approved:

  
\_\_\_\_\_  
Stephen C. Rodriguez  
Commission Chairman

  
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Date

Attest:

  
\_\_\_\_\_  
Jennifer L. Cascio  
Commission Secretary

  
\_\_\_\_\_  
Date

Commission Seal

