

CVTA AGENDA 03/18/25; ITEM B.-2.

**Policy for Meetings Held Through Electronic Communications Means During
Declared States of Emergency**

Central Virginia Transportation Authority

BACKGROUND: The CVTA has existing policies that have been enacted to enable members and the general public to participate through various means and through in-person or virtual settings. These policies were enacted as the COVID-19 crisis and subsequent state of emergency were impacting the Richmond region and have served the authority well as it positioned to be supportive to its membership and outside participants.

From time to time, these policies are required to be assessed for their responsiveness to current conditions and requirements of the Commonwealth. For this reason, two existing policies are included in this update, which has been developed in response to current FOIA requirements and best practices for virtual engagement.

This policy rescinds and supersedes the Policy for the Remote Participation of Members and the Policy for All-Virtual Public Meetings, both of which were adopted on September 23, 2022.

REQUESTED ACTION: motion to adopt the updated policy as presented

CENTRAL VIRGINIA TRANSPORTATION AUTHORITY

POLICY FOR MEETINGS HELD THROUGH ELECTONIC COMMUNCIATIONS MEANS DURING DECLARED STATES OF EMERGENCY OR OTHERWISE

Adopted: _____, 2025

1. **AUTHORITY AND SCOPE**

- a. This policy is adopted pursuant to the authorization of §§ 2.2-3708.2 and 2.2-3708.3 of the *Code of Virginia* ("Va. Code") and is to be strictly construed in conformance with the Virginia Freedom of Information Act (VFOIA), Va. Code §§ 2.2-3700—3715.
- b. This policy rescinds and supersedes the Policy for the Remote Participation of Members and the Policy for All-Virtual Public Meetings, both of which were adopted on September 23, 2022.
- c. This policy shall be reviewed and re-adopted or amended annually in compliance with applicable provisions of VFOIA.

2. **DEFINITIONS**

- a. "**CVTA**" means the Central Virginia Transportation Authority, or any committee, subcommittee, or other CVTA entity.
- b. "**Member**" means any member of the CVTA.
- c. "**All-virtual public meeting**", means a public meeting conducted by the CVTA using electronic communication means during which all members of the public body who participate do so remotely rather than being assembled in one physical location, and to which public access is provided through electronic communication means, as defined by Va. Code § 2.2-3701.
- d. "**Meeting**" means a meeting as defined by Va. Code § 2.2-3701.
- e. "**Notify**" or "**notifies**," for purposes of this policy, means or pertains to written notice, including, but not limited to, email or letter, but does not include text messages or messages sent or exchanged on social media.

3. **MEETINGS HELD THROUGH ELECTRONIC COMMUNICATION MEANS DURING DECLARED STATES OF EMERGENCY**

The CVTA may meet by electronic communication means without a quorum of the public body physically assembled at one location when the Governor or the locality in which the body is assembling for the meeting has declared a state of emergency in accordance with applicable law, provided that (i) the catastrophic

nature of the declared emergency makes it impracticable or unsafe to assemble a quorum in a single location and (ii) the purpose of the meeting is to provide for the continuity of operations or the discharge of its lawful purposes, duties, and responsibilities. Under such circumstances, the CVTA:

- a. 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 members conducting the meeting;
- b. Make arrangements for public access to such meeting through electronic communication means, including video-conferencing;
- c. Provide the public with the opportunity to comment when public comment is customarily received during meetings; and
- d. Otherwise comply with the VFOIA.

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 shall be stated in the meeting minutes. These policy provisions shall be applicable only for the duration of the declared emergency under applicable law.

4. **MEETINGS HELD THROUGH ELECTRONIC COMMUNICATION MEANS**
(SITUATIONS OTHER THAN DECLARED STATES OF EMERGENCY)

- a. Individual members may use remote participation instead of attending a meeting in person if, in advance of the meeting, the member notifies the chair that:
 - i. The member has a temporary or permanent disability or other medical condition that prevents the member's physical attendance.
 - ii. A medical condition of a member of the member's family requires the member to provide care that prevents the member's physical attendance or the member is a caregiver who must provide care for a person with a disability at the time the public meeting is being held.
 - iii. The member's principal residence is more than 60 miles from the meeting location identified in the meeting notice; or
 - iv. The member is unable to attend the meeting due to a personal matter, the nature of which is identified with specificity. The member may not rely upon this rationale more than two meetings per calendar year or 25% of the meetings held per calendar year rounded up to the next whole number, whichever is greater.

- v. The reason for the member's remote participation and the general location from which the member participates shall be recorded in the meeting minutes.
 - vi. If a member's remote participation is disapproved because such participation would violate this policy, the disapproval shall be recorded in the meeting minutes.
- b. An all-virtual public meeting may be held under the following circumstances:
- i. The meeting notice shall indicate whether the meeting will be an in-person or all-virtual meeting and that the meeting arrangements will not be changed without providing an updated notice, pursuant to VFOIA;
 - ii. Public access to the all-virtual meeting is provided via electronic communication means, which allows the public to hear all members participating in the all-virtual meeting and, when audio-visual technology is available, to see the members;
 - iii. A phone number or other live contact information is provided as a means to report if the audio or video transmission of the meeting fails;
 - iv. A copy of the proposed agenda and all agenda packets and, unless exempt, all materials furnished to members are made available to the public in electronic format at the same time that such materials are provided to the members;
 - v. The public is afforded the opportunity to comment through electronic means, including by way of written comments;
 - vi. No more than two members are together in any one remote location unless that remote location is open to the public;
 - vii. If a closed session is held during an all-virtual public meeting, transmission of the meeting to the public resumes before the public body votes to certify compliance with VFOIA;
 - viii. All-virtual meetings shall not be conducted (i) more than two times per calendar year or 50 % of the meetings held per calendar year rounded up to the next whole number, whichever is greater, or (ii) consecutively with another all-virtual meeting; and
 - ix. Minutes of all-virtual meetings shall include the fact that the meeting was held by electronic communication means and the type of electronic communication means by which the meeting was held.

- x. If a member's participation from a remote location is disapproved it shall be recorded in the minutes with specificity.

5. **PROCESS TO AUTHORIZE AN ALL-VIRTUAL PUBLIC MEETING**

- a. The CVTA may schedule its all-virtual public meetings at the same time and using the same procedures used by the CVTA to set its meeting calendar for the calendar year; or
- b. If the CVTA wishes to have an all-virtual public meeting on a date not scheduled in advance on its meetings calendar, and an all-virtual public meeting is authorized under Section 4 above, the CVTA Chair may schedule an all-virtual public meeting provided that any such meeting comports with this policy and VFOIA notice requirements.