



Policy on Remote Participation

Adopted by the Sudbury Board of Selectmen on December 15, 2015

PURPOSE STATEMENT

The Office of the Attorney General amended the Open Meeting Law regulations at 940 CMR 29.00 to allow members of public bodies, in limited circumstances, to participate remotely in meetings. While all members of Town Boards and Committees should try to attend meetings in person, the new regulations seek to promote greater participation in government meetings by allowing members to participate remotely when certain specific circumstances prevent them from being physically present.

The intent of this policy is to establish clear guidelines on the practice of remote participation by Town Boards and Committees under the Open Meeting Law, M.G.L. c.30A, §§18-25.

ENABLING AUTHORITY- 940 CMR 29.10(8)

A municipality may adopt a policy that prohibits or further restricts the use of remote participation by public bodies within its jurisdiction.

ADOPTION OF REMOTE PARTICIPATION

In accordance with 940 CMR 29.10(2)(a), the Board of Selectmen, on December 15, 2015, voted to authorize the adoption of 940 CMR 29.10 so that remote participation is permitted in the Town. In accordance with 940 CMR 29.10(3), the Board of Selectmen may revoke its adoption of 940 CMR 29.10 by simple majority vote at any time.

This policy and 940 CMR 29.10 shall apply to all Town boards, committees, commissions, sub-committees and other public bodies regardless of whether such public bodies are appointed or elected. Where the Remote Participation Policy is more stringent than 940 CMR 29.10, the Policy shall control.

MINIMUM REQUIREMENTS FOR REMOTE PARTICIPATION

Members of the public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other.

A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location, as required by M.G.L. c.30A, §20(d).

Members of the public body who participate remotely must have access to the same materials being used at the meeting location.

Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of Article III, Section 8 of the Town General By-laws and M.G.L. c. 39, §23D.

Section 23D (a): Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.

PERMISSIBLE REASONS FOR REMOTE PARTICIPATION

It is the express desire of the Board of Selectmen that remote participation in meetings be an infrequent event, for both individual board members and Town Boards and Committees as a whole. Chairs of public bodies are encouraged to interpret these rules in a strict fashion and to continue to induce all members to attend meetings in person as a general rule, due to the inherent benefits of physical presence in a meeting.

A Board member may attend a meeting through electronic conferencing if his or her physical presence at the meeting is prevented due to one of the following extenuating circumstances: personal illness or disability; a family or other emergency; military service; geographic distance.

Due consideration should be given regarding associate members on Boards and Committees, Associate members should be utilized in the absence of members of Boards and Committees when deemed appropriate by the Chair. Any determination by the person chairing the meeting to allow or not to allow remote participation shall be final and shall not be appealable.

The commission on disability may by majority vote of the commissioners at a regular meeting authorize remote participation applicable to a specific meeting or generally to all of the commission's meetings. If the commission on disability utilizes remote participation, a physical quorum of that commission's members shall not be required to be present at the meeting location; provided, however, that the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location. The commission shall comply with all other requirements of law and this policy.

ACCEPTABLE METHODS OF REMOTE PARTICIPATION

The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted. Accommodations shall be made for any public body member who requires TTY service, video relay service, or other form of adaptive communications.

- i. Telephone, internet, or satellite enabled audio or video conferencing.

- ii. Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible and, if possible, clearly visible to all persons present at the meeting location.
- iii. If technical difficulties arise as a result of utilizing remote participation, the Chair should suspend discussion while reasonable efforts are made to correct any problem that interferes with remote participant's ability to hear or be heard clearly by all persons at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred and subsequent reconnection if achieved shall be noted in the meeting minutes. If a public hearing occurs after disconnection, the member shall be noted as absent.

PROCEDURES FOR REMOTE PARTICIPATION

Any member of a public body who wishes to participate remotely shall, at least 48 hours or as soon as reasonably possible prior to the meeting, notify the chair or person chairing the meeting of his or her desire to do so and the reason for and facts supporting his or her request.

- i. If the Chair approves the request for remote participation, he or she shall make any necessary arrangements with appropriate Town personnel to ensure that the required equipment is available and, to the greatest extent practical, provide access to all meeting materials. THE TOWN DOES NOT GUARANTEE AVAILABILITY OF REQUIRED EQUIPMENT AT ANY PARTICULAR TIME OR LOCATION.
- ii. At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason for his or her remote participation. This information shall also be recorded in the meeting minutes.
- iii. All votes taken during any meeting in which a member participates remotely shall be by roll call vote. Members may participate remotely even if they are not qualified to vote.
- iv. Remote participants shall preserve the confidentiality of the executive session (where applicable). The remote participant shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by simple majority vote of the public body, and that the session is not being remotely recorded by any device.
- v. The Town shall not be responsible for the reimbursement of any out-of-pocket costs associated with the remote participation of Board members.
- vi. Members participating remotely are cautioned that the same obligations of consideration apply as in any physical meeting. Remote participants should direct all their attention to the meeting, and should make their decisions based upon the same information as is available to all the other participants in the meeting. The remote participant shall also state at the beginning of any

meeting that no other person is in proximity who could exert undue influence on the participant, in either executive or public session, and shall inform the chair if that situation changes.

- vii. The chair of any committee which has agreed to allow remote participation shall provide to the Board of Selectmen, no later than June 30 and December 31 of each year, a report that indicates the date(s) of any meetings for which remote participation was requested, the name(s) of individuals making the request, the determination of the chair for each request, and a summary of any logistical, technical and compliance issues related to remote participation.
- viii. Remote participation shall be limited to one member per scheduled meeting.
- ix. Remote participants shall not operate a motor vehicle or otherwise jeopardize personal or public safety while participating in a meeting.