



DELAWARE GENERAL ASSEMBLY  
STATE OF DELAWARE  
411 LEGISLATIVE AVENUE  
DOVER, DELAWARE 19901

TO: The Members of the 151<sup>st</sup> General Assembly

FROM: Bethany Hall Long, President of the Senate  
Peter C. Schwartzkopf, Speaker Pro Tempore of the House of Representatives<sup>1</sup>

SUBJECT: Time and Place for Next Meeting

DATE: January 8, 2021

On March 12, 2020, in response to growing concerns about the spread of COVID-19, the leadership of the 150<sup>th</sup> General Assembly closed Legislative Hall to the public and postponed legislative session until March 24, 2020, to ensure the safety of legislators, staff, and the public. The same day, Governor John C. Carney issued a state of emergency due to the public health threat posed by COVID-19. On March 18, 2020, with the public health threat worsening, the leadership of the 150<sup>th</sup> General Assembly made the decision to close Legislative Hall to the public and postpone legislative session until further notice.

With the public health threat continuing last spring, the leadership of the 150<sup>th</sup> General Assembly began exploring options for the General Assembly to meet while continuing to ensure the safety of legislators, staff, and the public. After consultation with legal counsel, the leadership of the 150<sup>th</sup> General Assembly decided the General Assembly was able to be recalled with legislators meeting “virtually” using audio or video technology.

---

<sup>1</sup> Under precedent of the House of Representatives, the House recognizes the rules adopted by the previous General Assembly as temporarily governing the new General Assembly. Under House Rule 6(b), in the absence of the elected Speaker or the appointed Presiding Officer, the House may be called to order and presided over by the senior member of the majority party. The senior member is the member who has served in the House the longest consecutive period of time. Representative Schwartzkopf is the senior member of the majority party for the 151<sup>st</sup> General Assembly.

With COVID-19 infections and hospitalizations recently at levels higher than last spring and Governor Carney’s extension of the state of emergency for a tenth time on December 24, 2020, we have determined that the first meeting of the 151<sup>st</sup> General Assembly on Tuesday, January 12, 2021, must occur virtually.

Therefore, under §§ 5 and 9 of Article II and § 1 of Article XVII of the Delaware Constitution, Section 577 of Mason’s Manual on Legislative Procedure, and § 10006A of Title 29 of the Delaware Code, we declare that because members of the General Assembly are prevented from physically meeting in Dover due to the continuing public health emergency, the General Assembly will meet virtually, by remote participation, under the following temporary procedures:

### **Virtual Meeting Procedures**

(a) As used in this joint memorandum:

(1) “Chair” means a member who presides over and maintains order and decorum of a legislative committee.

(2) “Legislative committee” means 1 of the following:

a. A standing committee of the House of Representatives or Senate.

b. A joint committee of the General Assembly.

c. A task force or similar entity created by resolution of the General Assembly.

d. An entity within the legislative branch created by an act of the General Assembly.

(3) “Member” means an individual elected to the General Assembly, the individual’s emergency interim successor, an individual appointed to an entity under paragraph (a)(2)c. or

(a)(2)d. of this joint memorandum, and the President of the Senate for purposes of the use of the casting vote when the Senate is equally divided.

(4) “Presiding officer” means the Speaker of the House of Representatives, President of the Senate, or a member who presides over and maintains order and decorum of the Senate or House of Representatives.

(5) “Virtual meeting” means a meeting that meets the requirements under subsection (b) of this joint memorandum.

(6) “Witness” means a non-member permitted to address a virtual meeting.

(b) The Senate or House of Representatives or a legislative committee may conduct a meeting to transact public business in which members participate remotely through the use of any means of communication by which all of the following occur:

(1) The identity of a member or witness participating remotely is verified, and the actions of a member participating remotely are authenticated, in a manner satisfactory to the presiding officer or chair.

(2) During the meeting, all participating members or witnesses simultaneously hear or read the comments of each member or witness who is recognized by the presiding officer or chair.

(3) A document that is used during the meeting by a member and that is accepted by the presiding officer or chair is immediately transmitted to each member or witness participating in the meeting.

(4) Except as provided under subsection (c) of this joint memorandum, the public is able to do the following:

a. Contemporaneously access materials presented at the meeting.

b. Monitor the proceedings.

c. For the meeting of a legislative committee under this subsection, provide public comment, if the committee is required to accept, or provides an opportunity for, public comment.

d. Review a recording of the meeting within a reasonable time after the meeting concludes.

(c)(1) Subsection (b)(4) of this joint memorandum does not apply if, under § 11 of Article II of the Delaware Constitution, “the business is such as ought to be kept secret”.

(2) A technological failure that prevents, or a technological limitation that limits, public access otherwise required under subsection (b)(4) of this joint memorandum does not invalidate a virtual meeting or an action taken at a virtual meeting.

(d) A virtual meeting complies with § 5 of Article II of the Delaware Constitution and, thus, all actions taken during a virtual meeting have the same legal effect as if the members were physically present at the seat of government.

(e)(1) For the purposes of determining quorum for a meeting of the Senate or House of Representatives or a legislative committee, a member participating remotely in a virtual meeting is considered present as if the member were physically present at the meeting.

(2) For the purposes of voting during a meeting of the Senate or House of Representatives or a legislative committee, a member participating remotely in a virtual meeting is able to vote as if the member were physically present at the meeting.

(f)(1) A virtual meeting must be preceded by the same or substantially equivalent public notice as would be required if the meeting were to be held at a physical location.

(2) The notice for a virtual meeting required to provide notice must include information on how the public can monitor a meeting of the Senate or House of Representatives or a legislative committee or participate in a meeting of a legislative committee that is required to accept, or provides an opportunity for, public comment.

(g)(1) The presiding officer or chair presiding over a virtual meeting shall interpret and apply the rules of the Senate or House of Representatives or legislative committee that presume or require the physical presence or act of members or witnesses in such a manner as to accomplish the same purposes for which the rules were adopted.

(2) For purposes of affixing signatures required under rules of the Senate or House of Representatives, a member may, in lieu of a wet signature, authorize, in writing or electronically, the Secretary of the Senate or Chief Clerk of the House of Representatives, as appropriate, to affix the member's signature. The Secretary of the Senate and Chief Clerk of the House of Representatives shall maintain records of authorizations made under this subsection.

(h) The following procedures apply to members or witnesses during a virtual meeting:

(1) Members participating in a virtual meeting shall join the meeting at least 30 minutes before the scheduled start time of the meeting.

(2) The presiding officer or chair shall cause members or witnesses participating in a virtual meeting to be muted on entry into the meeting.

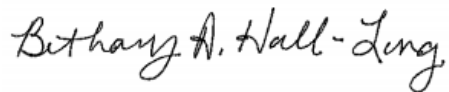
(3) To be recognized to speak by the presiding officer or chair, a member or witness shall use the technological function that enables the member or witness to be recognized. If a technological failure occurs, the presiding officer or chair may adopt an alternative method of recognizing members or witnesses. On being recognized, the following must occur:

- a. The presiding officer or chair shall cause the member or witness to be unmuted.
- b. The recognized member or witness shall state the member's or witness's name each time before speaking.

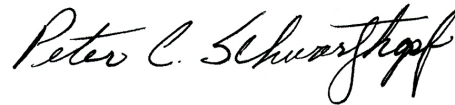
(4) Votes must be taken by roll call.

**Process for General Assembly on First Meeting**

Immediately following organization of the Senate and House of Representatives, and consistent with Section 577 of Mason's Manual on Legislative Procedure, a concurrent resolution will be presented to the Senate and House of Representatives. The concurrent resolution provides for approval of the actions taken under this joint memorandum and adopts procedures to conduct virtual meetings of the 151<sup>st</sup> General Assembly.



Bethany Hall Long  
President  
Delaware State Senate



Peter C. Schwartzkopf  
Speaker Pro Tempore  
Delaware House of Representatives