

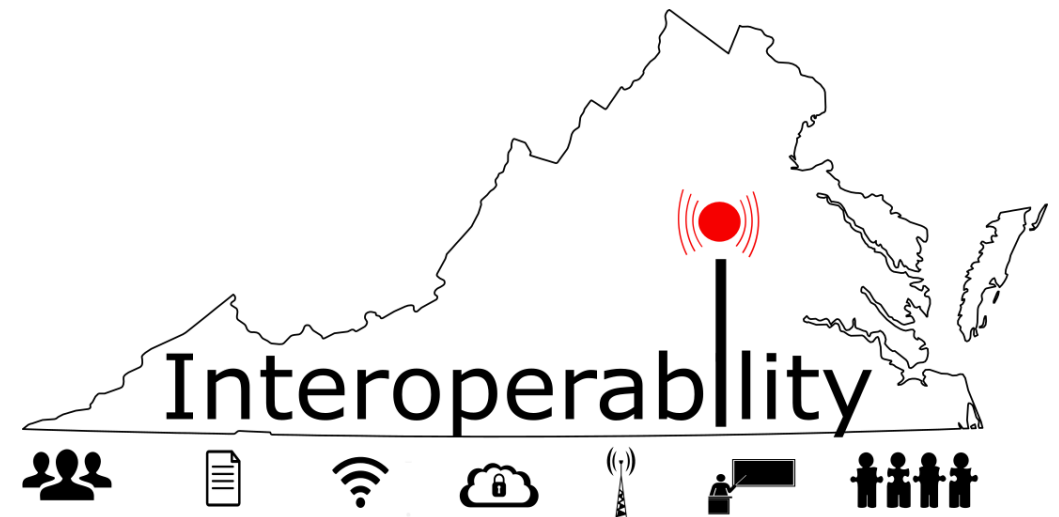
# Virginia SIEC

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APRIL 9, 2024

10:00 – 1:00

IN CHESTERFIELD COUNTY



# SIEC Agenda

- 1) Roll Call / Introductions
- 2) Introductory Remarks
- 3) Approval of Previous Minutes
- 4) FOIA and Public Bodies
- 5) BREAK
- 6) SIEC Policies Discussion/Adoption
  - 1) All Virtual Meetings
  - 2) Remote Participation
- 7) Interoperability Summit Discussion
- 8) BREAK
- 9) State Updates
  - 1) + CISA
- 10) Regional Updates
- 11) Association Updates
- 12) Old Business
- 13) New Business
- 14) Items From the Public
- 15) Adjourn



## Virginia SIEC

### Statewide Interoperability Executive Committee

April 9 2024 (CY24 2<sup>nd</sup> Quarter Meeting)

10:00 AM – 1:00 PM at Virginia Department of Emergency Management  
9711 Farrar Ct., North Chesterfield, VA – 1<sup>st</sup> Floor Training Room

- 1) Roll Call / Introductions
  - a) Terry Hall, Chair
- 2) Introductory Remarks
- 3) Approval of Previous SIEC Minutes (10/24/23)
  - a) Terry Hall, Chair – motion/vote required
- 4) FOIA and Public Bodies – Presentation
  - a) Cathie Hutchins, Virginia Office of the Attorney General
- 5) BREAK – 5m
- 6) SIEC Policies Discussion and Adoption
  - a) All Virtual Public Meetings – motion/vote required
  - b) Remote Participation – motion/vote required
- 7) Interoperability Summit Discussion
  - a) Terry Hall, Chair, and Interoperability Summit Subcommittee
- 8) BREAK – 5m
- 9) State Updates
  - a) VDEM VDH VDOT DMA VITA VDOF VSP
- 10) Regional Updates
  - a) RPAC-I Chairs
  - b) VA Communications Cache
- 11) Association Updates

VACP	<b>VACLEA</b>	VAGEMSA	VA NENA
VA APCO	VML	VALGITE	VSA
VSFA	ARRL	VPFF	VSPA
Tribal	SCHE	VMAC	VFCA
			VACO
- 12) Old Business
- 13) New Business
- 14) Items From the Public
- 15) Adjourn (motion)



1. Roll Call / Introductions
  - a. Terry Hall, Chair
    - i. Meeting to order at 10:03AM
2. Introductory Remarks
  - a. Terry Hall, Chair
  - b. Gabe Elias, Statewide Interoperability Coordinator, (SWIC)
3. Approval of Previous SIEC Minutes
  - a. Terry Hall, Chair  
*Amend (NENA in yellow)*  
**Approved as amended to insert NENA representative Motion to approve William Martin, second by Rodney Thompson  
Approved 13 / Abstained 1 / Nay 0**
4. SCIP Update and Adoption
  - i. Review of draft updates to 2023 SCIP – Terry Hall, Michelle Gowdy, SWIC  
Michele Gowdy Review of the subcommittee  
Questions / Discussion - Broadband on pg. 11  
Recommendation to change to below:  
*A cautious but intentional approach to broadband is required, given its fast-paced development and sometimes unclear risks. The deployment of proprietary technologies in broadband risks creating new silos. Breaking the bounds of LMR coverage opens doors for interoperable connections across systems and distance but introduces risk and reliance on commercial infrastructure. Where standards are unavailable, Virginia should push industry to develop them.*  
**Approved as amended with the above change to Broadband on page 11  
Motion to approve the SCIP by Pete Kirby, second Steve Willoughby  
Approved 17 / Nay 0**
    - a. Discussion of 2024 update cycle – direction / information only
      - i. Gabe – be prepared for another update cycle next year. Question to the group on doing a workshop? Discussion followed -
        1. CISA (Tom Gagnon) webinars
          - a. Surveys – capture predominate interest and desires
          - b. Group discussed workshops – in person and virtual – around the state, including outside expertise
    - b. Additional Comments
      - i. At this time, State Coordinator of Emergency Management Shawn Talmadge arrived and provided additional welcoming remarks to close out this portion of the agenda.

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## **SIEC 10/24/23 Draft Minutes**

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# Understanding FOIA



or: How I Learned to Stop Worrying and Love Open Government.

Cathie Hutchins  
Senior Assistant Attorney General  
Office of the Attorney General

# If you don't know, now you know

- **§ 2.2-3702. Notice of chapter.**
- Any person elected, reelected, appointed or reappointed to any body not excepted from this chapter shall (i) be furnished by the public body's administrator or legal counsel with a copy of this chapter within two weeks following election, reelection, appointment or reappointment and (ii) read and become familiar with the provisions of this chapter.

# Freedom of Information Act (FOIA)

## Purpose –

By enacting FOIA, the General Assembly ensures the people of the Commonwealth ready access to public records in the custody of a public body or its officers and employees, and free entry to meetings of public bodies wherein the business of the people is being conducted. **The affairs of government are not intended to be conducted in an atmosphere of secrecy since at all times the public is to be the beneficiary of any action taken at any level of government.** Va. Code § 2.2-3700.

# FOIA

How FOIA is to be viewed –

**The provisions of FOIA shall be liberally construed to promote an increased awareness by all persons of governmental activities and afford every opportunity to citizens to witness the operations of government.** Any exemption from public access to records or meetings shall be narrowly construed and no record shall be withheld or meeting closed to the public unless specifically made exempt pursuant to this chapter or other specific provision of law.

# FOIA

## Meetings –

All meetings of public bodies shall be open, except as provided by § 2.2-3711. Va. Code § 2.2-3707.



## Subcommittees, private sector members, etc.

"Public body" means any **legislative body, authority, board, bureau, commission, district or agency** of the Commonwealth or of any political subdivision of the Commonwealth . . . ; and other organizations, corporations or agencies in the Commonwealth supported wholly or principally by public funds. It shall include any committee, subcommittee, or other entity however designated, of the public body created to perform delegated functions of the public body or to advise the public body. It shall not exclude any such committee, subcommittee or entity because it has private sector or citizen members. [...] -- Code § 2.2-3701.

# FOIA

When are you having a meeting?

"Meeting" or "meetings" means the meetings including work sessions, when sitting physically, or through telephonic or video equipment pursuant to § 2.2-3708 or 2.2-3708.1, as a body or entity, or as an informal assemblage of (i) **as many as three members** or (ii) **a quorum, if less than three**, of the constituent membership, wherever held, with or without minutes being taken, whether or not votes are cast, of any public body.

## Definition cont...(2015)

- Neither the gathering of employees of a public body nor the gathering or attendance of two or more members of a public body at any place or function where **no part of the purpose of such gathering or attendance is the discussion or transaction of any public business**, and such gathering or attendance was not called or prearranged with any purpose of discussing or transacting any business of the public body . . . shall be deemed a "meeting" subject to FOIA.

# Key Requirements for Meetings

- **§ 2.2-3707. Meetings to be public; notice of meetings; recordings; minutes.**
- A. All meetings of public bodies shall be open, except as provided in §§ 2.2-3707.01 and 2.2-3711.
  - § 2.2-3707.01 – Meetings of the General Assembly.
  - § 2.2-3707.01 – Closed meetings. But, there is a set of procedures you must take BEFORE going into closed meeting.
- B. No meeting shall be conducted through telephonic, video, electronic or other communication means where the members are not physically assembled to discuss or transact public business, except as provided in § 2.2-3708.3 or as may be specifically provided in Title 54.1 for the summary suspension of professional licenses.

# More Requirements

- C. Every public body shall give notice of the date, time, and location of its meetings by:
  - 1. Posting such notice on its official public government website, if any;
  - 2. Placing such notice in a prominent public location at which notices are regularly posted; and
  - 3. Placing such notice at the office of the clerk of the public body or, in the case of a public body that has no clerk, at the office of the chief administrator.
- All state public bodies subject to the provisions of this chapter shall also post notice of their meetings on a central, publicly available electronic calendar maintained by the Commonwealth. Publication of meeting notices by electronic means by other public bodies shall be encouraged.
- And there are more steps that must be taken in addition to those.

## When meeting always required

- § 2.2-3710. Transaction of public business other than by votes at meetings prohibited.
- A. Unless otherwise specifically provided by law, no vote of any kind of the membership, or any part thereof, of any public body shall be taken to authorize the transaction of any public business, other than a vote taken at a meeting conducted in accordance with the provisions of this chapter.

## But...

- B. Notwithstanding the foregoing, nothing contained herein shall be construed to prohibit (i) separately contacting the membership, or any part thereof, of any public body for the purpose of ascertaining a member's position with respect to the transaction of public business, whether such contact is done in person, by telephone or by electronic communication, provided the contact is done on a basis that does not constitute a meeting as defined in this chapter

# FOIA

- Hypo: At a public meeting, the work group votes to create a subcommittee of two board members to confer and create recommendations for a report to the Governor. Any problem?
- The two subcommittee members agree to meet over the telephone and discuss business, but they report to the board their discussions? Allowed? Why or why not?



# FOIA

- Hypo: At a charity event, you see three committee members standing together. You pleasantly greet them and make small talk. Meeting under FOIA?

# FOIA

- Hypo: You write an email to all the other members sharing the new trailer for Ant-Man and the Wasp: Quantumania. A fellow member responds all. Yet another member quickly responds all on the same topic.
- Meeting for FOIA purposes?
- How about opening an instant message chat online between three members?
- What if only two?
- What if the topic of discussion was screening the movie at future board meeting?

# FOIA

- Answer: an improper closed meeting occurs where the feature of simultaneity inherent in the term "assemblage" arises; the e-mails involve some sort of back-and-forth exchange of the three required members; the messages generate group conversations or responses with multiple recipients.
- From Hill v. Fairfax County Sch. Bd., 284 Va. 306 (2012).

# Electronic Meetings

- All-Virtual meetings will be permitted so long as proper procedure is followed.
- STAFF AND MEMBERS must review 2.2-3708.3(C) to comply with notice, access, records, and participation requirements.
- Required to adopt a policy pursuant to 2.2-3708.3(D) to permit all-virtual meetings and remote participation.

## 2 Way to Go

- A member may remotely participate if:
  - There is a quorum physically assembled.
  - The public body has adopted a policy pursuant to 2.2-3708.3(D).
  - The member notifies the chair of the public body of one of the reasons listed in 2.2-3708.3(B)
    - ✦ Personal medical condition
    - ✦ Medical condition of a family member that prevents the member's physical attendance
    - ✦ Meeting is more than 60 miles from member's residence
    - ✦ Personal matter – limit on this

## OR an All-Virtual Meeting

- Public bodies must announce an all-virtual meeting.
- Must comply with the notice and access requirements of § 2.2-3708.3 .
- Limit to the greater of 2 meetings or 25% of total meetings per year
- No consecutive all-virtual meetings.

# FOIA

- What about making decisions by vote over email?
- What prevents this?

# FOIA

- That's right. Code § 2.2-3710 prohibits the transaction of public business other than by votes at meetings.



# RECAP

- 1) can't transact public business without meeting--no voting, no deciding.
- 2) can't conduct an electronic meeting discussing public business (except if you follow certain requirements like quorum present).
- 3) can "separately" contact members to ascertain position so long as communication doesn't become a meeting. Can't have feature of simultaneity with quorum or three members.

# Best practices

- Remember that what you put in writing is a public record subject to FOIA.
- Think first. If unsure, reach out and ask questions.
- Pick up the phone.
- Familiarize yourself with FOIA and its procedures

# FOIA

Questions about FOIA?

Please contact the “Virginia Freedom of Information  
Advisory Council”

Toll free: 866-448-4100

Email: [foiacouncil@dls.virginia.gov](mailto:foiacouncil@dls.virginia.gov)



## Virginia SIEC Policy: All-Virtual Public Meetings

Revision: **DRAFT** 1.0

Adapted from Virginia FOIA Council Model Policies

Standalone policies for each item



## Virginia SIEC Policy: Remote Participation of Members

Revision: **DRAFT** 1.0

Adapted from Virginia FOIA Council Model Policies

Based on and hewing closely to  
VA FOIA Council model policies

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## 9) State Updates

- a) VDEM VDH VDOT DMA VITA VDOF VSP
- b) Federal - CISA

## 10) Regional Updates

- a) RPAC-I Chairs
- b) VA Communications Cache

## 11) Association Updates

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## Notes Out

- Meeting Review (time pending)
- Next Meeting Date