

PROPOSED PROCEDURE OF THE PUBLIC SUBSIDY BOARD

(DRAFT ONLY)

Written Procedures Governing the Ability of the Public Subsidy Board Members to Attend Meetings by Videoconference from Private Locations Under Extraordinary Circumstances in Compliance with Public Officers Law § 103-a

Pursuant to a resolution adopted by the Public Subsidy Board (“the Board”) on _____ and Section 103-a(2)(a) of the Public Officers Law (“POL”), the Board may allow members to attend meetings by videoconference from a remote location that is not open to in-person physical attendance by the public (i.e., a private location) under extraordinary circumstances.

POL § 103-a(2)(b) provides that any public body that adopts such a resolution must also establish written procedures governing member and public attendance under extraordinary circumstances. The following procedures are hereby established for such purpose:

1. Board members shall be physically present at any meeting of the Board 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:
 - (a) disability;
 - (b) illness;
 - (c) the hospitalization, death or illness of a relative;
 - (d) caregiving responsibilities;
 - (e) obligations of member's place of employment;
 - (f) public emergency;
 - (g) natural disaster;
 - (h) accident;

- (i) vehicular malfunction;
- (j) travel delay;
- (k) religious observance;
- (l) adverse weather and/or travel conditions;
- (m) where the Member is more than 3 hours away from the nearest location that shall be open to public attendance due to personal or business travel; or
- (n) 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 shall notify the Chair of the Board as soon as possible but no later than 4 business days prior to the scheduled meeting in order for proper notice to the public to be given. If extraordinary circumstances present themselves on an emergent basis within 4 days of a meeting, the Board shall update its notice as soon as practicable to include that information. If it is not practicable for the Board to update its notice, the Board may reschedule its meeting.

4. If there is a quorum of members participating at a physical location(s) open to the public, the Board may properly convene a meeting. A member who is participating from a private location shall not count toward a quorum of the Board 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 Board 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. This shall include the use of first and last name placards physically placed in front of the members or, for members participating by videoconferencing from private locations due to extraordinary circumstances, such members must ensure that their full first and last name appears on their videoconferencing screen.

6. The minutes of the meetings involving videoconferencing from a private location 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 available; and
- (iv) the physical location(s) for the meeting where the public can attend.

8. The 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 Board (or Department of Labor) website within 5 business days following the meeting and shall remain so available for a minimum of 5 years thereafter. Such recordings shall be transcribed upon request.

9. If members of the Board are authorized to participate by videoconferencing from a private location due to extraordinary circumstances, the public shall be given the opportunity to view the meeting by video, and to participate in proceedings by videoconference in real time where public comment or participation is authorized. The 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 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 a state disaster emergency declared by the Governor pursuant to Executive Law § 28 if the Board determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the Board to hold an in-person meeting.

12. These procedures shall be conspicuously posted on the Department of Labor website.