

# VIRTUAL BOARD MEETINGS IN EMERGENCY SITUATIONS

This policy defines procedures for calling, noticing, and conducting technology-facilitated School Board meetings that involve remote participation by Board members and/or the public's remote access to the meeting ("virtual meetings") in situations where conditions exist that make it potentially dangerous for the Board to convene in person or in the typical setting that is established for the Board's public meetings (e.g., where a number of people would be in direct proximity to one another). Examples of such dangerous conditions might include a natural disaster, a regional or national emergency, or a serious public health emergency as defined or declared by authorized public health officials, the state, and/or the federal government.

These procedures may be invoked for one or more meetings by a decision of the Board or, in the absence of any Board decision, upon the Board President's determination (in consultation, as needed, with the Superintendent and District legal counsel) that such dangerous conditions exist and that it is reasonably necessary and appropriate to hold one or more virtual meetings of the Board.

## **Modified Content for the Public Notice of a Virtual Meeting**

When posting or otherwise giving public notice of a virtual Board meeting that is to occur under this policy, the District shall, in addition to all other content required by law, include the following information as part of the notice:

1. A statement that the meeting will be conducted as a virtual meeting due to an active emergency situation, meaning that multiple Board members may be participating in the meeting from remote locations through the use of communications technology and/or that public access to the meeting may be arranged through the use of technology.
2. Although the notice shall identify a physical location for the meeting, which shall normally be the location where superintendent or in his/her absence the presiding officer is present (see below), the notice shall normally also include a statement, as applicable to the specific meeting and emergency circumstances, that substantially reflects one of the following:
  - a. The District discourages the public and/or media from attending the meeting in person at its noticed location due to concerns with health and safety and encourages use of the alternative method(s) of access that the District is providing. (Such statement may also identify any further limitations or restrictions on in-person attendance that may apply.)
  - b. Unless the Superintendent or his/her designee expressly approves an exception for an individual that is deemed necessary to meet a legal obligation of the District, the public and/or media are prohibited from attending the meeting in person at its noticed location due to a specific recommendation of public officials that the District intends to enforce in the interest of health and safety or due to an expressly applicable order, decree, or declaration that has been issued by a governmental authority. However, the District has arranged to provide one or more alternative forms of public access to the meeting.
3. Information that identifies how/where a member of the media or general public may access the meeting. For example, apart from any in-person attendance option that may be available, the District may provide access to the meeting via a live broadcast, via a video and/or audio streaming service, and/or via a telephone number for joining an audio conference.

4. District contact information that a person may use to identify and communicate any special needs or any requests for accommodations related to accessing the meeting. This would include any person for whom it would be burdensome or infeasible to use the primary method(s) of remote access established by the District.
5. Unless required by law in connection with a particular item of business, a virtual meeting held under this policy need not include an opportunity for any in-person or other form of public comment during the meeting.
  - a. At the direction of the Board or, in the absence of a Board decision, at the discretion of the Board President, the meeting notice may include information regarding how a member of the public may submit a communication (e.g., a comment regarding an agenda item) that, if received in a timely manner, will be provided to all Board members prior to the meeting.
  - b. At the direction of the Board or, in the absence of a Board decision, at the discretion of the Board President, the meeting notice may include an item of business during which the presiding officer or a designee will read all timely pre-submitted public comments that relate to one or more agenda items for the meeting. If the meeting notice includes such an item of business, then the notice shall further specify how and when to submit a comment to be read at the meeting. A submitted comment will be read at the meeting only if the author is sufficiently identified and the comment complies with the limitations that are normally applicable to verbal public comments at Board meetings (e.g., in regard to length, no prohibited content (e.g., obscenities, threats), etc.).

#### **Conducting a Virtual Meeting of the School Board**

1. At least the presiding officer of the meeting and the Superintendent (or an administrative-level designee) shall normally be physically present at the meeting location identified in the public notice of the meeting.
2. Any Board members who are physically present at the posted meeting location will join the virtual meeting using the available technology platform(s). Any Board members who are not physically present at the meeting location will likewise join the meeting from their remote locations via such platform(s).
3. The presiding officer will formally convene the meeting.
  - a. The presiding officer shall confirm that all Board members who are known to have attempted to join the meeting appear to have an adequate connection to enable their participation as authorized under this policy.
  - b. The presiding officer shall confirm that the planned methods for allowing public access to the meeting appear to be functioning in a manner that allows for adequate and reasonable public access under the specific circumstances.
4. Quorums for any virtual meeting that is convened under these emergency procedures will be determined by counting the total number of Board members who are participating in the meeting, including both those physically present and those attending remotely via technology. A majority of the total members of the Board shall constitute a quorum. If, at any point, fewer than a majority of the Board members are able to participate, the meeting shall end for a lack of a quorum.
5. Unless the in-person attendance of the full Board is disallowed by an order, decree, or declaration that has been issued by a governmental authority having such jurisdiction, no Board member will be prohibited from attending a meeting under this policy in person at the duly-noticed location of the meeting. As a result:
  - a. In the absence of such an order, decree, or declaration, a Board member's decision to participate in a meeting remotely via technology under this policy is considered voluntary. If, for any reason, a Board member who voluntarily attempts to participate in such a meeting from a remote location is unable to establish or maintain his/her full participation (e.g., due to unforeseen technical difficulties), the meeting

may continue without such Board member's participation as long as the Board continues to maintain a quorum of fully-participating Board members.

- b. If the in-person attendance of the full Board at the duly-noticed location of the meeting is disallowed by an order, decree, or declaration such that a Board member's participation from a remote location cannot be considered voluntary, and if any such Board member is unable to establish or maintain his/her full participation in the meeting from a remote location, the presiding officer shall call for a temporary recess in the meeting to allow the Board member a reasonable opportunity to establish or restore his/her access and participation. If the Board member's access issues cannot be adequately resolved, but the Board member also has not voluntarily withdrawn from the meeting, then the remaining members of the Board (provided that there is a quorum) shall make a determination whether or not to continue the meeting without the Board member, taking into account factors such as (1) the apparent reason(s) for the access issues; and (2) the time sensitivity and importance of any of the remaining items of business, including the feasibility of rescheduling some or all of the remaining agenda items of the meeting.
6. Board members who, under this policy, join and participate in a meeting remotely via technology may participate in open sessions of such virtual meetings to the same extent as if they were physically present, including discussing items of business and making and voting upon motions, except that Board members may not participate remotely in any evidentiary, due-process hearing, whether in open session or closed session, unless the Board affirmatively votes to permit such participation and has either (a) obtained the voluntary consent of the necessary parties to the hearing; or (b) determined, based on advice of counsel, that applicable law (including any order or decree issued to protect public health) requires the Board to allow such participation under the circumstances.
  7. The Board's preferred setting and forum for conducting any closed session portion of a Board meeting is an in-person meeting, with a physical quorum of the Board being present and without the remote participation of any Board members. Accordingly:
    - a. If a physical quorum of the Board is present at the duly-noticed location of a Board meeting and there is no order, decree, or declaration related to the emergency that prohibits the entire Board from attending the meeting in person, then nothing in this policy grants any Board member who is not physically present at such location a right to attend or otherwise participate in a closed session.
    - b. In the event that the Board considers a motion to convene in closed session during a virtual meeting held under this policy when either (1) a physical quorum of the Board is not present at the duly-noticed meeting location; or (2) there is an order, decree, or declaration related to the emergency that expressly prohibits the entire Board from attending the meeting in person, the presiding officer of the meeting shall poll each member of the Board who wishes to participate in the closed session from a remote location, and each such Board member will be asked to expressly affirm that the Board member has taken appropriate precautions to safeguard the privacy and integrity of the closed session, including but not limited to precautions that would reasonably ensure that the closed session is not being recorded without the Board's permission and that no non-authorized person can hear or access the discussions or other confidential information. The members of the Board may take the response(s) to the request for such affirmations into account in determining whether to authorize or potentially postpone the closed session.

**Additional Statements Regarding the Scope and Application of this Policy**

1. In the event of the temporary absence or disability of the Board President, the Vice President shall, to the extent necessary, perform the duties and exercise the powers of the Board President under this policy. If the Vice President is also unavailable, the School Board Clerk shall do so.

2. This policy applies to both regular and special meetings of the Board. Minimum requirements for calling a regular or special meeting of the Board, as specified in state law, must still be satisfied in connection with meetings that are noticed and convened under this policy.
3. During meetings that involve the remote participation of any Board members, the Board will take appropriate measures to ensure accurate tallying and documentation of votes, which may include the regular use of roll call votes or other methods that clearly identify the votes of the individual Board members. No Board member who is absent from a meeting may ever vote by proxy.
4. All special voting requirements established by state law for taking particular action must still be satisfied. Such voting requirements are not affected by this policy.
5. If, at any time, the Board is made aware that the methods arranged for providing public access to a virtual meeting under this policy are not allowing adequate and reasonable public access under the specific circumstances, and if such issues cannot be remedied during a brief recess in the meeting, then the Board shall adjourn the meeting.
6. If a Board member has a concern related to the Board President's decision that a virtual meeting is reasonably necessary under this policy, or as to whether the Board should take up any particular item(s) of business at a virtual meeting, such concerns may be evaluated by the Board at the meeting via, for example, a motion to postpone some or all of the noticed agenda items for the meeting.
7. The Board authorizes the Board President to cancel any Board meeting that has been scheduled or noticed during the pendency of conditions that constitute an emergency situation under this policy (a) if necessary to comply with any mandatory decree, order, or declaration of a governmental authority, or (b) if the Board President determines that health and safety considerations related to the pending emergency situation outweigh any need for the Board to meet, such that the Board would still be able to meet any of its legal obligations (e.g., at a rescheduled meeting) and such that the interests of the District otherwise reasonably permit the cancellation of the meeting. A cancellation under this paragraph shall be effectuated by notifying all Board members and any relevant staff members of the cancellation and by withdrawing any public notice of the meeting and replacing such public notice with a notice of the cancellation (including notifying relevant media).
8. Except as otherwise expressly provided in this policy, the Board's normal policies and practices regarding *(1) locations for board meetings; (2) quorum determinations; (3) a Board member's attendance at and possible remote participation in meetings; and (4) in-person public comment opportunities during Board meetings*, are temporarily suspended for purposes of a virtual Board meeting that is noticed and convened under this policy. However, once the emergency situation no longer exists, this policy no longer applies, and the Board's normal policies and practices regarding its meetings shall again govern subsequent meetings.
9. The requirements, procedures, and other provisions of this policy may be suspended or modified by a standard majority vote of the Board to the extent doing so would be consistent with applicable law, including any emergency relief, waiver, or exemption from an otherwise-applicable legal requirement that may be authorized by an appropriate governmental authority.

ADOPTED: March 30, 2020

REVISED:

REVIEW DATE: March 30, 2020

**Legal References:**

**Wisconsin Statutes**

[Subch. V of Ch. 19](#)

[open meetings of governmental bodies; including public accessibility requirements, closed session exemptions, and other provisions]

[Section 118.38](#)

[waivers of laws and rules by the Department of Public Instruction]

[Section 252.02](#)

[powers of the Department of Health Services in connection with communicable diseases; including limitations on public gatherings]