Fairfax County School Board
Resolution for Participation in Board Meetings by Means of Electronic Communications

The Fairfax County School Board may conduct public meetings or closed meetings in which one or more Board members is permitted to participate by means of electronic communication only in the event of:

(1) a Qualifying Unavailability (as defined below) pursuant to Virginia Code § 2.2- 3708.3(B), subject to the requirements and procedures set forth in paragraphs 1 through 3 and 5 through 7 of this Resolution;

(2) the School Board member being a person with a disability or a School Board member serving as a caregiver who must care for a person with a disability at the time the public meeting is being held thereby preventing the member's physical attendance pursuant to Virginia Code § 2.2- 3708.3(B), subject to the requirements and procedures set forth in paragraphs 1 through 4 and 6 through 7 of this Resolution; or

(3) a declaration of a state of emergency by the Governor of the Commonwealth of Virginia pursuant to Virginia Code § 44-146.17, or a declaration of a local state of emergency in Fairfax County, Virginia pursuant to Virginia Code § 44-146.21, under the conditions set forth in Virginia Code § 2.2-3708.2, in which case a Qualifying Unavailability is not required.

The procedural requirements for participation by means of electronic communication due to a Qualifying Unavailability under paragraph (1) or due to being a person with a disability or caregiving for a person with a disability under paragraph (2) are set forth below.

The requirements for participation by means of electronic communication due to a state of emergency under paragraph (3) are set forth in Virginia Code § 2.2-3708.2.

Definitions

As used in this Resolution, the following terms have the meanings set forth below:

"**Location Conflict**" means that a member's principal residence is more than 60 miles from the meeting location identified in the required notice for such meeting.

"**Major Life Activities**" means the same as defined in 42 U.S.C. Code § 12102.

"**Medical Conflict**" means: (i) a medical condition that prevents the Board member's physical attendance; or (ii) a family member's medical condition that does not qualify as a disability that requires the Board member to provide care for such family member thereby preventing the Board member's physical attendance.

"**Mental Impairment**" means (i) a disability attributable to intellectual disability, autism, or any other neurological disability closely related to intellectual disability and requiring treatment similar to that required by individuals with intellectual disability or (ii) an organic or mental impairment that has substantial adverse effects on an individual's cognitive or volitional functions, including central nervous system disorders or significant discrepancies among mental functions of an individual.

"**Personal Conflict**" means a personal matter that prevents the Board member's physical attendance.

"**Person with a Disability**" means any person who has a physical or mental impairment that substantially limits one or more of their major life activities or has a record of such impairment.

"**Physical Impairment**" means any physical condition, anatomic loss, or cosmetic disfigurement that is caused by bodily injury, birth defect, or illness.

"**Qualifying Unavailability**" means a Location Conflict, Medical Conflict, or Personal Conflict.

"**Remote Notification Form**" means a written notice from a Board member notifying the Chair and Clerk of the Board of their participation by means of electronic communication as a person with a disability or due to caregiving for someone with a disability. The Remote Notification Form must specify whether the Board member has a disability or is caregiving for someone with a disability and must list the location from which the Board member is participating.

"**Remote Participation Request**" means a written notice from a Board member requesting approval of participation by means of electronic communication due to a Qualifying Unavailability on the part of such Board member. The Remote Participation Request must specify a Location Conflict, Medical Conflict, or Personal Conflict as the basis for the request and, if the reason is a Personal Conflict, the Remote Participation. Request must identify the nature of the Personal Conflict with specificity. The Board member must list the location from which the Board member is participating. A sample form of Remote Participation Request is attached to this Resolution.

Procedural Requirements

The Board may conduct a public meeting or closed meeting in which one or more Board members participate by means of electronic communication due to a Qualifying Unavailability or due to a disability or caregiving for someone with a disability only as follows:

1. **Request by Board Member**. A Board member who wishes to participate in a Board meeting by means of electronic communication due to a Qualifying Unavailability shall submit a Remote Participation Request to both the Chair and Clerk of the Board on or before the date of the meeting. A Board member who is a person with a disability or who is caregiving for someone with a disability shall submit a Remote Notification Form to both the Chair and the Clerk of the Board on or before the date of the meeting. In submitting a Remote Notification Form, it will be presumed that the Board member meets the requirements under the Virginia Code as a person with a disability or as a caregiver for a person with a disability.

2. **Prior Arrangements by Clerk**. After receiving a Remote Participation Request or Remote Notification Form and before the meeting begins, the Clerk to the Board, or the Clerk's designee, will make all necessary arrangements, if the request is approved, for the voice of the remote participant to be heard by all persons at the meeting.

~~2.~~3. **Consideration of Request by Board**. The Board may approve a Remote Participation Request only if there is an in-person quorum (Board members who are physically present or who are considered to be in-person for the purposes of quorum since the Board member is a

person with a disability or a member who is a caregiver who must provide care for a person with a disability) of the Board at the outset of the meeting. The members who are physically present or are considered physically present under Paragraph 4 of this Resolution must consider and vote upon the Remote Participation Request as the first order of business after the meeting is called to order. The Remote Participation Request may be approved only by an affirmative vote of six or more members who are physically present at the meeting. The Board will disapprove any Remote Participation Request that would violate this Resolution.

~~3.~~4. **In-Person Quorum for a Person with a Disability or a Member Who Is a Caregiver Who Must Provide Care for a Person with a Disability**. If a Board member submits a Remote Notification Form and the notification is accepted by the Clerk to the Board, or the Clerk's designee, the Board member will be counted for in-person quorum and will not need to be voted in by those members of the Board who are physically present at the location of the meeting. The Board member may participate by means of electronic communication, provided such Board member can be heard by all persons who are physically present at the meeting.

~~4.~~5. **Remote Participation by Member**. If the Remote Participation Request is approved by the Board, the requesting Board member may thereafter participate in the meeting by means of electronic communication, provided such Board member can be heard by all persons who are physically present at the meeting.

~~5.~~6. **Board Action; References to Remote Participation in Meeting Minutes**.

a. **Approval by Board of Remote Participation Request**. The Board ~~will~~ shall approve a Remote Participation Request that satisfies the requirements of this resolution. If the Board approves a Remote Participation Request, the meeting minutes will identify the remote location from which the requesting member participated by a general description. The remote location must not be located in a country that is listed as a "country of concern" in 28 C.F.R. Section 202.601(a) (2025). The remote location itself need not be open to the public. In the case of remote participation in a closed meeting of the Board, the remote location must be a private area from which communications may not be heard by any person other than the remote participant(s). ~~In the case of remote participation in a closed meeting of the Board, the remote location must (i) be a private area from which communications may not be heard by any person other than the remote participant(s), and (ii) not be located a country that is listed on the U.S. State Department's "country of concern" list for cybersecurity.~~ The meeting minutes will also include the information set forth in clauses (i)-(iii), below.

i. **Reference to Medical Conflict**. If the approved request was based on a Medical Conflict, the minutes will indicate that the requesting member participated through electronic communication means due to (1) aa medical condition that prevented the member's physical attendance or (2) a family member's medical condition that is not considered a disability that required the member to provide care for such family member, thereby preventing the member's physical attendance.

ii. **Reference to Location Conflict**. If the approved request was based on a Location Conflict, the minutes will indicate that the requesting member participated through electronic communication means due to the distance between the member's

principal residence and the meeting location.

iii. **Reference to Personal Conflict**. If the approved request was based on a Personal Conflict, the minutes will set forth the specific nature of the personal matter cited by the requesting member in the Remote Participation Request.

b. **Acceptance of Remote Notification Form**. If the Clerk accepts the Remote Notification Form, the meeting minutes will identify the remote location from which the member participated by a general description. The remote location itself need not be open to the public. Additionally, the meeting minutes will identify the Board member as being considered in-person for the purposes of quorum but indicate that the Board member participated through electronic communication means due to (1) a temporary or permanent disability that prevented the member's physical attendance or (2) the member is a caregiver who must provide care for a person with a disability at the time the public meeting is being held, thereby preventing the member's physical attendance.

c. **Disapproval by Board**. If the Board disapproves a Remote Participation Request, the minutes will note such disapproval. If the Board disapproves the Remote Participation Request on the ground that allowing it would violate this Resolution, the disapproval will be recorded in the minutes with specificity. Each Board member who votes to disapprove a Remote Participation Request must state on the record the reason for his or her vote against the Remote Participation Request. Under this resolution, the sole ground to vote to disapprove a Remote Participation Request is that the Request does not satisfy the requirements of this Resolution. If the Board member votes to disapprove the Remote Participation Request, he or she shall state on the record the specific provision of this Resolution with which the Remote Participation Request does not comply.

~~6.~~7. **Further Requirements and Limitations**. The conduct of a Board meeting in which a member is permitted to participate by electronic communication means is subject to the following rules:

a. **Limitation for Personal Conflicts**. Participation by electronic means due to Personal Conflicts is limited each calendar year to two meetings or 25% of the meetings held per calendar year rounded up to the next whole number, whichever is greater. The Board will assess this percentage based on the aggregate number of all public meetings during the applicable period (such as, but not limited to Regular Meetings, Work Sessions, Closed Meetings, Public Hearings, Joint Meetings, and Standing Committee Meetings) rather than assessing it for each individual meeting type.

b. **Uniform Application**. This Resolution will be applied strictly and uniformly, without exception, to the entire Board and without regard to the identity of the member requesting remote participation or the matters to be considered or voted on at the meeting.

c. **Voting Affirmation of Remote Participants.** This Resolution shall not prohibit or restrict any Board member who is using remote participation from voting on matters before the entire Board.

~~7.~~8. **Application to Board Committees and Subcommittees**. This Policy will apply with equal force to meetings of Committees and Subcommittees of Fairfax County School Board. In that

context, the term "Board," as employed in this Policy and in the Remote Participation Request or Remote Participation Notification, will be deemed to refer to the Committee or Subcommittee in question, and the term "member" will refer to a member of such Committee or Subcommittee.

Fairfax County School Board
Remote Participation Request

To: School Board Chair
Clerk to School Board

Re: Request to Participate in Board Meeting by Means of Electronic Communication due to Qualifying Unavailability

In accordance with the applicable School Board Resolution and Code of Virginia § 2.2-3708.3(B), _____ requests approval to participate by means of electronic communication due to a Qualifying Unavailability in the following meeting of the School Board:

Request Date: _____

Meeting Type: _____ (i.e. Regular, Closed, Work Session, etc.)
(please provide a separate form for each meeting type)

Meeting Date: _____

I/they will be participating in the meeting from: _____
(please provide location in accordance with the Code of Virginia).

_____

The qualifying unavailability is as follows (select Medical **or** Personal Conflict and complete accordingly):

Medical Conflict: _____
I/they am/are unable to attend such meeting in person due to a Medical Conflict described as follows (check one):

_____ other medical condition, not defined as a disability; or

_____ caregiving responsibilities with respect to my family member's medical condition, not defined as a disability.

[NOTE: if you have a disability or are caregiving for someone with a disability in accordance with the Code of Virginia § 2.2-3708.3(B) and the Board's virtual participation resolution and qualify to participate in person, please use the Disability/In-Person Notice Form instead].

-or

Personal Conflict: _____

I/they am/are unable to attend such meeting in person due to the Personal Conflict specified below:

_____

_____

During the current calendar year, the requesting School Board Member has participated in ____ meetings of this type to date by means of electronic communications due to a Personal Conflict.

Thank you for considering the request.

Submitted by:

School Board Member Signature: _____

or

I _____ (insert name) am submitting

this request on behalf of _____ and

have the School Board Member's permission to do so.

SCHOOL BOARD CLERK'S OFFICE USE ONLY:

Received by: _____

Date Approved or Denied: _____

Link emailed to School Board Member and staffer: Yes or No?

If no, why? _____

_____

_____ (SBO staff initials)

Fairfax County School Board
Remote Participation but In-Person for Quorum Notification

To: School Board Chair
Clerk to School Board

Re: Notice of Virtual Participation in Board Meeting Due to Disability/Caregiving for Disability and In-Person Quorum Qualification

In accordance with the applicable School Board Resolution and Code of Virginia § 2.2-3708.3(B), _____ hereby submits notice that I/they am/are attending the meeting virtually but qualify for in-person quorum because I/they (please check one):

_____ Have a temporary or permanent disability, as defined in Code of Virginia § 51.5-40.1 and the School Board's Resolution; or

_____ Am/are a caregiver who must provide care for a person with a disability, as defined in Code of Virginia § 51.5-40.1 and the Board's Resolution

Notification Date: _____

Meeting Type: _____ (i.e. Regular, Closed, Work Session, etc.) (please provide a separate form for each meeting type)

Meeting Date: _____

I/they will be participating in the meeting from: _____ (please provide location in accordance with the Code of Virginia).

Submitted by:

School Board Member Signature: _____

or

I _____ (insert name) am submitting

this request on behalf of _____ and

have the School Board Member's permission to do so.

SCHOOL BOARD CLERK'S OFFICE USE ONLY:

Received by: _____

Date Received: _____

I certify that the link has been emailed to School Board Member and staffer: _____ (please initial)