§ 5:39-1.4 Minimum technological and procedural requirements for remote public meetings necessitated by a declared emergency

(a) If a declared emergency requires a local public body to hold a remote public meeting to conduct public business, a local public body shall use an electronic communications technology that is routinely used in academic, business, and professional settings, and can be accessed by the public at no cost. Participant capacity on the selected platform should be consistent with the reasonable expectation of the public body for public meetings of the type being held and shall not be limited to fewer than 50 public participants (beyond those persons required to conduct business at the meeting).

(b) Remote public meetings may be held by means including, but not limited to, audio-only teleconferencing, electronic communications platforms with video and audio, and Internet-accessible technology, such as live-streaming. If an electronic communications platform or Internet-accessible technology is being utilized for a
remote public meeting, a telephonic conference line shall be also be provided to allow members of the public to dial-in by telephone to listen and provide public comment as otherwise required by law. A local public body may require members of the public to state, prior to providing public comment, whether they wish to speak and to identify themselves prior to speaking.

(c) A local public body shall provide the public with similar access to a remote public meeting as members of the local public body, staff of the local public body, and any individuals seeking one or more approvals from the local public body. If a remote public meeting is held by audio and video, the public shall also have the opportunity to participate in the meeting in both audio and video capacities. A local public body meeting held in-person shall not prohibit members of the public from attending in-person.

(d) Any remote public meeting where sworn testimony is being taken shall be broadcast by video, as well as by audio. All individuals giving sworn testimony at a remote public meeting shall appear by video in addition to audio.

(e) Any presentations or documents that would otherwise be viewed or made available to members of the public physically attending a local public body meeting shall be made visible on a video broadcast of the remote public meeting or made available on the Internet website or webpage of the entity governed by the local public body, or the Internet website or webpage of the entity responsible for appointing the members of the local public body. If a document would be made available to individual members of the public in hard copy while physically attending the meeting, the document shall be made available in advance of the meeting for download through an internet link appearing either on the meeting notice, or near the posting of the meeting notice both on the website and at the building where the meeting would otherwise be held. If a municipality or board of education does not have its own website, such documents shall be available upon request ahead of the meeting and provided through an official social media account if one exists.

(f) A local public body holding a remote public meeting shall allow members of the public to make public comment by audio, or by audio and video, if the remote public meeting is held over both audio and video, during the meeting. In advance of the remote public meeting, the local public body shall allow public comments to be submitted to the official responsible for creating the meeting agenda by electronic mail and in written letter form by a reasonable deadline. The local public body shall have the discretion to accept text-based public comment received during a remote public meeting held through an electronic communications platform or Internet-accessible technology. Public comments submitted before the remote public meeting through electronic mail or by written letter shall be read aloud and addressed during the remote public meeting in a manner audible to all meeting participants and the public. If the local public body imposes a reasonable time limit on public comments, where permitted by law, the same limits can be placed on the reading of written comments. Each comment shall be read from the beginning, until the time limit is reached. A local public body may pass over duplicate written comments; however, each duplicate comment shall be noted for the record with the content summarized. If the local public body elects to summarize duplicative
comments, the local public body must not summarize certain duplicative comments while reading other duplicative comments individually.

(g) The electronic communications technology used for a remote public meeting must have a function that allows the local public body to mute the audio of all members of the public, as well as allow members of the public to mute themselves. Any electronic communications platform or Internet-accessible technology used for a remote public meeting shall also allow the local public body to regulate participation by individual members of the public. A telephonic audio conference call line must have a queueing or similar function for regulating public comment.

(h) Subject to (e) and (f) above, the local public body shall adopt, by resolution, standard procedures and requirements for public comment made during a remote public meeting, as well as for public comments submitted in writing ahead of the remote public meeting. Such procedures and requirements shall include standards of conduct to be followed by members of the public when making comment. The procedures and requirements for making public comment, along with an explanation of the audio muting function of the electronic communications platform being used, shall be announced at the beginning of the remote public meeting. Regulation of conduct by members of the public on a remote public meeting shall be consistent with law and practices followed if a member of the public disrupts an in-person meeting. The following procedures shall be incorporated:

1. The local public body shall facilitate a dialogue with the commenter to the extent permitted by the electronic communications technology;

2. If a member of the public becomes disruptive during a remote public meeting, including during any period for public comment, the member of the local public body charged with running the remote public meeting shall mute or continue muting, or direct appropriate staff to mute or continue muting, the disruptive member of the public and warn that continued disruption may result in their being prevented from speaking during the remote public meeting or removed from the remote public meeting. Disruptive conduct includes sustained inappropriate behaviors, such as, but not necessarily limited to, shouting, interruption, and use of profanity; and

3. A member of the public who continues to act in a disruptive manner after receiving an initial warning may be muted while other members of the public are allowed to proceed with their questions or comments. If time permits, the disruptive individual shall be allowed to speak after all other members of the public have been given the opportunity to make their comment. Should the person remain disruptive, the individual may be muted or kept on mute for the remainder of the remote public meeting, or removed from the remote public meeting.

(i) Electronic communications platforms and Internet-accessible technologies used for remote public meetings shall be hosted on FedRAMP Moderate Impact Level Authorized dedicated servers or in a FedRAMP Moderate Impact Level Authorized Cloud, unless the host of the dedicated servers or cloud provides annual evidence of satisfactory cybersecurity internal controls through a SOC2 audit report. When using cloud services, the technology vendor shall check provider credentials and
contracts to ensure FedRAMP Moderate Impact compliance unless annual evidence of satisfactory internal controls is provided through a SOC2 audit report.

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