Policy Committee - Virtual

Tuesday, September 14, 2021 5:30 PM
Policy Committee, L.P. Wilson Community Center, Board Room Google Meet joining info Video call link: https://meet.google.com/cek-amzy-euq Or dial: ?(US) +1 419-962-6111? PIN: ?771 747 555?#, 601 Matianuck Avenue, Windsor, CT 06095

1. **Call to Order, Pledge to the Flag and Moment of Silence**
2. **Audience to Visitors**
3. **Proposed Attendance at Meeting via Electronic Communications**
4. **Adjournment**

Sent to Goodwin 8/30/2021

Bylaws **BL-9325.43**

Attendance at Meetings via Electronic Communications

1. Remote participation is permitted, but limited to two meetings in the fiscal year;

2. Remote participation shall be limited to the regular monthly Board meeting. There will be no remote participation for special or committee meetings or for executive sessions;

3. A remote participant must use both video and audio;

4. A remote requester should use best efforts to make the request two (2) days in advance of the Board meeting, but if not made with the two (2) days, an attempt to accommodate the request will still be made;

5. The bylaw would sunset at the end of the year – so in this case it would end on June 30, 2022 unless a 2/3 vote to keep it or pass some other amended version.

Bylaw adopted:

Windsor Public Schools
Windsor, CT

WINDSOR PUBLIC SCHOOLS

Brown, Sally <sbrown@windsorct.org>

RE: Windsor schools - policy question

1 message

Antonetti, Dori P. <DAntonetti@goodwin.com> Thu, Sep 2, 2021 at 9:02 AM
To: "Brown, Sally" <sbrown@windsorct.org>, "Zittoun, Gwen J." <GZittoun@goodwin.com>
Cc: "Zittoun, Gwen J." <GZittoun@goodwin.com>, "Maher, Peter J." <PMaher@goodwin.com>

Good morning, Sally:

Thank you for your email and your questions. As you may know, the state legislature recently passed a law regarding remote participation in meetings held by public agencies (which, under the Freedom of Information Act, include board and subcommittee meetings). Most of the provisions are effective July 1, 2021 through April 30, 2022. In brief, the new law provides as follows:

- Regarding remote participation by the public: A board of education **may,** but is not required to, provide for public participation by means of electronic equipment or by means of electronic equipment in conjunction with an in-person meeting. If it does, it must comply with various provisions of the law (regarding notice, agendas, voting, opportunity for participation, etc.).

- Regarding remote participation by board members: A board ***must*** provide board members the opportunity to participate by means of electronic equipment, except that a board is not required to adjourn or postpone a meeting if a member loses the ability to participate because of an interruption, failure or degradation of that member's connection by electronic equipment, unless the member's participation is necessary to form a quorum.

It seems as though the proposed bylaw is intended to address remote participation by Board ***members*** (given the reference to attendance and executive sessions), but it is not entirely clear. In any event, depending on what was intended, some of the proposed bylaw's provisions may violate the newly passed law and/or conflict with other Windsor BOE policies currently in place. I would be happy to assist the Board in revising the bylaw so that it complies with the new legislation, but I wanted to reach out with this preliminary information and seek clarification first.

In addition, I attach our Model Policy on Meeting Conduct, which was recently revised in light of the new legislation, because it provides a comprehensive overview of a board's options and obligations in conducting meetings by means of electronic equipment through April 30, 2022.

I hope this information is helpful. Please let me know if you would like to set up a time to discuss.

Thank you,

Dori

SHIPMAN

Dori P. Antonetti
Shipman & Goodwin LLP

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Received from S+G on 9/2/2021

SHIPMAN & GOODWIN LLP
COUNSELORS AT LAW

Series 9000
Bylaws

MEETING CONDUCT

1. Definitions

For purposes of this policy:

A. "Electronic equipment" means any technology that facilitates real-time public access to meetings, including, but not limited to, telephonic, video, or other conferencing platforms.

B. "Electronic transmission" means any form or process of communication not directly involving the physical transfer of paper or another tangible medium, which (A) is capable of being retained, retrieved and reproduced by the recipient, and (B) is retrievable in paper form by the recipient.

2. Meeting Conduct

A. Meetings of the _____ Board of Education (the "Board") shall be conducted by the Chairperson in a manner consistent with the adopted bylaws of the Board and the provisions of law, including the Freedom of Information Act.

B. All Board meetings shall commence at, or as close as practicable to, the stated time, provided there is a quorum.

C. All regular and special Board meetings shall be guided by an agenda that will have been prepared and delivered in advance to all Board members and other designated persons and made available to the public in accordance with the Freedom of Information Act.

D. Robert's Rules of Order shall govern the proceedings of the Board except as otherwise provided by these bylaws.

E. In the event that a Board meeting is interrupted by any person or group of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meetings, the Chairperson may order the room cleared and continue in session.

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1. Only matters appearing on the agenda may be considered in such a session.

2. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any such session.

3. Nothing in these bylaws shall prohibit the Board from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the meeting.

3. Smoking

A. Smoking of any kind, including using an electronic nicotine or cannabis delivery system or vapor product, will not be permitted in any room in which a meeting of the Board is being conducted, nor during the time immediately prior to the meeting.

B. When applicable, a sign notifying the public that no smoking is allowed in the room designated for the meeting will be prominently posted.

4. Procedures for Board Member Participation By Means of Electronic Equipment

A. **Effective July 1, 2021 until April 30, 2022**, the Board shall provide Board members the opportunity to participate in meetings by means of electronic equipment, except that the Board is not required to adjourn or postpone a meeting if a Board member loses the ability to participate because of an interruption, failure, or degradation of that member's connection by electronic equipment, unless the member's participation is necessary to form a quorum. Conditions for participation are as follows:

1. If a quorum of the Board members attend a meeting, other than an executive session, by means of electronic equipment from the same physical location, members of the public must be permitted to attend such meeting in such physical location.

2. Any physical or demonstrable material that is used in the course of the proceedings must be present in the physical location, if any, where the public is located.

3. All those in attendance at the meeting, at whatever location, must be able to hear and identify all participants in the proceeding, including their individual remarks and votes.

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4. Any vote taken at a meeting during which a Board member participates by means of electronic equipment shall be taken by roll call, unless the vote is unanimous.

5. The minutes of the meeting shall record a list of Board members who attended the meeting in person and a list of Board members who attended the meeting by means of electronic equipment.

Any Board member who participates orally in a meeting conducted by means of electronic equipment shall make a good faith effort to state such member's name and title, if applicable, at the outset of each occasion that such member participates orally during an uninterrupted dialogue or series of questions and answers.

B. **After April 30, 2022,** Board member participation in meetings by means of electronic equipment shall be governed by all applicable laws, rules, regulations, and guidance, as appropriate, in effect at the time of such participation.

C. When a Board member is participating in a meeting by means of electronic equipment, the Chairperson shall take the necessary steps to ensure that the conditions enumerated above are met. In addition, the Chairperson shall take the necessary steps to ensure that a Board member participating by means of electronic equipment has adequate opportunity for participation in Board discussion, including the opportunity to take the floor and make motions.

[***Note: Boards that do not wish to provide for public participation by means of electronic equipment may elect not to include this section. However, Boards should be prepared to accommodate any changes necessitated by pandemic-related conditions in the event such conditions warrant a return to fully remote Board meetings.***]

5. Procedures for Public Participation By Means of Electronic Equipment

Effective July 1, 2021 until April 30, 2022, the Board may hold a public meeting that is accessible to the public by means of electronic equipment or by means of electronic equipment in conjunction with an in-person meeting. If the Board allows for the public to participate by means of electronic equipment, it shall do so in accordance with the following procedures:

A. Not less than forty-eight (48) hours before the Board conducts a regular meeting by means of electronic equipment, the Board shall provide direct notification in writing or by electronic transmission to each member of the Board, and post a notice that the Board intends to conduct the meeting solely or in part by means of electronic equipment, (a) in the Board's Administrative Offices; (b) in the office of the Town Clerk ***[Regional***

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School District Option: in the office of the Town Clerk of each municipal member of the school district]; and (c) on the Board's Internet web site, if any.

B. Not less than twenty-four (24) hours prior to any such meeting, the Board shall post the agenda for any such meeting in the same manner as the notice of the meeting as set forth in Section 5.A.

C. Such notice and agenda shall include instructions for the public to attend and provide comment or otherwise participate in the meeting, by means of electronic equipment or in person, as applicable and permitted by law. Any such notice and agenda shall be posted in accordance with the provisions of Connecticut General Statutes § 1-225.

D. If the Board holds a meeting, other than an executive session or special meeting, solely by means of electronic equipment:

1. The Board shall provide any member of the public

   a. upon a written request submitted not less than twenty-four (24) hours prior to such meeting, with a physical location and any electronic equipment necessary to attend such meeting in real-time, and

   b. the same opportunities to provide comment or testimony and otherwise participate in such meeting that such member of the public would be accorded if such meeting were held in person, except that the Board is not required (i) to adjourn or postpone a meeting if a member of the public loses the ability to participate because of an interruption, failure or degradation of such person's connection to the meeting by electronic equipment, or (ii) to offer members of the public who attend a meeting by means of electronic equipment the opportunity for public comment, testimony, or other participation if the provision of such opportunity is not required by law for members of the public who attend such meeting in person.

2. The Board shall not be required to adjourn or postpone the meeting if a member of the public loses the ability to participate because of an interruption, failure, or degradation of such person's connection to the meeting by means of electronic equipment.

3. The Board shall ensure that such meeting is recorded or transcribed, excluding any portion of the meeting that is conducted in executive session. Such transcription or recording shall be posted on the Board's

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Internet web site and made available to the public to view, listen to, and copy in the Board's Administrative Offices not later than seven (7) days after the meeting and for not less than forty-five (45) days thereafter.

4. If a quorum of Board members attend a meeting by means of electronic equipment from the same physical location, the Board shall permit members of the public to attend such meeting in such physical location.

E. If the Board holds a special meeting and any portion of such meeting is to be conducted by means of electronic equipment, it must include in the notice of such meeting if the meeting will be conducted solely or in part by means of electronic equipment.

1. Not less than twenty-four (24) hours prior to such meeting, the Board shall post such notice and an agenda of the meeting in accordance with applicable law.

2. If such meeting is to be conducted by means of electronic equipment, such notice and agenda shall include instructions for the public, by means of electronic equipment or in person, to attend and provide comment or otherwise participate in the meeting, as applicable and permitted by law.

F. Any member of the public who participates orally in a meeting conducted by means of electronic equipment shall make a good faith effort to state such member's name and title, if applicable, at the outset of each occasion that such member participates orally during an uninterrupted dialogue or series of questions and answers.

G. Whenever a meeting being conducted by means of electronic equipment is interrupted by the failure, disconnection or, in the Chairperson's determination, unacceptable degradation of the electronic means of conducting a meeting, or if a Board member necessary to form a quorum loses the ability to participate because of the interruption, failure or degradation of such member's connection by electronic equipment, the Board may, not less than thirty (30) minutes and not more than two (2) hours from the time of the interruption or the Chairperson's determination, resume the meeting (1) in person, if a quorum is present in person, or (2) if a quorum is restored by means of electronic equipment, solely or in part by such electronic equipment.

1. In each case of resumption of such meeting, electronic access shall be restored to the public if such capability has been

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restored.

2. The Board shall, if practicable, post a notification on its Internet web site and inform attendees by electronic transmission of the expected time of resumption or of the adjournment or postponement of the meeting, as applicable, and may announce at the beginning of any meeting what preplanned procedures are in place for resumption of a meeting in the event of an interruption.

H. In the event that a Board meeting is interrupted by any person or group of persons so as to render the orderly conduct of such meeting unfeasible, and if such person or group of persons is attending such meeting by means of electronic equipment, the Chairperson may terminate such person's or group of persons' attendance by electronic equipment until such time as such person or group of persons conforms to order or, if need be, until such meeting is closed.

[Note: The following section is optional:

6. Public Address

A. The Board may permit any individual or group to address the Board concerning any subject that lies within its jurisdiction during a portion of the Board's regular [or special] meetings so designated for such purpose.

(1) _____ minutes may be allotted to each speaker and a maximum of _____ minutes to each subject matter. The Board may modify these limitations at the beginning of a meeting if the number of persons wishing to speak makes it advisable to do so.

(2) A Board member shall be appointed by the Chairperson prior to the meeting to act as timekeeper for the meeting, if deemed necessary by the Chairperson.

(3) No boisterous conduct shall be permitted at any Board meeting. Persistence in boisterous conduct shall be grounds for summary termination, by the Chairperson, of that person's privilege of address.

(4) All speakers must identify themselves by name and address.]

Legal References:

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Connecticut General Statutes

June Special Session, Public Act No. 21-2, "An Act Concerning Provisions Related to Revenue and Other Items to Implement the State Budget for the Biennum Ending June 30, 2023."

June Special Session, Public Act No. 21-1, "An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis."

1-200	Definitions
1-206	Denial of access to public records or meetings. Appeals. Notice. Orders. Civil penalty. Petition for relief from vexatious requester. Service of process upon commission. Frivolous appeals. Appeal re state hazardous waste program records
1-225	Meetings of government agencies to be public. Recording of votes. Schedule and agenda of certain meetings to be filed and posted on web sites. Notice of special meetings. Executive sessions
1-232	Conduct of meetings
19a-342	Smoking prohibited. Exceptions. Signs required. Penalties

Freedom of Information Commission Advisory Opinion #41 (April 9, 1980)

ADOPTED:_____
REVISED:_____

8/12/2021

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