



Town of Dunstable

Remote Participation Policy

Approved by the Board of Selectmen on June 28, 2017

1. PURPOSE STATEMENT

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 specific 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.

2. ENABLING AUTHORITY- 940 CMR 29.10(8)

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

3. APPLICABILITY

In accordance with 940 CMR 29.10(2)(a), the Board of Selectmen, on this date to authorize the adoption of 940 CMR 29.10 so that remote participation is permitted in the Town. 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.

4. 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 participate remotely and all persons present at the meeting location shall be clearly audible to each other;
- (b) 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);
- (c) Members of the Town Board who participate remotely must have access to the same materials being used at the meeting location.
- (d) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of MGL Ch. 39 §23D. Section 23D

(a): Notwithstanding any general or special law to the contrary, upon municipal acceptance of this section for 1 or more types of adjudicatory hearings, a member of any municipal board, committee or commission when holding an adjudicatory hearing shall not be disqualified from voting in the matter solely due to that member's absence from no more than a single session of the hearing at which testimony or other evidence is received. Before any such vote, the member shall certify in writing that he has examined all evidence received at the missed session, which evidence shall include an

audio or video recording of the missed session or a transcript thereof. The written certification shall be part of the record of the hearing. Nothing in this section shall change, replace, negate or otherwise supersede applicable quorum requirements.

5. PERMISSIBLE REASONS FOR REMOTE PARTICIPATION

It is the express desire of the Board of Selectmen that remote participation in meetings be an infrequent event, for both individual board members and Town Boards as a whole. 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. A member of a Town Board may be permitted to participate remotely in a meeting if the person chairing the meeting determines that there are extenuating circumstances with one or more of the following factors making 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) A family or other emergency;
- (d) Military service; or
- (e) Significant geographic distance (due to personal employment).

A member 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 location is reasonably possible.

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

6. ACCEPTABLE METHODS OF REMOTE PARTICIPATION

(a) The following media are acceptable methods for remote participation. Accommodations shall be made for any Town Board member who requires TTY service, video relay service, or other form of adaptive telecommunications.

- (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) If technical difficulties arise as a result of utilizing remote participation, the Chair should suspend discussion while reasonable efforts are made to correct any problem that interferes with the remote participant's ability to hear or be heard more clearly by all persons at the meeting location. 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 result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnected occurred and subsequent reconnection if achieved 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.

7. PROCEDURES FOR REMOTE PARTICIPATION

(a) Any member of a Town Board who wishes to participate remotely shall, at least 48 hours or as soon as reasonably possible prior to the meeting, notify the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.

(b) If the person chairing the meeting approves the request for remote participation, he or she shall make any necessary arrangements with Assistant Town Administrator 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 in which a member participates remotely shall be by roll call vote. 4

(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 discussions. The remote participant shall state at the start of any executive session that the session is not being remotely recorded by any device and 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 Town shall not be responsible for the reimbursement of any out-of-pocket costs associated with the remote participation of Town Board members.

(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.