

## SCHOOL BOARD BYLAWS

### Open Meetings and Closed Meetings

#### **A. Open Meetings**

Meetings of the School Board shall be open to the public except those meetings when the School Board adjourns to a closed meeting as allowed by the Virginia Freedom of Information Act. When health, safety or emergency conditions exist that are not conducive to accommodating in person observation of School Board meetings, the Chair and the Superintendent or designees are authorized determine other means by which the public may observe the meeting.

#### **B. Closed Meetings**

##### 1. Authority/Attendees

The Code of Virginia permits closed meetings to discuss specific topics in private. Closed meetings must be convened by affirmative vote in open session of the majority of the School Board Members in attendance at the meeting. No vote may be taken in Closed Meetings. School Board Members may poll each other regarding the intent of the School Board to act but no action that requires a vote of the School Board may take place in closed session unless otherwise authorized by law. In open session immediately following any closed meeting, the School Board Members must certify by an affirmative vote that no matter was discussed in closed meeting that was not encompassed in the topics authorized in the motion to convene in closed meeting. Any School Board Member who believes that there was a departure from the requirements for closed session set forth in Virginia Code § 2.2-3712, as amended, shall so state prior to the vote, indicating the substance of the departure that, in the School Board Member's judgment, has taken place. The statement shall be recorded in the minutes of the School Board.

Closed meetings are attended by School Board Members. The School Board may invite persons to attend closed meetings to provide necessary information.

##### 2. Minutes

The School Board Clerk or designee shall attend closed meetings (unless expressly excused) for the purpose of taking brief minutes. These minutes which shall be part of the School Board's official minutes shall include:

- a. Date, time and place of meeting.
- b. Record of all persons in attendance.
- c. Motion for Closed Meetings.
- d. Certification of Closed Meetings; and
- e. Any action taken.

Closed meetings shall not be recorded with the exception of student discipline hearings, employee discipline or license revocation hearings or other matters authorized by law.

3. Confidentiality of Closed Meeting items

School Board Members who access or discuss information or materials in preparation for or during closed meetings will maintain all such information in a confidential manner. School Board Members will not record or copy such confidential information. Unauthorized persons may not be provided access to confidential information. Personal notes taken while preparing for or attending closed meeting should be destroyed as soon as the closed session matters are concluded or should be turned over to the School Board Clerk or School Board Legal Counsel to maintain in a confidential manner and in accordance with applicable record keeping requirements. Failure to protect the confidentiality of closed session material or information may constitute sufficient reason to restrict that School Board Member from participating in future closed sessions or serving on School Board Committees that handle confidential items.

**C. Electronic communication meetings during declared states of emergency**

The School Board may meet by electronic communication means without a quorum of the School Board physically assembled at one location when the Governor or the City of Virginia Beach has declared a state of emergency and the following conditions are met:

1. the catastrophic nature of the declared state of emergency makes it impracticable or unsafe to assemble a quorum in a single location,
2. the purpose of the meeting is to address the continuity of operations of the School Board and School Division or the discharge of the School Board's lawful purposes, duties, and responsibilities,
3. under other conditions allowed by the Governor or the Virginia General Assembly and adopted by the School Board,
4. The School Board must give public notice using the best available method given the nature of the emergency, which notice shall be given contemporaneously with the notice provided to School Board Members,
5. Agenda packets and all nonexempt materials should be available electronically or at all locations where public access will be provided and at the same time as the meeting,
6. Arrangements must be made for the public to access the meeting through electronic means. When the School Board determines, or the Chair or designee determine (when there is insufficient time for the School Board to act) that in person observation is unreasonable or unsafe under the circumstances, the Superintendent or designee will arrange for electronic or, telephonic access for the public if reasonably possible or the meeting will be recorded and made available to review when such means are not available. Provide the public with the opportunity to comment at those meetings when public comment is customarily received.

7. The meeting minutes must state the nature of the emergency, the fact that the meeting was held by electronic communication means, and the type of electronic communication means by which the meeting was held.
8. Votes taken during any such meeting shall be recorded by the name in the roll-call fashion and included in the minutes.
9. School Board Committees may follow the same procedures for electronic meetings.
10. The Clerk of the School Board or designee will make a written report of such meeting as required by the Virginia Freedom of Information Act.

#### **D. Remote location participation in meetings**

School Board Members may participate in School Board Meetings or School Board Committee Meetings through electronic communication means from a remote location that is not open to the public under conditions set forth in this Bylaw.

1. Temporary or permanent disability or other medical condition that prevents physical attendance

- a. On or before the day of a meeting, a School Board Member must notify the School Board Chair for School Board Meetings or the School Board Committee Chair for Committee Meetings that the School Board Member is unable to attend the meeting due to: i) a temporary or permanent disability or other medical condition that prevents the School Board Member's physical attendance; or ii) a medical condition of a member of the School Board Member's family requires the School Board Member to provide care that prevents the School Board Member's physical attendance.

1) A member of a School Board's family will follow the definition of a family member set forth in Regulation 4-55.1, as amended, or the Family Medical Leave Act, as amended.

2) Caregiver means an adult who provides care for a person with a disability as defined in Code of Virginia § 51.5-40.1, as amended. A caregiver shall be either related by blood, marriage, or adoption to or be the legally appointed guardian of the person with a disability for whom the caregiver is caring.

- b. The Chair or designee will note during the meeting that the School Board Member is remotely participating due to a temporary or permanent disability or other medical condition that prevents the School Board Member's physical attendance. The general location from which the School Board Member participates will be included in the meeting minutes, but the exact nature of the disability or medical condition does not need to be announced publicly or be included in the meeting minutes. For the purposes of determining whether a quorum is physically assembled, an individual member of the School Board, who is a person with a disability as defined in Code of Virginia § 51.5-40.1, as

amended, and uses remote participation counts toward the quorum as if the School Board Member is physically present.

- c. A School Board Member's ability to remotely participate due to a temporary or permanent disability or other medical condition of the School Board Member or a family member will not be limited in number as long as such remote participation: i) does not create an unreasonable hardship for the School Board or the Committee to administer; ii) does not unreasonably interfere with the School Board's or the Committee's ability to conduct its business; and/or iii) the School Board Member can clearly be heard and/or seen through the method of remote participation throughout each meeting. Before limiting continued remote participation pursuant to this subsection, the School Board or the Committee members must vote to discontinue the remote participation.

2. Personal matter prevents physical attendance

- a. On or before the day of a meeting, a School Board Member must notify the School Board Chair for School Board Meetings or the School Board Committee Chair for Committee meetings that the School Board Member is unable to attend the meeting due to a personal matter and must identify with specificity the nature of the personal matter.
- b. The Chair will note during the meeting the specific nature of the personal matter and the remote location from which the School Board Member is participating.
- c. During a calendar year (January 1 – December 31), a School Board Member will be limited to remote participation for personal reasons to three meetings for School Board Meetings and three meetings each for every School Board Committee that the School Board Member is assigned to serve on.
- d. Once a School Board Member has participated remotely three times that calendar year under this subsection, the Chair or designee will inform a School Board Member that no further remote participation will be allowed during the calendar year for personal reasons.
- e. Committee Members should be consulted prior to rescheduling a meeting so that Committee Members have the opportunity to participate and do not have to use limited remote participation opportunities.

3. A School Board Member's remote location participation shall be counted separately for School Board Meetings and each School Board Committee meeting when considering limitations on use of remote location participation.

4. In any meeting at which one or more School Board Members participates from a remote location: 1) a quorum of the School Board or the School Board Committee must physically assemble at the primary or central meeting location; and 2) the Chair or designee must make arrangements for the voice of the remote participant(s) to be heard by all persons at the primary or central meeting location. No more than two School

Board Members can be in the same remote location during a meeting unless that remote location is open to the public to physically access it.

5. The Chair or designee will determine the appropriate method, if reasonably available, for the School Board Member to remotely participate in a meeting.
6. School Board Members may not participate from a remote location in any closed session meeting.
7. Conditions regarding remote location participation may be suspended or modified in accordance with applicable School Board action or resolution, Governor's action, or Virginia General Assembly action.
8. The electronic communications mean used for a meeting will allow the public to hear all members of the public body participating in all virtual public meetings. A phone number or other live contact information is provided to alert the public if the audio or video transmission of the meeting fails, such contact number is monitored during the meeting, and the School Board or School Board Committee takes a recess until public access is restored if transmission fails for the public.

### **Legal Reference**

Code of Virginia § 2.2-3700, *et seq.*, as amended. Virginia Freedom of Information Act.

Code of Virginia § 2.2-3708.2, as amended. Meetings held through electronic communications means during declared states of emergency.

Code of Virginia § 2.2-3708.3, as amended. Meetings held through electronic communications means; situations other than states of emergency.

Code of Virginia § 2.2-3712, as amended. Closed meeting procedures; certification of proceedings.

### **Related Links**

School Board [Bylaw 1-28](#)

School Board Regulation 4-55.1

Adopted by School Board: July 21, 1992

Amended by School Board: September 5, 1995

Amended by School Board: August 17, 1999

Amended by School Board: February 20, 2001

Amended by School Board: May 14, 2002

Amended by School Board: December 2, 2008

Amended by School Board: September 1, 2015

Amended by School Board: August 2, 2016

Amended by School Board: August 25, 2020

Amended by School Board: January 12, 2021

Amended by School Board: February 23, 2021

Amended by School Board: September 28, 2021  
Amended by School Board: December 13, 2022  
Amended by School Board: November 29, 2023

Amended by School Board: 2024

APPROVED AS TO  
LEGAL SUFFICIENCY

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