

EXCERPT FROM CHAPTER 56 OF THE LAWS OF 2022

18

PART WW

19 Section 1. Subdivision (c) of section 103 of the public officers law,
20 as added by chapter 289 of the laws of 2000, is amended to read as
21 follows:

22 (c) A public body [~~that uses videoconferencing to conduct its meet-~~
23 ~~ings~~] shall provide an opportunity for the public to attend, listen and
24 observe [~~at any site~~] meetings in at least one physical location at
25 which a member participates.

26 § 2. The public officers law is amended by adding a new section 103-a
27 to read as follows:

28 § 103-a. Videoconferencing by public bodies. 1. For the purposes of
29 this section, "local public body" shall mean a public corporation as
30 defined in section sixty-six of the general construction law, a poli-
31 tical subdivision as defined in section one hundred of the general
32 municipal law or a committee or subcommittee or other similar body of
33 such entity, or any entity for which a quorum is required in order to
34 conduct public business and which consists of two or more members,
35 performing a governmental function for an entity limited in the
36 execution of its official functions to a portion only of the state, or a
37 political subdivision of the state, or for an agency or department ther-
38 eof. For the purposes of this section, a public body shall be as
39 defined in subdivision two of section one hundred two of this article.

40 2. A public body may, in its discretion, use videoconferencing to
41 conduct its meetings pursuant to the requirements of this article
42 provided that a minimum number of members are present to fulfill the
43 public body's quorum requirement in the same physical location or
44 locations where the public can attend and the following criteria are
45 met:

46 (a) the governing board of a county, city, town or village has adopted
47 a local law, or a public body has adopted a resolution, or the senate
48 and assembly have adopted a joint resolution, following a public hear-
49 ing, authorizing the use of videoconferencing:

50 (i) for itself and its committees or subcommittees; or,

51 (ii) specifying that each committee or subcommittee may make its own
52 determination;

53 (iii) provided however, each community board in a city with a popu-
54 lation of one million or more shall make its own determination;

1 (b) the public body has established written procedures governing
2 member and public attendance consistent with this section, and such
3 written procedures shall be conspicuously posted on the public website
4 of the public body;

5 (c) members of the public body shall be physically present at any such
6 meeting unless such member is unable to be physically present at any
7 such meeting location due to extraordinary circumstances, as set forth
8 in the resolution and written procedures adopted pursuant to paragraphs
9 (a) and (b) of this subdivision, including disability, illness, caregiv-
10 ing responsibilities, or any other significant or unexpected factor or
11 event which precludes the member's physical attendance at such meeting;

12 (d) except in the case of executive sessions conducted pursuant to
13 section one hundred five of this article, the public body shall ensure
14 that members of the public body can be heard, seen and identified, while
15 the meeting is being conducted, including but not limited to any
16 motions, proposals, resolutions, and any other matter formally discussed
17 or voted upon;

18 (e) the minutes of the meetings involving videoconferencing shall
19 include which, if any, members participated remotely and shall be avail-
20 able to the public pursuant to section one hundred six of this article;

21 (f) if videoconferencing is used to conduct a meeting, the public
22 notice for the meeting shall inform the public that videoconferencing
23 will be used, where the public can view and/or participate in such meet-
24 ing, where required documents and records will be posted or available,
25 and identify the physical location for the meeting where the public can
26 attend;

27 (g) the public body shall provide that each meeting conducted using
28 videoconferencing shall be recorded and such recordings posted or linked
29 on the public website of the public body within five business days
30 following the meeting, and shall remain so available for a minimum of
31 five years thereafter. Such recordings shall be transcribed upon
32 request;

33 (h) if videoconferencing is used to conduct a meeting, the public body
34 shall provide the opportunity for members of the public to view such
35 meeting via video, and to participate in proceedings via videoconference
36 in real time where public comment or participation is authorized and
37 shall ensure that videoconferencing authorizes the same public partic-
38 ipation or testimony as in person participation or testimony; and

39 (i) a local public body electing to utilize videoconferencing to
40 conduct its meetings must maintain an official website.

41 3. The in person participation requirements of paragraph (c) of subdi-
42 vision two of this section shall not apply during a state disaster emer-
43 gency declared by the governor pursuant to section twenty-eight of the
44 executive law, or a local state of emergency proclaimed by the chief
45 executive of a county, city, village or town pursuant to section twen-
46 ty-four of the executive law, if the public body determines that the
47 circumstances necessitating the emergency declaration would affect or
48 impair the ability of the public body to hold an in person meeting.

49 4. No later than January first, two thousand twenty-four, the commit-
50 tee on open government, created by paragraph (a) of subdivision one of
51 section eighty-nine of this chapter, shall issue a report to the gover-
52 nor, the temporary president of the senate, the speaker of the assembly,
53 the chair of the senate standing committee on local government, the
54 chair of the senate standing committee on investigations and government
55 operations, the chair of the assembly standing committee on local
56 governments, and the chair of the assembly standing committee on govern-

1 mental operations concerning the application and implementation of such
2 law and any further recommendations governing the use of videoconferenc-
3 ing by public bodies to conduct meetings pursuant to this section.

4 5. Open meetings of any public body that are broadcast or that use
5 videoconferencing shall utilize technology to permit access by members
6 of the public with disabilities consistent with the 1990 Americans with
7 Disabilities Act (ADA), as amended, and corresponding guidelines. For
8 the purposes of this section, "disability" shall have the meaning
9 defined in section two hundred ninety-two of the executive law.

10 § 3. Notwithstanding the provisions of article 7 of the public offi-
11 cers law to the contrary, for sixty days after the effective date of
12 this act any public body shall be authorized to meet and take such
13 action authorized by law without permitting in public-in-person access
14 to meetings and authorize such meetings to be held remotely by confer-
15 ence call or similar service, provided that the public has the ability
16 to view or listen to such proceeding and that such meetings are recorded
17 and later transcribed.

18 § 4. This act shall take effect immediately and shall expire and be
19 deemed repealed July 1, 2024.