



# VIRGINIA FREEDOM OF INFORMATION ADVISORY COUNCIL

## COMMONWEALTH OF VIRGINIA

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Alan Gernhardt, Esq., Executive Director  
Joeseph Underwood, Esq., Senior Attorney

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Pocahontas Building ~ 900 E. Main Street, 8th Floor ~ Richmond, Virginia 23219  
foiacouncil@dls.virginia.gov ~ 804-698-1810 ~ (Toll Free) 1-866-448-4100 ~ (Fax) 804-698-1899  
<http://foiacouncil.dls.virginia.gov>

### **Policy on Individual Participation in FOIA Council Meetings by Electronic Means under § 2.2-3708.3**

It is the policy of the FOIA Council (the Council) that individual members of the FOIA Council may participate remotely in meetings of the Council by electronic means and that the Council may convene all-virtual public meetings as permitted by Virginia Code § 2.2-3708.3. 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.

Whenever an individual member wishes to participate from a remote location, the law requires a quorum of the Council to be physically assembled at the primary or central meeting location. Members will inform Council staff when they wish to use remote participation or if they wish for the Council to convene an all-virtual public meeting. Staff then will inform the chair of the Council of the member's request. When a member uses remote participation, the request, the reason that the member is unable to attend the meeting, and the remote location from which the member participates will be recorded in the meeting minutes as required pursuant to subsections B and D of § 2.2-3708.3. If the Council convenes an all-virtual public meeting, the request, the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held will be included in the minutes pursuant to subsections C and D of § 2.2-3708.3.

When an individual's participation through electronic communication means is due to a personal matter, such participation is limited each calendar year to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. All-virtual public meetings are also limited by law to two meetings or 25 percent of the meetings held per calendar year rounded up to the next whole number, whichever is greater. Additionally, an all-virtual public meeting may not be held consecutively with another all-virtual public meeting. The number of times an individual member uses remote participation due to personal matters shall be counted separately from the number of times the Council holds an all-virtual public meeting.

Requests for remote participation or to convene an all-virtual public meeting shall be approved unless such participation would violate this policy or the provisions of the

Virginia Freedom of Information Act. If a member's participation from a remote location is challenged, then the Council shall vote whether to allow such participation. If the Council votes to disapprove of the member's participation because such participation would violate this policy, such disapproval will be recorded in the minutes with specificity.

This policy applies to all committees and subcommittees of the FOIA Council.

This policy was originally adopted by the Council at its meeting on November 18, 2014. A revised version was adopted by the Council at its meeting on August 14, 2017 to reflect changes in the law effective July 1, 2017; a second revised version was adopted by the Council without objection at its meeting on October 17, 2018 to reflect changes in the law effective July 1, 2018. This policy was revised to reflect changes in the law effective July 1, 2021, and was adopted by the Council at its meeting on July 19, 2021. (This policy was further revised to reflect changes in the law effective September 1, 2022, and was adopted by the Council at its meeting on December 14, 2022.)