

1 The Transylvania County Board of Education (the “board”) acknowledges that attendance at
 2 board meetings is essential for its members to perform their official duties and to add to the
 3 diversity of thought and opinion in the board’s deliberations. The board strongly encourages its
 4 members to be physically present for all board meetings. The board recognizes, however, that
 5 extenuating circumstances may occasionally prevent one or more members from being
 6 physically present at a meeting. It further recognizes that advances in technology, such as audio
 7 and video conferencing, have made it possible for members to communicate and deliberate with
 8 each other from remote locations. Therefore, to promote full participation of board members
 9 while ensuring access and transparency for the public as required by the Open Meetings Law,
 10 G.S. 143-318.9 *et seq.*, the board authorizes remote participation in board meetings subject to
 11 existing board operational policies, state law, and the following procedures and requirements.

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 13 **A. DEFINITIONS**

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 15 The following definitions apply in this policy:

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 17 1. Official Meeting of the Board

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 19 An official meeting of the board is an official meeting as defined by G.S. 143-
 20 318.10 and policy 2300, Board Meetings, and includes a board meeting, board
 21 committee meeting, public hearing, quasi-judicial hearing, or any other gathering
 22 that constitutes an official meeting subject to the open meetings law. References
 23 to “meeting” in this policy mean an official meeting of the board.

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 25 2. Remote Participation

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 27 Remote participation occurs when a member participates in an official meeting of
 28 the board or any part thereof via electronic means from a place other than the
 29 physical location of the meeting designated in the public notice for the meeting.

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 31 3. Wholly Remote Meeting

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 33 A wholly remote meeting is an official meeting of the board or any part thereof in
 34 which all members participate remotely by simultaneous communication via
 35 conference telephone, conference video, or other electronic means. A wholly
 36 remote meeting has no physical location.

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 38 4. State-Declared Emergency

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 40 A state-declared emergency exists when there has been a declaration of a state of
 41 emergency by the Governor or resolution of the General Assembly pursuant to
 42 G.S. 166A-19.20 that is applicable to the area under the board’s jurisdiction.

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 44 5. Locally-Declared Emergency

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A locally-declared emergency exists when there has been a declaration of a local state of emergency by the governing body of a municipality or county in accordance with G.S. 166A-19.22 that is applicable to area under the board’s jurisdiction.

B. AUTHORIZED CIRCUMSTANCES FOR REMOTE PARTICIPATION

1. Meetings During a Declared Emergency

The board acknowledges that in-person meetings are strongly preferred and that a quorum of the board should be physically present for the meeting when reasonably possible. However, in times of emergency, including natural disasters and health emergencies, the board may find it necessary to have some or all of its members participate in meetings remotely.

a. State-Declared Emergency

During a state-declared emergency, wholly remote meetings or meetings with remote participation by individual member(s) will comply with G.S. 166A-19.24 and the requirements of this policy, including the special rules for meetings held during emergencies described in Section E, below.

b. Locally-Declared Emergency

During a locally-declared emergency, wholly remote meetings and meetings with remote participation by individual member(s) will comply with the requirements of the open meetings law, Sections C and D, below, and to the extent not inconsistent with G.S. 143-318.13, the procedures established by G.S. 166A-19.24 as described in Section E, below.

2. Meetings Not During a Declared Emergency

a. Wholly Remote Meetings

The board will not hold wholly remote meetings in the absence of a state- or locally-declared emergency.

b. Remote Participation by Individual Members

The board authorizes remote participation by individual members consistent with the requirements of this policy in any meeting of the board that is not a hearing as described in policy 2500, Hearings Before the Board, or other quasi-judicial proceeding.

C. CONDITIONS AND REQUIREMENTS FOR REMOTE PARTICIPATION

1. A member may attend a meeting and participate in board deliberations and decisions by remote participation if the member is prevented from physically attending the meeting due to:
 - a. personal illness, disability, order of quarantine or isolation, government-issued “stay-at-home” mandate, or recommendation of medical provider or public health officials to limit public interaction;
 - b. out-of-town travel;
 - c. unexpected lack of child-care;
 - d. family member illness or emergency;
 - e. weather conditions;
 - f. military service;
 - g. employment obligations;
 - h. a scheduling conflict; or
 - i. a state or local declaration of a state of emergency that makes in-person attendance at a meeting a violation of an order to reduce social contact or to stay at home for reasons of public health.
2. Remote participation is not to be used solely for a board member’s convenience or to avoid attending a particular meeting in person.
3. No board member may participate remotely more than three times during a calendar year for a reason other than order of quarantine or isolation, “stay-at-home” mandate, or recommendation to limit public interaction, as described in subsection C.1, above; however, in other justifiable circumstances, the board may, by two-thirds vote, agree to waive this limitation.
4. Acceptable means of remote participation include telephone-, Internet-, or satellite-enabled audio or video conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Text messaging, instant messaging, email, and web chat without audio are not acceptable means of remote participation.

- 133 5. A board member participating in a meeting remotely shall use his or her best
134 efforts to participate in all or as much of the meeting as circumstances permit and
135 not merely for the closed session portion of the meeting or a limited number of
136 agenda items.
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- 138 6. A board member participating remotely will be considered present at the meeting
139 for purposes of establishing and maintaining a meeting quorum and will be
140 entitled to participate in open session deliberations at the meeting if and while:
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- 142 a. the member is able to hear other members of the board and any individuals
143 addressing the board, including members of the public who are recognized
144 by the board during public comment;
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 - 146 b. all persons present at the meeting location are able to hear the board
147 member who is participating remotely; and
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 - 149 c. when video technology is used, it is preferred that the remote participant is
150 visible to all persons present at the meeting location.
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- 152 7. A board member who is entitled to participate in open session deliberations may
153 also participate in a closed session of the meeting if the member provides
154 assurance to the board that no other person is able to hear, see, or otherwise
155 participate in the closed session from the member's remote location.
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- 157 8. A board member considered present through remote participation will be
158 permitted to vote on any action item at the meeting except:
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- 160 a. any item for which the member was not participating remotely during the
161 entire discussion and deliberation of the matter preceding the vote; and
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 - 163 b. any item that was being discussed when an interruption to the electronic
164 communication occurred, if the board's discussion was not suspended
165 during the interruption. A brief loss of simultaneous communication, such
166 as a few seconds, will not disqualify the member from voting on the
167 matter under discussion.
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169 **D. PROCEDURE FOR REMOTE PARTICIPATION**
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- 171 1. A member of the board who desires to participate in a meeting remotely shall
172 notify the board chair and the superintendent at least four hours in advance of the
173 meeting so that necessary arrangements can be made. If the member has not
174 already received all documents to be considered at the meeting, the superintendent
175 shall arrange for delivery of the materials in a manner that is practicable under the
176 circumstances.

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2. The chair or designee at the meeting location shall initiate contact with the member prior to the start of the meeting to secure participation.
 3. The chair shall announce the remote participant and the means of remote participation at the beginning of the meeting.
 4. The chair shall remind all members that all chats, instant messages, texts, or other written communications between members of the board regarding the transaction of board business during the meeting, including such communications between or among members participating remotely, are a public record.
 5. If the remote participant cannot be physically seen by other members of the board and members of the public present at the meeting, the remote participant must identify himself or herself in each of the following situations:
 - a. when the meeting begins or the roll is taken;
 - b. prior to participating in the deliberations, including making motions, proposing amendments, and raising points of order; and
 - c. prior to voting.
 6. The meeting chair may decide how to address technical difficulties that arise when utilizing remote participation, but whenever possible, the chair should suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If, however, the technical difficulties distract from or impede the orderly progress of the meeting, a majority of the members physically present may vote to end the remote participation.
 7. A member participating remotely shall notify the chair if leaving the meeting before it is adjourned or rejoining the meeting after a period of absence.
 8. All votes taken will be by voice vote (rather than by a show of hands).
 9. The minutes of the meeting will reflect that the meeting was conducted by use of simultaneous electronic communication, which members were in attendance by simultaneous communication, and when such member(s) joined or left the meeting. Any interruption to or discontinuation of a member's participation will also be noted in the minutes.

219 10. The member participating remotely will bear the cost of his or her personal
 220 telephone or computer usage, internet connection, and any other personal costs
 221 incurred while the member participates from a remote location.
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223 **E. SPECIAL RULES FOR REMOTE MEETINGS DURING A DECLARED EMERGENCY**

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 225 The following modifications and additions to the requirements of this policy apply to
 226 meetings held during a declared emergency.
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- 228 1. Quasi-judicial hearings may be held **remotely** with consent of the parties and in
 229 conformance with the requirements of G.S. 166A-19.24(f) and this section.
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- 231 2. Notice of meetings will be provided as required by G.S. 143-318.12 (and **166A-**
 232 **19.24(b1), if the original meeting notice did not specify a remote meeting), and**
 233 will specify (1) the means by which the public can access the simultaneous live
 234 stream of the meeting and (2) any other means by which the public can access the
 235 meeting as it occurs.
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- 237 3. The board need not provide a location for members of the public to listen to the
 238 meeting; however, in accordance with G.S. 143-318.13(d), this provision applies
 239 only to meetings conducted in accordance with G.S. 166A-19.24 when a **state-**
 240 **declared emergency** exists.
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- 242 4. All documents to be considered during the meeting shall be provided to each
 243 member.
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- 245 5. The means for simultaneous communication specified in subsection C.4 of the
 246 policy must allow for any member to do all of the following:
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 - 248 a. hear what is said by the other members;
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 - 250 b. hear what is said by any individual addressing the board; and
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 - 252 c. to be heard by the other members when speaking to the public body.
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- 254 6. A member participating by simultaneous communication will be counted as
 255 present for quorum purposes only during the period that simultaneous
 256 communication is maintained for that member in accordance with subsection C.5,
 257 above.
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- 259 7. The board will refrain from acting by reference to a document or other materials
 260 so as to conceal from public understanding what is being deliberated, voted, or
 261 acted upon at the meeting.
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- 263 8. Except when the board is meeting in closed session, the meeting will be
 264 simultaneously streamed live online to the public, or if the meeting is conducted
 265 by conference call, the public will be provided an opportunity to dial in or stream
 266 the audio live and listen to the meeting.
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- 268 9. If the meeting is a public hearing, the board will allow for written comments on
 269 the subject of the hearing to be submitted up to 24 hours ~~after~~ **prior to the**
 270 **scheduled time for the beginning of** the public hearing; ~~takes place~~, however, in
 271 accordance with G.S. 143-318.13(d), this flexibility applies only to meetings
 272 conducted in accordance with G.S. 166A-19.24 when a **state**-declared emergency
 273 exists.
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- 275 10. Subsection C.3 of this policy will not apply to **remote** meetings held during a state
 276 or local emergency.
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278 The superintendent is directed to provide the technology sufficient to implement this policy in
 279 accordance with all applicable laws.
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281 Legal References: G.S. 166A-19.20, -19.22, -19.24; G.S. ch. 143, art. 33C; Attorney General
 282 Advisory Letter to McLeodCloud, (March 26, 2020), copy available at
 283 <https://www.ncsba.org/wp-content/uploads/2020/04/Open-Meetings-advisory-letter.pdf>
 284 ~~<https://www.ncsba.org/wp-content/uploads/2020/03/Open-Meetings-advisory-letter.pdf>~~
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286 Cross References: Board Meetings (policy 2300), Compliance with the Open Meetings Law
 287 (policy 2320), Closed Sessions (policy 2321), Board Meeting News Coverage (policy 2325),
 288 Quorum (policy 2341), Hearings Before the Board (policy 2500), Public Records – Retention,
 289 Release and Disposition (policy 5070/7350)
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291 Adopted: November 19, 2015
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293 Revised: May 4, 2020; May 18, 2020; **[DATE]**