

REMOTE PARTICIPATION IN BOARD MEETINGS

The Avery County Board of Education acknowledges that attendance at board meetings is essential for its members to perform their official duties and to add to the diversity of thought and opinion in the board's deliberations. The board strongly encourages its members to be physically present for all board meetings. The board recognizes, however, that extenuating circumstances may occasionally prevent a member from being physically present at a meeting. It further recognizes that advances in technology, such as audio and video conferencing, have made it possible for members to communicate and deliberate with each other from remote locations. Therefore, to promote full participation of board members while ensuring access and transparency for the public as required by the Open Meetings Law, G.S. 143-318.9 *et seq.*, the board authorizes remote participation in board meetings subject to the following procedures and requirements.

A. DEFINITIONS

The following definitions apply in this policy:

1. Official Meeting of the Board

An official meeting of the board is an official meeting as defined by G.S. 143-318.10 and policy 2300, Board Meetings, and includes a board meeting, board committee meeting, public hearing, quasi-judicial hearing, or any other gathering that constitutes an official meeting subject to the open meetings law. References to "meeting" in this policy mean an official meeting of the board.

2. Remote Participation

Remote participation occurs when a member participates in an official meeting of the board or any part thereof via electronic means from a place other than the physical location of the meeting designated in the public notice for the meeting.

3. Wholly Remote Meeting

A wholly meeting is an official meeting of the board or any part thereof in which all members participate remotely by simultaneous communication via conference telephone, conference video, or other electronic means. A wholly remote meeting has no physical location.

4. State-Declared Emergency

A state-declared emergency exists when there has been a declaration of a state of emergency by the Governor or resolution of the General Assembly pursuant to G.S. 166A-19.20 that is applicable to the area under the board's jurisdiction.

5. Locally-Declared Emergency

A locally-declared emergency exists when there has been a declaration of a local state of emergency by the governing body of a municipality or county in accordance with G.S. 166A-19.22 that is applicable to area under the board's jurisdiction.

B. AUTHORIZED CIRCUMSTANCES FOR REMOTE PARTICIPATION

1. Meetings During a Declared Emergency

The board acknowledges that in-person meetings are strongly preferred and that a quorum of the board should be physically present for the meeting when reasonably possible. However, in times of emergency, including natural disasters and health emergencies, the board may find it necessary to have some or all of its members participate in meetings remotely.

a. State-Declared Emergency

During a state-declared emergency, wholly remote meetings or meetings with remote participation by individual member(s) will comply with G.S.166A-19.24 and the requirements of this policy, including the special rules for meetings

b. Locally-Declared Emergency

During a locally-declared emergency, wholly remote meetings and meetings with remote participation by individual member(s) will comply with the requirements of the open meetings law, Sections C and D below, and to the extent not inconsistent with G.S. 143-318.13, the procedures established by G.S. 166A-19.24 as described in Section E, below.

2. Meetings Not During a Declared Emergency

a. Wholly Remote Meetings

The board will not hold wholly remote meetings in the absence of a state or locally-declared emergency.

b. Remote Participation by Individuals Members

The board authorizes remote participation by individual members consistent with the requirements of this policy in any meeting of the board that is not a hearing as described in policy 2500, Hearings Before the Board, or other quasi-judicial proceeding.

C. CONDITIONS AND REQUIREMENTS FOR REMOTE PARTICIPATION

1. A member may attend a meeting and participate in board deliberations and decisions by remote participation if the member is prevented from physically attending the meeting due to:

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- a. personal illness, disability, order of quarantine or isolation, government-issued “stay-at-home” mandate, or recommendation of medical provider or public health officials to limit public interaction;
 - b. out-of-town travel;
 - c. unexpected lack of child-care;
 - d. family member illness or emergency;
 - e. weather conditions;
 - f. military service;
 - g. employment obligations;
 - h. a scheduling conflict; or
 - g. a state or local declaration of a state of emergency that makes in-person attendance at a meeting a violation of an order to reduce social contact or to stay home for reasons of public health.
2. Remote participation is not to be used solely for a board member’s convenience or to avoid attending a particular meeting in person.
 3. No board member may participate remotely more than three times during a calendar year for a reason other than an order to quarantine or isolation; however, in justifiable circumstances, the board may, by two-thirds vote, agree to waive this limitation.
 4. Acceptable means of remote participation include telephone-, Internet-, or satellite-enabled audio or video conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Text messaging, instant messaging, email, and web chat without audio are not acceptable means of remote participation.
 5. A board member participating in a meeting remotely shall use his or her best efforts to participate in all or as much of the meeting as circumstances permit and not merely for the closed session portion of the meeting or a limited number of agenda items.

6. A board member participating remotely will be considered present at the meeting for purposes of establishing a meeting quorum and will be entitled to participate in open session deliberations at the meeting if, and while:
 - a. the member is able to hear other members of the board and any members of the public present at the meeting who are recognized by the board during public comment;
 - b. all persons present at the meeting location are able to hear the board member who is participating remotely; and
 - c. when video technology is used, the remote participant is visible to all persons present at the meeting location.

7. A board member may participate remotely in a closed session of the board provided the member provides assurance to the board that no other person is able to hear, see, or otherwise participate in the closed session from the remote location.

8. A board member considered present through remote participation will be permitted to vote on any action item at the meeting except:
 - a. any item for which the member was not participating remotely during the entire discussion and deliberation of the matter preceding the vote; and
 - b. any item that was being discussed when an interruption to the electronic communication occurred, if the board's discussion was not suspended during the interruption. A brief loss of simultaneous communication, such as a few seconds, will not disqualify the member from voting on the matter under discussion.

D. PROCEDURE FOR REMOTE PARTICIPATION

1. A member of the board who desires to participate in a meeting remotely shall notify the board chair and the superintendent at least four hours in advance of the meeting so that necessary arrangements can be made. If the member has not already received all the documents to be considered at the meeting, the superintendent shall arrange for delivery of the materials in a manner that is practicable under the circumstances.

2. The chair or designee at the meeting location shall initiate contact with the member prior to the start of the meeting to secure participation.

3. The chair shall announce the remote participant and the means of remote participation at the beginning of the meeting.
4. The chair shall remind all members that all chats, instant messages, texts, or other written communications between members of the board regarding the transaction of board business during the meeting, including such communications between or among members participating remotely, are a public record.
5. If the remote participant cannot be physically seen by other board members of the board and members of the public present at the meeting, the remote participant must identify himself or herself in each of the following situations.
 - a. when the meeting begins or the roll is taken;
 - b. prior to participating in the deliberations, including making motions, proposing amendments, and raising points of order; and
 - c. prior to voting.
6. The meeting chair may decide how to address technical difficulties that arise when utilizing remote participation, but whenever possible, the chair should suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If, however, the technical difficulties distract from or impede the orderly progress of the meeting, a majority of the members physically present may vote to end the remote participation.
7. A member participating remotely shall notify the chair if leaving the meeting before it is adjourned or rejoining the meeting after a period of absence.
8. All votes taken will be by voice vote.
9. The minutes of the meeting will reflect that the meeting was conducted by use of simultaneous electronic communication, which members were in attendance by simultaneous communication, and when such member(s) joined or left the meeting. Any interruption to or discontinuation of the member's participation will also be noted in the minutes.
10. The member participating remotely will bear the cost of his or her personal telephone or computer usage, internet connection, and any other personal costs incurred while the member participates from a remote location.

E. SPECIAL RULES FOR REMOTE MEETINGS DURING A DECLARED EMERGENCY

The following modifications and additions to the requirements of this policy apply to meetings held during a declared emergency.

1. Quasi-judicial hearings may be held remotely with consent of the parties and in conformance with the requirements of G.S. 166A-19.24(f) and this section.
2. Notice of meetings will be provided as required by G.S. 143-318.12 (and 166A-19.24(b1), if the original meeting notice did not specify a remote meeting), and will specify (1) the means by which the public can access the simultaneous live stream of the meeting and (2) any other means by which the public can access the meeting as it occurs.
3. The board need not provide a location for members of the public to listen to the meeting; however, in accordance with G.S. 143-318.13(d), this provision applies only to meetings conducted in accordance with G.S. 166A-19.24 when a state-declared emergency exists.
4. All documents to be considered during the meeting shall be provided to each member.
5. The means for simultaneous communication specified in subsection C.4 of the policy must allow for any member to do all of the following:
 6. A member participating by simultaneous communication will be counted as present for quorum purposes only during the period that simultaneous communication is maintained for that member in accordance with subsection C.5, above.
 7. The board will refrain from acting by reference to a document or other materials so as conceal from public understanding what is being deliberated, voted, or acted upon at the meeting.
 8. Except when the board is meeting in closed session, the meeting will be simultaneously streamed live online to the public, or if the meeting is conducted by conference call, the public will be provided an opportunity to dial in or stream the audio live and listen to the meeting.
 9. If the meeting is a public hearing, the board will allow for written comments on the subject of the hearing to be submitted up to 24 hours prior to the scheduled time for the beginning of the public hearing; however, in accordance with G.S. 143-318.13(d), this flexibility applies only to meetings conducted in accordance with G.S. 166A-19.24 when a state-declared emergency exists.
10. Subsection C.3 of this policy will not apply to remote meetings held during a state or local emergency.

The superintendent is directed to provide the technology sufficient to implement this policy in accordance with all applicable laws.

Legal References: G.S. 166A-19.20, -19.22, -19.24; G.S. ch. 143, art. 33C; N.C. Attorney General Advisory Letter to McLeod, (March 26, 2020), copy available at <https://www.ncsba.org/wp-content/uploads/2020/04/Open-Meetings-advisory-letter.pdf>

Cross References: Board Meetings (policy 2300), Compliance with the Open Meetings Law (policy 2320), Closed Sessions (policy 2321), Board Meeting News Coverage (policy 2325), Quorum (policy 2341), Hearings Before the Board (policy 2500), Public Records-Retention, Release, and Disposition (policy 5070/7350)

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