

NYS BOARD OF ELECTIONS AND PUBLIC CAMPAIGN FINANCE BOARD JOINT HEARING SUMMARY REPORT

NYS Public Campaign Finance Board Videoconferencing Policy

Background

Pursuant to section 103-a of the Public Officers Law, the New York State Board of Elections and the New York State Public Campaign Finance Board held a joint public hearing on September 7, 2022, to solicit public comment on proposed policies relating to the use of videoconferencing by members of each board at future meetings.

Notice of the public hearing, along with the proposed policy, was posted in advance on each Board's respective website. Written opinion was solicited, and the public was provided with an opportunity to appear virtually or in-person at the State Board of Elections Offices in Albany, NY to provide comment or testimony on the proposed policy.

Hearing

The joint public hearing commenced shortly after 10 am on September 7, 2022, in the Boardroom of the New York State Board of Elections office suite in Albany, NY. PCFB Enforcement Counsel (Brian Connor) opened the hearing by detailing the purpose thereof, after which witnesses were invited to comment.

The hearing remained open for approximately fifteen (15) minutes after opening the hearing in order to allow people additional time to attend and comment. No one arrived in-person or virtually to comment or provide testimony, the hearing was adjourned at 10:15 am.

As of the drafting of this summary report, no written comment has been received related to the proposed videoconferencing policy. It was reiterated during the hearing that the Boards will continue to accept written comments and testimony as outlined in the hearing notice until September 12, 2022.

- Attendees: Todd Valentine, Kristen Zebrowski Stavisky, John Conklin (virtually), Jennifer Wilson, Nicholas Cartagena, Logan Smith, Brian Connor, Kevin Murphy, Michael Haber

Board Action

Having held the required public hearing on the matter as mandated by section 103-a of the Public Officers Law, the State Board of Elections and the Public Campaign Finance Board may now act to adopt the necessary resolution to put in place the proposed videoconferencing policy.

Attached to this summary report is a proposed resolution and the procedures to be adopted.

Resolution No. _____

NEW YORK STATE BOARD OF ELECTIONS
PUBLIC CAMPAIGN FINANCE BOARD

WHEREAS, by passing Part WW of Chapter 56 of the Laws of 2022 (“Chapter 56”), the New York State Legislature amended Section 103 of the Open Meetings Law; and

WHEREAS, Part WW of Chapter 56 adds Section 103-a of the Open Meetings Law, permitting the Public Campaign Finance Board to authorize its commissioners to attend meetings by videoconferencing from non-public locations under extraordinary circumstances; and

WHEREAS, Section 103-a(2)(a) requires the Public Campaign Finance Board to adopt a resolution following a public hearing authorizing the limited use of videoconferencing under such circumstances; and

WHEREAS, Section 103-a(2) allows for hybrid meetings by requiring “that a minimum number of commissioners are present to fulfill the public body’s quorum requirement in the same physical location or locations where the public can attend”; and

WHEREAS, Section 103-a(2)(c) requires that commissioners be physically present at any such meeting “unless such member is unable to be physically present at any such meeting location due to extraordinary circumstances . . . including disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting”; and

WHEREAS, in accordance with Section 103-a(2)(d), any commissioners attending by videoconference must, except during executive session, be “heard, seen and identified, while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon”; and

WHEREAS, Section 103-a(2)(g) requires that any meeting where a commissioner attends by videoconference be recorded, posted to the Public Campaign Finance Board webpage within five business days, and transcribed upon request; and

WHEREAS, Section 103-a(2)(h) requires that members of the public be permitted to attend and participate, if authorized, in any meeting by videoconference when a member attends by videoconference.

BE IT RESOLVED, that the Public Campaign Finance Board authorizes its commissioners who experience an extraordinary circumstance, as described above, as further defined by the procedures attached herein, and, as factors or events arise which, in the exercise of the commissioner’s discretion, preclude that commissioner’s physical attendance at such meeting, to attend meetings by videoconference: (i) as long as a quorum of the commissioners attend in-person at one or more locations open to the public; (ii) as long as the commissioner can

be seen, heard, and identified while the open portion of the meeting is being conducted; and (iii) as otherwise permitted under Chapter 56 of the Laws of 2022; and be it further

RESOLVED, that the Public Campaign Finance Board adopts the attached herein with respect to the use of videoconferencing by the PCFB's commissioners in compliance with Part WW of Chapter 56 of the Laws of 2022.

Procedures for Commissioner Videoconferencing
Pursuant to Public Officers Law § 103-a

In compliance with Public Officers Law (POL) § 103-a(2)(a), the Public Campaign Finance Board, following a public hearing, authorized by resolution on August 15, 2022 the use of videoconferencing as described in POL § 103-a.

The following procedures are hereby established to satisfy the requirement of POL § 103-a(2)(b) that any public body which in its discretion wishes to permit its members to participate in meetings by videoconferencing from private locations – under extraordinary circumstances – must establish written procedures governing member and public attendance.

1. Public Campaign Finance Board commissioners shall be physically present at any meeting locations of the Public Campaign Finance Board that is duly noticed unless such commissioner is unable to be physically present at one of the designated public meeting locations due to extraordinary circumstances.
2. For purposes of these procedures, the term “extraordinary circumstances” may include disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which, in the exercise of that commissioner’s discretion, precludes the commissioner’s physical attendance at such meeting.
3. If a commissioner is unable to be physically present at one of the designated public meeting locations and wishes to participate by videoconferencing from a private location due to extraordinary circumstances, the commissioner shall notify the Co-Directors of the Public Campaign Finance Board as soon as practicable. The commissioners should attempt to notify the Co-Director no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given; however, if extraordinary circumstances occurs within four days of a meeting, the Co-Directors shall update its notice as soon as practicable to include that information.
4. If there is a quorum of commissioners participating at a physical location(s) open to the public, the Public Campaign Finance Board may properly convene a meeting. A commissioner who is participating from a remote location that is not open to in-person physical attendance by the public shall not count toward a quorum of the Public Campaign Finance Board but may participate and vote if there is a quorum of commissioners at a physical location(s) open to the public.
5. Except in the case of executive sessions conducted pursuant to POL § 105, the Public Campaign Finance Board shall ensure that its commissioners can be heard, seen, and identified while the meeting is being conducted, including but not limited to any motions, proposals, resolutions, and any other matter formally discussed or voted upon.
6. The minutes of the meetings involving videoconferencing based on extraordinary circumstances pursuant to POL § 103-a shall include which, if any, commissioners

participated by videoconferencing from a private location due to such extraordinary circumstances.

7. The public notice for the meeting shall inform the public: (i) that extraordinary circumstances videoconferencing will (or may) be used, (ii) where the public can view and/or participate in such meeting, (iii) where required documents and records will be posted or available, and (iv) the physical location(s) for the meeting where the public can attend.
8. The Public Campaign Finance Board shall provide that each open portion of any meeting conducted using extraordinary circumstances videoconferencing shall be recorded and such recordings posted or linked on the Public Campaign Finance Board website within five business days following the meeting, and shall remain so available for a minimum of five years thereafter. Such recordings shall be transcribed upon request.
9. If commissioners of the Public Campaign Finance Board are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the Public Campaign Finance Board shall provide the opportunity for members of the public to view such meeting by video, and, when there is a public hearing, or when public comment is required by law, to participate in proceedings by videoconference in real time where public comment or participation is authorized. The Public Campaign Finance Board shall ensure that where extraordinary circumstances videoconferencing is used, it authorizes the same public participation or testimony as in person participation or testimony.
10. Open meetings of the Public Campaign Finance Board conducted using extraordinary circumstances videoconferencing pursuant to the provisions of POL § 103-a shall be broadcast pursuant to the requirements of POL § 103(f) and shall utilize technology to permit access by members of the public with disabilities consistent with the 1990 Americans with Disabilities Act (ADA), as amended, and corresponding guidelines. For the purposes of this guideline, “disability” shall have the meaning defined in Executive Law § 292.
11. The in-person participation requirements of POL § 103-a(2)(c) shall not apply during any state disaster emergency declared by the governor pursuant to Executive Law § 28 or a local state of emergency proclaimed by the chief executive of a county, city, village or town pursuant to § 24 of the Executive Law, if the Public Campaign Finance Board determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Public Campaign Finance Board to hold an in-person meeting.
12. These procedures shall be conspicuously posted on the Public Campaign Finance Board website