

CTB POLICY REGARDING ALL-VIRTUAL COMMITTEE MEETINGS

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Issue: Committees may require more time and need to conduct more meetings in order to accomplish their work

- **One or more committees of the CTB may from time to time require additional time to accomplish their objectives/work.**
- **Committees of the CTB are public bodies pursuant to the Freedom of Information Act (FOIA). Thus, in order for members of a CTB committee to engage in discussions relating to committee work (which is business of the CTB), the committee must conduct a public meeting.**
- **The General Rule under FOIA is that meetings of public bodies must be in-person meetings, meaning members of the committee must be physically present in a single location that is open to the public.**
- **The current practice of conducting committee meetings only on those days during which the CTB meets may delay or hinder the ability of committees to timely accomplish their work.**

FOIA (§ 2.2-3708.3) Provides Exceptions to the In-person Public Meeting Requirement

1. Subject to certain conditions/under certain circumstances, individual members may remotely (electronically) participate in a meeting of a public body.
2. Subject to certain conditions, the public body may conduct all-virtual meetings of the public body, whereby all members participate in a meeting by electronic means.
3. Subject to certain conditions, committees of the public body may conduct all-virtual meetings of the committee, whereby all members of the committee participate in a meeting by electronic means.
4. Each of the foregoing exceptions requires the public body to adopt a policy, prior to any meeting in which one or all members participate in a meeting electronically. The policy can address one or more of the options.
5. Meetings that are conducted pursuant to the policy must comply with other statutory requirements set out in FOIA.

Draft Policy for All-Virtual CTB Committee Meetings

- **Given the need of one or more CTB committees to expedite its work, a draft Policy to provide for all-virtual CTB committee meetings has been developed.**
 - **Committee is defined in the Policy as a committee, subcommittee or other entity of the CTB, however designated, to perform delegated functions of, or to advise, the CTB.**
- **The Policy would authorize any CTB committee to conduct a public meeting in which all members participate electronically, subject to the following limits:**
 - **A committee would be limited to two all-virtual public meetings per calendar year or 25 percent of the committee's meetings held per calendar year rounded up to the next whole number, whichever is greater (statutory requirement).**
 - **An all-virtual public meeting of a committee could not be held consecutively with another all-virtual public meeting of the same committee (statutory requirement).**

Draft Policy for All-Virtual CTB Committee Meetings (cont'd)

- **The Policy sets out the process for requesting and receiving authorization to conduct an all-virtual committee meeting:**
 - Any member of the committee could submit a request for an all-virtual meeting of the committee to the CTB's Assistant Secretary at least 15 working days prior to the meeting date. The CTB's Assistant Secretary would relay such request to the Chair of the CTB.
 - The Chair of the CTB will approve or deny the request and notify the members of the committee as well as the Assistant Secretary of the decision at least 7 working days prior to the meeting.
- **The Policy provides that it does not modify existing CTB policy prohibiting committees from conducting closed meetings or executive sessions.**

Other Key Statutory Requirements for All-Virtual Committee Meetings

- **Notice of the meeting must be posted in accord with § 2.2-3707 and must state that the meeting will be all-virtual;**
- **The electronic communication means used must allow the public to hear all members of the public body who are participating, and if audio-visual technology is available, to see the members of the public body as well;**
- **Contact information must be provided to allow the public to alert the committee if the audio or video transmission of the meeting fails, the committee must monitor the means of communication during the meeting, and if public transmission fails, the committee must recess until public access through the electronic means is restored;**
- **The agenda and all related materials, unless exempt, must be made available to the public via electronic format at the same time that such materials are made available to committee members;**
- **The public must be provided opportunity to comment through electronic means, including by way of written comments, at committee meetings where public comment is customarily received;**

Other Key Statutory Requirements for All-Virtual Committee Meetings (cont'd)

- No more than two members of the committee may be together in any one remote location unless that remote location is physically open to the public for access; and
- Minutes of the meetings must be taken with draft minutes and final minutes posted in accord with § 2.2-3707, and include the fact that the meeting was held by electronic communication means, including the type of electronic communication means used for the meeting.
 - (The Policy also requires that the fact that an all-virtual meeting of the committee has been requested must be recorded in the committee's meeting minutes no later than the next meeting of the committee, along with the determination by the Chair of the CTB to approve or deny the request, as appropriate.)
- The Policy notes that other provisions of the Virginia Freedom of Information Act (§ § 2.2-3700 *et seq.*) relating to meetings of public bodies apply to the all-virtual meetings and any questions which may arise regarding the Policy and applicable laws must be referred to the Chair.

Next Steps

- **The Draft Policy for All-Virtual CTB Committee Meetings has been included in this month's CTB materials for members' consideration.**
- **In order for any CTB committee to conduct an all-virtual meeting of the committee, the CTB is required by law to adopt a policy authorizing all-virtual committee meetings.**
- **The CTB will be presented with a resolution seeking the CTB's approval/adoption of the Policy described today.**

CTB Policy Regarding All-Virtual Committee Meetings

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