



Virginia Freedom of Information Advisory Council

July 19, 2021, at 2:00 p.m.

Pocahontas Building, Shared Committee Room

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The Virginia Freedom of Information Advisory Council (the Council) met with Senator Mamie E. Locke, chair, presiding.¹ The meeting began with introductions and welcoming new Council member Lola Rodriguez Perkins, Senior Deputy City Attorney for the City of Hampton, who replaced Sterling Rives, who resigned in January 2021. The Council then adopted an updated policy on individual participation in meetings by electronic communication means, heard progress reports from the Council's two subcommittees, and took public comment. Materials presented at the meeting are accessible through the [Council's meetings webpage](#).

Policy on Individual Participation by Electronic Communication Means

Council Staff

Staff brought an amended version of the Council's current policy on individual participation by electronic communication means to the Council for consideration. The amended version is proposed to reflect the changes made by HB 1931 (Levine, 2021 Special Session I), which was recommended by the Council and went into effect July 1, 2021. Previously, members who wished to participate electronically due to a personal matter that prevented physical attendance were limited to doing so no more than twice per year. As amended, such participation is now limited to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. The policy was adopted by unanimous vote of the Council members present.² A copy of the policy is available on the [Council's policies webpage](#).

Subcommittee Report: Records Issues Subcommittee

Matthew Conrad, Subcommittee Chair

Mr. Conrad reported that the Records Issues Subcommittee met on May 18 and June 14, 2021, to consider HB 2000 (Roem, 2021 Regular Session) (concerning fees for the production of public records) and HB 2196 (Mullin, 2021 Regular Session) (concerning access to law-enforcement disciplinary records). The Subcommittee heard from the patrons of both bills and heard extensive public comment on both bills. Mr. Conrad said that options were presented to the Subcommittee for consideration based on research of other states' laws, but the Subcommittee did not decide on

¹ **Members Present:** Senator Mamie E. Locke (chair), Delegate Marcus B. Simon (vice-chair), Senator Richard H. Stuart, Delegate William C. Wampler III, William Coleburn, Matthew Conrad, Pamela O'Berry, Bruce Potter, Cullen Seltzer, Sandra Treadway, and Amigo Wade. NOTE: Chidi James participated by electronic means due to a personal matter that prevented his attendance in person (visiting family in College Station, Texas). The meeting was livestreamed on the Senate of Virginia's website and a video recording of the meeting is available on the [Council's meetings webpage](#).

Members Absent: Lee Bujakowski

² Note that Mr. James did not vote on the policy on individual participation by electronic communication means because he was not recognized as being present by remote participation until after the vote on the policy was taken. Mr. James participated in the remainder of the votes taken at the meeting.

any specific recommendations. The Subcommittee will poll its members for future meeting dates to consider specific recommendations on each bill to report to the Council at its next meeting.

Subcommittee Report: Meetings Issues Subcommittee

Cullen Seltzer, Subcommittee Chair

Mr. Seltzer reported that the Meetings Issues Subcommittee met on May 26 and June 24, 2021, to consider HB 1997 (Murphy, 2021 Regular Session) and other issues, including the issue of whether a public body must use a ".gov" website as its "official public government website" for meeting notices. Mr. Seltzer stated that many parties had asked the Subcommittee to continue studying issues related to electronic meetings, but the Subcommittee wanted input from the Council before doing so. Following the Subcommittee's recommendation, the Council voted unanimously not to move forward with HB 1997, which sought to increase from three to four the number of members of a public body meeting as an informal assemblage that constitutes a meeting under FOIA. The Council then discussed whether the Subcommittee should continue studying additional electronic meetings issues and what the scope of that study should be. The Council voted 10–2 (Senator Richard H. Stuart and Delegate William C. Wampler III voted against) to have the Subcommittee continue studying electronic meetings options for appointed public bodies. The Council then discussed the draft recommended by the Subcommittee that would define "official public government website" to include "any Internet site controlled by a public body and used, among any other purposes, to post required notices and other content pursuant to this chapter on behalf of the public body." A copy of the draft is available on the [Council's meetings webpage](#). The Council voted unanimously to recommend this draft to the 2022 Session of the General Assembly.

Public Comment

Staff reported receiving three public comments for the meeting that were posted to the [Council's meetings webpage](#). Megan Rhyne, Executive Director of the Virginia Coalition for Open Government (VCOG), informed the Council that Forrest M. "Frosty" Landon, the founder of VCOG and a former Council member, passed away earlier that day at the age of 87. Mark Hickman, representing the Virginia Press Association (VPA), also expressed condolences on Mr. Landon's death. He then reiterated VPA's support for HB 2000 and HB 2196, stated that VPA supports the Council's decision not to go forward with HB 1997, and said that VPA looks forward to participating in the further study of electronic meetings issues.

Other Business: Update on SCHEV HB 2120 Study

Council Staff

Staff reported that staff continued to consult with the workgroup established by the State Council of Higher Education for Virginia (SCHEV) as directed in HB 2120 (Keam, 2021 Special Session I). The workgroup continues to meet but has not yet made any specific recommendations.

Next Meeting

Senator Locke directed staff to poll members of the Council about future meeting dates for the Council and its subcommittees.



For more information, see the [*Council's website*](#) or contact the Division of Legislative Services staff:

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