**BACKGROUND**

The Virginia Freedom of Information Act (FOIA) requires all boards to adopt an electronic participation policy. It shall be the policy of [Board] to allow for electronic meeting participation as permitted in FOIA (§ 2.2-3700 et seq. of the Code of Virginia) and in accordance with this policy.

This policy shall apply 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.

Employment Service Organization Steering Committee (ESOSC) members shall notify staff of the need to participate electronically as soon as possible. The timing of the notice provided to the ESOSC staff may impact the ability to use the permission options outlined below.

**MEMBER ELECTRONIC PARTICIPATION**

**Electronic Member Participation Permission #1: Disability, Medical Condition or Caregiving Obligations** **–** If notified on or before the day of the meeting, it shall be the policy of the ESOSC to allow a member to participate electronically under § 2.2-3708.2 A 1 a. At the beginning to the meeting, the Chair shall state the member’s electronic participation and the general reason (specifics are not required). A quorum of the ESOSC must to be physically assembled at the primary or central meeting location, and there must be arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location. The ESOSC shall record in its minutes the remote location from which the member participated and the fact that the member participated through electronic means due to a disability, medical condition or caregiving obligation.

**Electronic Member Participation Permission #2: Personal Matters –** If notified on or before the day of the meeting, it shall be the policy of the ESOSC to allow a member to participate electronically under § 2.2-3708.2 A 1 b. At the beginning to the meeting, the Chair shall state the member’s electronic participation and the specific reason or personal matter. Each ESOSC member may only use this permission two times per year, or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. A quorum of the ESOSC must be physically assembled at the primary or central meeting location, and there must be arrangements for the voice of the remote participant to be heard by all persons at the primary or central meeting location. The ESOSC shall record in its minutes the remote location from which the member participated and the nature of the personal matter cited by the member.

**Dealing with Objections to Electronic Member Participation –** It shall be assumed that a member can participate under Permissions #1 and #2 unless another member objects once it is stated by the Chair 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’s disapproval for electronic participation for Permissions #1 and #2 is due to a violation of the ESOSC’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 not permitted to participate (e.g., vote, discuss). The outcome of any vote on the member’s electronic participation under Permissions #1 or #2 shall be documented in the minutes accordingly.

**Electronic Participation During a State of Emergency –** As permitted by FOIA, it shall be the policy of the ESOSC to allow a meeting 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 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. This allowance is applicable only for the duration of the emergency declared pursuant to § 44-146.17 or 44-146.21.

When convening a meeting in accordance with this permission, the ESOSC shall:

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. Otherwise comply with the provisions of FOIA.

In addition, minutes shall state the:

1. Nature of the emergency,
2. Fact that the meeting was held by electronic communication means, and
3. Type of electronic communication means by which the meeting was held shall be stated in the minutes.

**GENERAL ELECTRONIC MEETINGS**

**General Electronic Meetings:** It shall be the policy of the Board to allow for electronic meetings under § 2.2-3708.2 D provided that:

1. A quorum of the ESOSC is physically assembled at the primary meeting location;
2. Notice of the meeting has been provided at least three working days in advance of the date scheduled for the meeting. The meeting notice will include the date, time, place, and purpose for the meeting and identify the primary meeting location; and
3. Members of the public are provided a substantially equivalent electronic communication means through which to observe or listen to the meeting.

The meeting notice shall include the electronic communication means by which members of the public may witness the meeting and shall include a telephone number that may be used to notify the primary meeting location of any interruption in the telephonic or video broadcast of the meeting. Any interruption in the telephonic or video broadcast of the meeting shall result in the suspension of action at the meeting until repairs are made and public access is restored.

A copy of all materials that will be distributed to members of the ESOSC will be made available for public inspection at the same time such documents are furnished to the members of the ESOSC conducting the electronic meeting.

If three or more members are gathered at the same remote location, then the remote location shall be open to the public and the meeting notice shall include the remote location. The same opportunity to address the ESOSC shall be afforded all persons attending the meeting at any of the remote locations as afforded to persons attending the primary meeting location. A copy of the meeting materials distributed to the ESOSC will be made available for inspection by members of the public attending the meeting at any of the remote locations at the time of the electronic meeting.

Votes taken during any general electronic meeting shall be recorded by name in roll-call fashion and included in the minutes.

As required by FOIA, ESOSC staff shall:

1. Make available to the public at any meeting conducted in accordance with this permission an electronic meeting public comment form prepared by the Virginia Freedom of Information Advisory Council; and
2. Coordinate the submission of an electronic meeting report to the FOIA Council annually in December as outlined in § 2.2-3708-.2 D 8.

***Please Note: If the Board uses Electronic Member Participation Permissions #1 and #2 but also convenes a General Electronic Meeting during the same calendar year, it is required to hold at least one meeting during that year where members in attendance at the meeting are physically assembled at one location and where no members participate by electronic communication means.***

**FUTURE REVISIONS AND POLICY ADOPTION**

All future revisions to this policy, including those that are required as a result of changes to FOIA, shall be submitted for consideration to the ESOSC at least one week prior to the ESOSC meeting at which the policy revisions shall be considered. Revisions shall be approved with a majority vote of the ESOSC members present at the meeting and become effective immediately upon adoption.

Policy Adoption Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_