

# Minutes of Informal Action by Board via Email July 30 - August 3, 2024

On July 30, 2024, Jen OLDHAM made the following **MOTION**: to release up to \$5,000.00 of WFencing funds to be used to cover costs associated with the 2024 Athena Project. This money was to be used to:

- Ensure that all coaches, mentors, and mentees are paid the stipends/fees that they were promised;
- Cover a portion of travel costs incurred by mentors and mentees attending the camp.

This motion was made via an email sent to the entire board on 7/30/2024.

The motion **PASSED** with approval by five of the nine sitting members of the board responding via email to the original email.

- Jen OLDHAM (7/30... assumed “Yea” vote by nature of making the request)
- Adeline CHUNG-FEDER (7/30... **SECONDED** by virtue of voting for the motion)
- Cathleen RANDALL (7/31)
- Vickie MILLER (8/1)
- Heather SHANKWILER (8/3)

The other four sitting board members did not respond to the original email.

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## Notes

Vickie MILLER and Taro YAMASHITA had conflicting understandings of the requirements for actions by the board conducted outside of a meeting. Vickie understood that 100% participation was required; Taro understood that only a majority of the board needed to participate. Upon double-checking, Vickie and Taro agree that only a majority of the board need to participate for actions of the board outside of meetings.

### Summary

WFencing has provisions in its bylaws that override the North Carolina state laws regarding action taken by a board of directors outside of a meeting.

The North Carolina law provides a “default” provision whereby action may be taken outside of a scheduled meeting if there is 100% participation by the board of directors, and that the business is conducted in writing (including email or similar). The law also allows for a corporation to

define other provisions for such actions to be defined in its own organizing documents that can supersede the state law default provisions.

[Chapter 55A: North Carolina Nonprofit Corporations Act](#). The relevant section is Article 8: Directors and Officers. On page 32 see **§ 55A-8-21. Action without meeting**. Here is the text of that section. Emphasis added:

(a) **Unless the articles of incorporation or bylaws provide otherwise**, action required or permitted by this Chapter to be taken at a board of directors' meeting may be taken without a meeting if the action is taken by all members of the board. The action shall be evidenced by one or more written consents signed by each director before or after the action, describing the action taken, and included in the minutes or filed with the corporate records reflecting the action taken. As authorized in G.S. 55A-1-70, a director's consent to action taken without meeting may be in electronic form and delivered by electronic means.

(b) Action taken under this section is effective when the last director signs the consent, unless the consent specifies a different effective date.

(c) A consent signed under this section has the effect of a meeting vote and may be described as such in any document. (1973, c. 314, s. 3; 1993, c. 398, s. 1; 2008-37, s. 7; 2021-162, s. 2(q).)

WFencing's [own bylaws](#) provide otherwise in Article 4, Section 9 (Directors, Informal action by members of the board). See page 8 of the file. Here is the text of that section. Emphasis added.

Section 9. Informal Action by Members of the Board. Action taken by a majority of the directors then holding office without a meeting is nevertheless deemed an action of the Board of Directors if written consent, including by electronic mail correspondence, to the action in question is signed by **a majority of the Board of Directors then holding office and filed with the minutes of the proceedings of the Board of Directors**, whether done before or after the action in question. Such action is effective when the last director creating the majority signs the consent, unless the consent specifies a different effective date.

**Conclusion:** the NC law provides the default where 100% participation is necessary for action by the board outside of a meeting, but allows for corporations to provide alternatives. WFencing provides an alternative in its Bylaws, and thus the WFencing alternative applies.

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