

PROCEDURES FOR MEMBER VIDEOCONFERENCING PURSUANT TO PUBLIC OFFICERS LAW § 103-a – “EXTRAORDINARY CIRCUMSTANCES”

In compliance with Public Officers Law (POL) §103-a(2)(a), the Council, following a public hearing, authorized by resolution on XX, 2023, 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. Council members shall be physically present at any meeting of the Council unless such member 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” includes disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at such meeting.
3. If a member 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 member must notify the Chair of the Council, or the Commissioner of the Division of Criminal Justice Services or his/her designee no later than four business days prior to the scheduled meeting in order for proper notice to the public to be given.
4. If there is a quorum of members participating at a physical location(s) open to the public, the Council may properly convene a meeting. A member 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 Council but may participate and vote if there is a quorum of members at a physical location(s) open to the public.
5. Except in the case of executive sessions conducted pursuant to POL §105, the Council shall ensure that its members 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, members 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 Council, which is created within the Division of Criminal Justice Services, 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 Division of Criminal Justice Services website (www.criminaljustice.ny.gov) 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 members of the Council are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the Council shall provide the opportunity for members of the public to view such meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The Council 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 Council 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 a state disaster emergency declared by the Governor pursuant to Executive Law §28 if the Council determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Council to hold an in-person meeting.

12. The Council is created within the Division of Criminal Justice Services. These procedures shall be conspicuously posted on the Division of Criminal Justices website (www.criminaljustice.ny.gov).