



SAMPLE POLICY

INSTRUCTIONS FOR

Sample REMOTE PARTICIPATION IN PUBLIC PROCEEDINGS POLICY

MMA Legal Services has drafted the following sample policy authorizing remote participation in public proceedings pursuant to [1 M.R.S. §403-B](#).

This sample is intended to serve as a basic template for a municipal body wishing to adopt a remote participation policy for its members. For purposes of this sample, the terms “municipal body” and “body” refer to the select board or council, and other municipal boards, committees, subcommittees, panels, or commissions subject to the requirements of Maine’s Freedom of Access Act (FOAA).

Note: *the current law allows a municipal body a great deal of flexibility in determining the criteria applicable for remote participation by its members. This sample includes blank areas that must be completed and contains text in italics should be modified or replaced as needed. Each municipal body should tailor the policy to meet its needs. Consultation with the municipal attorney is recommended prior to enacting the policy.*

The statute provides that a policy adopted by a municipal body applies to “boards or committees within the jurisdiction” of that body unless the board or committee adopts its own remote meetings policy. 1 M.R.S. § 403-B(2). Note that it is not clear whether the authority to adopt a policy for multiple boards and committees applies only to subcommittees of the body that enacts a policy or to all other boards and committees within the same municipality. However, the statute specifically allows each municipal body to adopt its own policy. Also remember that different boards and committees serve different functions, may operate with differing levels of formality, and may be subject to differing legal requirements that would impact recommended remote participation procedures. If a municipal body chooses to adopt a remote participation policy that is intended to apply to multiple boards and committees, MMA Legal Services recommends that body consult with the municipal attorney to determine which board and committees may be subject to the policy, and to include specific sections for each board or committee to which it applies addressing the needs and requirements applicable to each board or committee.

[NAME OF MUNICIPALITY & BODY]
REMOTE PARTICIPATION IN PUBLIC PROCEEDINGS POLICY

Pursuant to 1 M.R.S. § 403-B, and after public notice and hearing, the [*name the body adopting the policy*] hereby adopts the following policy governing the participation, via remote methods, of members of [*either the body and/or of the following boards and committees...*] and the public in the public proceedings or meetings of [*the body and/or following boards and committees...*]. As used herein, “remote methods” means telephonic or video technology (i.e., audio and/or visual systems) that allow simultaneous reception of information and may also include other means necessary to accommodate disabled persons. Public proceedings may not be conducted by text-only means such as e-mail, text messages, or chat functions.

In accordance with the public policies underlying Maine’s Freedom of Access Act, it is the intention of this body to conduct its business open to public observation.

I. Remote Participation by Members. Members of the body must be physically present for public proceedings at the public meeting location, except when authorized to participate by remote methods under this policy.

a. When remote participation is authorized. Members of the body may participate via remote methods in the following circumstances:

[The policy should list the specific conditions upon which body members may use remote participation. For example:

1. when a medical condition of the member or family makes attendance impracticable
2. when traveling
3. when unexpectedly outside the municipality
4. based on each member’s own convenience, etc.]

b. Notice to chair or presiding officer. A member must notify the chair or presiding officer of the body [*state notice requirements, e.g., as far in advance as possible; at least __ days in advance, etc.*] if the member will be unable to physically attend a meeting of the body.

The chair or presiding officer will make a determination that remote participation by the individual member meets the criteria for remote participation stated above.

c. Public access. The public will be provided a meaningful opportunity to attend the meeting via remote methods when any member of the body participates via remote methods. Reasonable accommodations will be provided to any individual with a disability upon request. Members of the public will also be provided an opportunity to attend the meeting in-person.

II. Remote Only Participation. The public body named above may meet solely by remote means if an emergency or urgent situation requires that all members of the body meet only by remote methods. In that circumstance, public attendance may be restricted to remote access only at the public proceeding.



SAMPLE POLICY

- b. The chair or presiding officer, in consultation with other members if appropriate and possible, is authorized to make a determination that an emergency or urgent situation requires the body to meet only by remote methods and to limit public attendance at the proceeding to remote means only. The chair or presiding officer's determination will be put in writing and attached to the record of the meeting. Public notice of the determination will be provided as soon as practicable consistent with subsection III.
 - c. Reasonable accommodations will be provided to any individual with a disability upon request.
- III. Public Notice. Notice of all body meetings will be provided in accordance with 1 M.R.S. § 406 and any applicable charter, ordinance, policy, or bylaw. When the public may attend via remote methods, notice will include the means by which members of the public may access the meeting by remote methods and will provide a method for disabled persons to request necessary accommodation to access the meeting. The notice will identify the time of the meeting as well as a location where the public may attend the meeting in person, unless in-person participation is limited in a case of emergency under Section II.
- IV. Documents and Materials Made Available. The body will make all documents and materials to be considered by the body available, electronically or otherwise, to the public who attend remotely to the same extent customarily available to the public who attend in person, provided no additional costs are incurred by the body.
- V. Roll Call Vote. All votes taken during a meeting using remote methods will be by roll call vote that can be seen and heard if using video technology, or heard if using audio technology only, by other members of the body and the public.
- VI. Public Input. If the body allows or is required to provide an opportunity for public input during the public proceeding, an effective means of communication between the members of the body, participating by remote methods and in-person, and the public, participating by remote methods and in-person, must be provided.

[The policy should then identify the methods of communication the body can use to facilitate public comment. For example:

- a. The body will accept written comments from the public prior to the meeting, which will be read at a subsequent meeting.*
- b. The body will make microphones available at the in-person location which will ensure those meeting by remote methods can hear the public comment and speakers to allow those meeting in-person to hear public comments from those meeting remotely. Other accommodations will be made upon request.]*

This policy will remain in force indefinitely unless amended or rescinded.

Dated: _____

Signed: _____

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