

Purpose:

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 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 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 under the *Open Meeting Law*, *M.G.L. c.30A*, §§ 18-25.

Enabling Authority:

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

Applicability:

In accordance with 940 CMR 29.10(2)(a), the Board of Selectmen, on March 12, 2012 voted to authorize the adoption of 940 CMR 29.10 so that remote participation is permitted in the Town of Topsfield. 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 working groups ("Town Boards") regardless of whether such Town Boards 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:

No member of a Town Board shall participate in a meeting remotely unless the following requirements are met:

- (a) Members of the Town Board who wish to participate remotely must complete Authorization to Utilize Remote Participation Form in advance of the meeting;
- (b) Members of the Town Board who participate remotely and all persons present at the meeting locations shall be clearly audible to each other;
- (c) A quorum of the Town Board, including the chair or the person authorized to chair the meeting, shall be physically present at the meeting locations in accordance with *M.G.L. c.30A*, §20(d);
- (d) Members of the Town Board who participate remotely should have access to the same materials being used at the meeting location;
- (e) Members of the Town Boards who participate remotely may vote and shall not be deemed absent for the purposes of *M.G.L. c.39*, §23D (a).

Permissible Reasons for Remote Participation:

It is the express desire of the Board of Selectmen that remote participation in meetings be an infrequent event. Chairs of Town Boards 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.

Policy update 11.4.2019

A member of a Town Board shall be permitted to participate remotely in a meeting if the person chairing the meeting determines that one or more of the following factors make the member's physical attendance unreasonably difficult yet still leaves that member able to actively participate in the meeting:

- (a) Personal illness;
- (b) Personal disability;
- (c) Emergency;
- (d) Military service; or
- (e) Significant geographic distance.

Members of a Town Board shall not be permitted to participate remotely from his or her place of business or other locations if the person chairing the meeting determines that travel from that location to the meeting locations is reasonably possible.

Any determination by the person chairing the meetings to allow or not allow remote participation shall be final and shall not be appealable.

Technology:

- (a) The following media are acceptable methods for remote participation.
 - 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 to one another.
- (b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.
- (c) The focus of the chair should always be on maintaining the flow of the meeting. If the chair determines that technical difficulties are inhibiting the progress of the meeting, the chair may elect to terminate the participation of the remote member. If technical difficulties arise resulting in the loss of connection with the remote participant, that participant's attendance shall be terminated. The meeting should not be interrupted while any attempt to restore the connection is made. If a remote participant is disconnected from the meeting, that fact and the time of the disconnection shall be noted in the meeting minutes.
- (d) Each individual Town Board that anticipates using remote participation shall determine which of the acceptable methods may be used by its members.

Procedures for Remote Participation:

- (a) Any member of a Town Board who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the person chairing the meeting of his or her desire to do so by completing the Authorization to Utilize Remote Participation Form.
- (b) If the person chairing the meeting approves the request for remote participation he or she shall make any necessary arrangements with IT personnel to ensure that the required equipment is available. If the required equipment is not available from the IT Department or another source, then the person chairing the meeting shall deny the request for remote participation.

- (c) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. This information shall be recorded into the minutes.
- (d) All votes taken during any meeting shall be by roll call vote.
- (e) Remote participants shall preserve the confidentiality of executive session. Certain media, such as speakerphone, can inadvertently be heard by people not party to the executive session discussion. The remote participant shall state at the start of any executive session that no other person is present and/or able to hear the discussion at the meeting location unless the presence of that person is approved by a simple majority vote of the Town Board.
- (f) The member of a Town Board requesting to participate remotely shall be responsible for any out of pocket costs associated with such participation. The Town shall not be responsible for the reimbursement of such costs.
- (g) 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 and could exert undue influence on the participant, in either executive or public session, and shall inform the chair if that situation changes.