

ADOPTION OF THE 2024 -2025 POLICY FOR PARTICIPATION OF BOARD OF VISITORS MEMBERS IN MEETINGS BY ELECTRONIC MEANS OF COMMUNICATION

WHEREAS, in September 2022, the Board adopted the “Board of Visitor Policy for Conducting Meetings by Electronic Means of Communication” (the Electronic Meeting Policy) in accordance with the Virginia Freedom of Information Act, Va. Code §2.2-3708.3; and

WHEREAS, Chapters 610 and 617 of the 2024 Virginia Acts of Assembly adopted recommendations from the Virginia Freedom of Information Advisory Council clarifying the application of the Electronic Meeting Policy to the voting rights of Board members and to Board members with disabilities or who serve as caregivers to certain family members with disabilities; and

WHEREAS, Chapters 56 and 129 of the 2024 Virginia Acts of Assembly increased the potential number of all-virtual meetings that a public body may have in a calendar year and addressed how to treat an individual member’s loss of audio or visual access during such a meeting; and

WHEREAS, the Virginia Freedom of Information Act (Va. Code §2.2-3708.3.D) now requires that the Board review and adopt its Electronic Meeting Policy on an annual basis; and

WHEREAS, the proposed 2024-25 Board of Visitor Policy for Conducting Meetings by Electronic Means of Communication updates the Electronic Meeting Policy to reflect recent changes in applicable law.

RESOLVED, That the William & Mary Board of Visitors adopts the 2024-25 version of the Electronic Meeting Policy effective immediately.

2024 -2025 POLICY FOR PARTICIPATION OF BOARD OF VISITORS MEMBERS IN MEETINGS BY ELECTRONIC MEANS OF COMMUNICATION

Participation by members of the Board of Visitors in meetings through electronic means of communication may occur in the following ways:

- A. The Board and any of its committees separately may conduct all-virtual public meetings in which all who participate do so remotely, provided that the following requirements are met:
 1. Designation of an all-virtual meeting and the electronic communication means by which members of the public may access the meeting are disclosed in the public notice of the meeting, as well as a statement that the method by which the Board or committee of the Board chooses to meet shall not be changed unless the Board or committee of the Board provides a new meeting notice that complies with the provisions of Va. Code § 2.2-3707.
 2. The electronic communication means used for an all-virtual meeting must allow the public to hear all members of the Board or committee participating in the meeting and, when audio-visual technology is available, to see the members of the Board or committee as well. When audio-visual technology is available, a Board member 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.
 3. Any interruption of audio or video in the means of electronic communication shall result in a suspension of action at the meeting until repairs are made and public access is restored. The public notice of the meeting shall include a telephone number or other live contact information to alert the Board or committee if the audio or video transmission fails.
 4. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members of a public body for a meeting shall be made available to the public in electronic format at the same time that such materials are provided to members of the public body.
 5. If the all-virtual meeting is a meeting in which public comments are customarily received, the public must be afforded the opportunity to comment through electronic means, including by way of written comments.
 6. The minutes of an all-virtual meeting specify that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held.

7. No more than two members of the Board or committee may be together in one remote location unless that remote location is open to the public to physically access it.

The Board or any individual committee may not convene an all-virtual meeting under the following conditions: i) more than two times per calendar year or 50% of the meetings held per calendar year rounded up to the next whole number, whichever is greater; or ii) consecutively with an all-virtual meeting.

- B. Additionally, and subject to the requirements below and in Section C, an individual member may participate in a Board or committee meeting by electronic communication means if a quorum of the Board is physically assembled and in advance of the meeting the member notifies the Rector or respective committee chair and the Secretary to the Board that he or she is unable to attend the meeting due to i) the member's own disability or medical condition, or the member's need to care for a family member due to the family member's medical condition; or ii) a personal matter.
 1. The Board or committee member's location need not be open to the public; however, when requesting remote participation, the member must identify with specificity the reason for not attending in person and the remote location for participation.
 2. The Rector or committee chair must approve the request to participate by electronic communication means. All requests will be assessed in accordance with the guidelines set forth herein as applied to the membership in its entirety and without regard for the identity of the member requesting remote participation or the matters that will be considered or voted on at the meeting
 3. The Board or committee shall record in its minutes the reason for not attending the meeting in person and the remote location from which the member participated. The location may be described in the minutes in general terms. If the request to participate by electronic communication means is disapproved by the Rector or relevant committee chair, such disapproval shall be recorded in the minutes with specificity.

Such remote participation by a member for a personal matter shall be limited each calendar year to two meetings or 25% of the meetings held per calendar year, rounded up to the next whole number, whichever is greater.

For purposes of determining whether a quorum of the Board is physically assembled, when individual Board members use remote participation because they are a person with a disability as defined in Va. Code §51.5-40.1 or are a caregiver as

defined in Va. Code §2.2-3701, they count toward the quorum as if they were physically present.

These provisions regarding remote participation of individual Board members apply to meetings of the full Board and to each of its committees separately.

- C. Nothing in this policy prohibits or restricts any individual Board member who is participating in an all-virtual meeting or using remote participation from voting on matters before the Board or committee.
- D. Provision of Electronic Access to the Public
 - 1. The public shall be provided with real-time electronic access to witness regularly-scheduled meetings of the full Board held in the usual meeting location. "Witness" shall mean to observe or listen.
 - 2. "Real-time electronic access" shall mean that members of the public can witness the meeting from the beginning until adjournment of any part of the meeting that is not a "closed meeting" pursuant to Va. Code § 2.2 - 3711.
 - 3. Real-time electronic access may be provided through video or audio livestream. Live-streamed video must comply with the *Americans with Disabilities Act* (ADA) and Section 508 of the *Rehabilitation Act of 1973*.