

Attachment 9c

FOIA Council letter

Virginia law requires all public bodies, including regional boards and local advisory boards to meet in-person, except during a declared emergency. This includes all of the Executive Committees and any subcommittees of our regional bodies like CVPDC and those of the advisory boards and commissions to which we appoint residents and business leaders in our jurisdictions.

Having some flexibility to hold a completely electronic meeting (or a hybrid meeting without a physical quorum) would allow CVPDC to be more effective and responsive. We have all seen public participation increase during virtual meetings.

Attached is a letter supporting flexibility for electronic meetings for regional bodies and local appointed/advisory boards.

The best case scenario to get any flexibility would be for a bill to pass next session that would take effect 7/1/22; however, that would require the FOIA Council (which studies legislation and issues relevant to the Freedom of Information Act and makes recommendations to the General Assembly) to take action this summer/fall. If they do not, there would not be any flexibility until at least two years from now.

[DRAFT letter on next page]

[date]

Virginia FOIA Advisory Council

[Address]

Dear Chairman Seltzer:

We write to express our support for increased flexibility for electronic meetings outside of a declared emergency. Over the past 15 months, we have seen firsthand that electronic meetings have increased participation by members of the public because they remove barriers such as transportation and childcare. Removing such barriers leads to a more equitable, accessible, and transparent government and better, more representative public policy is created when residents with a diversity of voices and lived experiences can participate in their government, whether by attending a meeting or through direct service on a board or commission.

All of our jurisdictions have advisory boards or commissions to which the local governing body appoints residents. Even subcommittees of these boards and commissions are unable to meet electronically. Having the ability to meet electronically outside of an emergency, would allow regional bodies to schedule these meetings differently and more effectively. Flexibility would also help regional and advisory bodies respond to urgent or unexpected issues that may arise, while maintaining proper noticing requirements.

Even before COVID, a majority of other states allowed public bodies to meet electronically¹; some states even note that this is for the benefit of the public, as well as the public body. Given the increased participation we have seen, electronic meetings can help achieve FOIA's policy goal of promoting "an increased awareness by all persons of government activities and affording every opportunity to citizens to witness the operations of government."

We hope you will take the lessons we have learned over the past 15 months and help move Virginia into the 21st century. We ask you to please recommend to the full FOIA Council that regional bodies and local advisory bodies be allowed to meet electronically outside of a declared emergency, while allowing or requiring the local governing body or regional body to adopt a resolution governing the use of such meetings.

Thank you for your consideration.

Sincerely,

¹ These include: Alaska; Arizona; California; Colorado; Connecticut; D.C.; Hawaii; Idaho; Kansas; Kentucky; Maryland; Minnesota; Mississippi; Missouri; Montana; Nevada; New York; North Carolina; North Dakota; Oregon; Pennsylvania; South Carolina; South Dakota; Utah; Vermont; Washington; and West Virginia.