



Date: June 23, 2021

To: Virginia Freedom of Information Act (FOIA) Subcommittee on Electronic Meetings

From: Virginia Press Association (VPA)

Re: Public Bodies Holding Electronic meetings beyond emergencies

The VPA appreciates the opportunity to comment on the matters before the FOIA Subcommittee on Electronic Meetings. We look forward to participating in a robust discussion on the issue of public bodies and electronic meetings.

As you know, we collaborated extensively with our fellow stakeholders last year on the issue of holding electronic meetings during a pandemic. We believe that we were able to strike the right balance between the ability of public bodies to convene remotely through electronic means, along with electronic access for the public to view and participate in those meetings.

We look forward to the staff presentation on how other states handle electronic meetings, as well as the statutory items the subcommittee and stakeholders will need to consider.

As the subcommittee and staff begin their discussions, we wanted to set out a few critical points that we believe need to be an integral part of any conversation about public bodies holding electronic meetings.

1. We urge you to remember the FOIA Council's policy that, "Representative government is best served when public officials meet face-to-face in regularly scheduled public meetings," and that as technology advances, "the FOIA Council will continue to balance the preference for face-to-face meetings against the emerging technology in light of the clear policy statement of FOIA to afford citizens every opportunity to witness the operation of government."
2. We also urge you to remember that the FOIA law is designed to lay out the procedure on how to conduct public meetings and how to obtain public records. It is designed to provide guidance on how the public, including the press, can access the decision-making and operation of their government.
3. It is critical for members of the press to be able to communicate with members of public bodies when they are deliberating on matters of public importance. That can best happen when meetings are held in person, but if they are not, it is critical that reporters are able to electronically contact members of public bodies to follow up or ask additional questions.
4. We encourage all public bodies, now that we have seen how streaming meetings can encourage public access to such meetings, to continue to do so even when the meetings are held in person. Current law allows this as a way to expand public participation and we hope to see the practice continue, even as we transition back to in person meetings.
5. During the discussion about whether public bodies can meet electronically without a quorum in person, we believe the following points must be part of the conversation:
 - a. Electronic means should be audio AND visual. If it is not an emergency, public bodies should be able to find the means to be able to use video to hold their meetings or, if

they are unable to, hold them in person. Audio-only should not be acceptable outside of an emergency.

- b. If a meeting is to be held electronically, the public should have **access** to be able to view the live video of the meeting, and when possible, a recording to be watched at a later date.
- c. If a meeting is to be held electronically, the public should be able to **participate** electronically, preferably by both submitting written comments and, when applicable, being able to give testimony electronically.
- d. The discussion must also take into account the current broad definition of “public bodies” and its implications for all of the public bodies it encompasses and the interplay with conducting electronic meetings.

Thank you for your consideration and service.

/VPA