

## SCHOOL BOARD MEETINGS

**Meetings and Prescribed Public Notice**

Regular, special and emergency meetings of the Indian River School District Board of Education shall be held in accordance with Delaware Code, Title 29, §10004.

§10004. Open meetings

(a) Every meeting of all public bodies shall be open to the public except those closed pursuant to subsections (b), (c), and (d) of this section.

(b) A public body may call for an executive session closed to the public pursuant to subsection (c) and (e) of this section, but only for the following purposes:

(1) Discussion of individual citizen's qualifications to hold a job or pursue training unless the citizen requests that such a meeting be open;

(2) Preliminary discussions on site acquisitions for any publicly funded capital improvement or sales of leases of real property;

(3) Activities of any law enforcement agency in its efforts to collect information leading to criminal apprehension;

(4) Strategy sessions, including those involving legal advice or opinion from an attorney at law, with respect to collective bargaining or pending or potential litigation, but only when an open meeting would have an adverse effect on the bargaining or litigation, position of the public body;

(5) Discussions which would disclose the identity of the contributor of a bona fide and lawful charitable contribution to the public body whenever public anonymity has been requested of the public body with respect to said contribution by the contributor;

(6) Discussion of the content of documents, excluded from the definition of "public record" in §10002 of Title 29 where such discussion may disclose the contents of such documents;

(7) The hearing of student disciplinary cases, unless the student requests a public hearing;

(8) The hearing of employee disciplinary or dismissal cases, unless the employee requests a public hearing;

(9) Personnel matters in which the names, competency and abilities of individual employees or students are discussed, unless the employee or student requests that such a meeting be open.

(c) A public body may hold an executive session closed to the public upon affirmative vote of a majority of the entirety of the school board. The vote on the question of holding an executive session shall take place at a meeting of the Board which shall be open to the public, and the results of the vote shall be made public and shall be recorded in the minutes. The purpose of such executive sessions shall be set forth in the agenda and shall be limited to the purposes listed in subsection (b) of this section. Executive sessions may be held only for the discussion of public business, and all voting on public business must take place at a public meeting and the results of the vote made public.

(d) This section shall not prohibit the removal of any person from a public meeting who is willfully and seriously disruptive of the conduct of such meeting.

(e) (1) This subsection concerning notice of meetings shall not apply to any emergency meeting which is necessary for the immediate preservation of the public peace, health or safety.

(2) The Board shall give public notice of their regular meetings and of the intent to hold an executive session closed to the public at least seven days in advance thereof. The notice shall include the agenda, if such has been determined at the time, and the dates, times, and places of such meetings including whether the meeting shall occur under § 10006 or 10006(A) (virtual option) of Title 29; however, the agenda shall be subject to change to include additional items including executive sessions or the deletion of items including executive session which arise at the time of the public body's meeting.

(3) All public bodies shall give public notice of the type set forth in paragraph (2) of this subsection of any special or rescheduled meeting as soon as reasonably possible, but in any event no later than 24 hours before such meeting. A special or rescheduled meeting shall be defined as one to be held less than seven days after the scheduling decision is made. The public notice of a special or rescheduled meeting shall include an explanation as to why the notice required by paragraph (1) of this subsection could not be given.

(4) Public notice required by this subsection shall include but not be limited to, conspicuous posting of said notice at the principal office of the public body holding the meeting, or if no such office exists at the place where meetings of the public body are regularly held, and making a reasonable number of such notices available. All notices shall be posted on the website.

(5) When the agenda is not available as of the time of the initial posting of the public notice it shall be added to the notice at least six hours in advance of said meeting, and the reasons for the delay in posting shall be briefly set forth on the agenda.

(f) Each public body shall maintain minutes of all meetings, including executive sessions, conducted pursuant to this section, and shall make such minutes available for public inspection and copying as a public record. Such minutes shall include a

record of those members present and a record, by individual members (except where the public body is a town assembly where all citizens are entitled to vote), of each vote taken and action agreed upon. Such minutes or portions thereof, and any public records pertaining to executive sessions conducted pursuant to this section, may be withheld from public disclosure so long as public disclosure would defeat the lawful purpose for the executive session, but no longer.

### **Reasonable Accommodations for Members with a Disability**

Whether during a State of Emergency or otherwise, the Board shall allow a Board member with a disability to attend a public meeting of the School Board through the use of an electronic means of communication, instead of being required to attend in-person at a physical location, as a reasonable accommodation under 6 Del. C. § 4504 unless to do so imposes an undue burden under Chapter 45 of Title 6 of the Delaware Code. A Board member requesting a reasonable accommodation under this section shall submit to the Board President (electronically or otherwise) a representation signed by the Board member stating that he/she is disabled with a request to participate through the use of electronic means. If the Board President is making such request, the written representation shall be submitted to the Vice President of the Board. Given the presumption in Delaware law that public officers act in good faith, medical documentation shall not be required and all written requests for accommodation under this section shall be presumed granted.

### **Public Monitoring and Public Comment**

At the discretion of the chair or presiding officer, The Board may allow the public to monitor or provide public comment at a public meeting through the use of an electronic means of communication at any meeting.

### **Virtual Meetings**

At any time and irrespective of State of Emergency status, the Board may hold a virtual meeting pursuant to 29 Del. C. §10006A.

(1) **Requirements.** At any time and irrespective of State of Emergency status, the Board may hold a virtual meeting if all of the following occur:

- (a) The meeting notice pursuant to 29 Del. C. § 10004 includes information regarding how the public can monitor or participate in the meeting through the use of an electronic means of communication.
- (b) The meeting has an anchor location.
- (c) The identity of a Board member or witness is verified, and the actions of a Board member are authenticated, in a manner satisfactory to the presiding officer.

(d) All participating members and witnesses can simultaneously do 1 of the following regarding each Board member or witness who is recognized by the presiding officer:

(i) Hear the comments of each Board member or witness.

(ii) Hear the comments of and view each Board member or witness.

(e) A document used during the public meeting by a Board member or witness, and that is accepted by the Board President should be screen shared with the public.

(f) Except during an executive session under 29 Del. C. § 10004, the public is able to do all of the following through an electronic means of communication:

(i) Monitor the public meeting.

(ii) Provide public comment, if the Board is required to accept, or provide an opportunity for, public comment.

(g) Minutes of the virtual meeting are maintained pursuant to 29 Del. C. § 10004.

(h) If the Board authorizes virtual meetings, the Board President in consultation with the Superintendent will decide if a particular meeting will be a virtual meeting.

(2) **Board Actions.** All actions taken during a virtual meeting conducted under this policy have the same legal effect as if the Board members were physically present at the same location.

(a) **Quorum.** For the purposes of determining quorum for a virtual meeting, a member participating in a virtual meeting is considered present as if the member were physically present at the public meeting.

(b) **Voting.** For the purposes of voting during a virtual meeting, a Board member participating in a virtual meeting is able to vote as if the member were physically present at the public meeting.

(c) **Technological Failure or Limitation.** A technological failure that prevents, or a technological limitation that limits, public access does not invalidate a virtual meeting or an action taken at a virtual meeting.

(3) **State of Emergency.** During a state of emergency, a public body may hold a virtual meeting at which members participate through the use of an electronic means of communication without an anchor location if all of the following criteria are met:

(a) The virtual meeting is preceded by the same public notice as would be required if the public meeting were to be held only at a physical location, except that notice of the public meeting does not need to be conspicuously posted at the principal office of the Board or where public meetings of the Board are regularly held.

(b) The following must occur:

(i) A document that is used during the public meeting by a Board member or witness, and that is accepted by the presiding officer, is immediately transmitted to each Board member or witness participating in the public meeting.

(ii) The public is able to review a recording of the public meeting within a reasonable time after the public meeting concludes.

(c) The requirements of section (D) (1) of this policy are met (other than the anchor location).

(4) **Removal.** Any person who is engaging in conduct that amounts to disorderly conduct may be removed at the discretion of the Board. If the meeting is virtual, the Board may remove the person by shutting off the person's electronic access to the meeting.

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