

B. GOVERNOR’S EXECUTIVE ORDERS AND 2021 AMENDMENTS TO THE TELECONFERENCE RULES

During the COVID 19 pandemic, Governor Newsom suspended most of these requirements so that Boards could more easily meet virtually.

Last year, the legislature passed Assembly Bill 361 to continue many of these “relaxed” teleconference rules during a declared state of emergency. Those 2021 amendments continue until January 2024.

To use these “relaxed” teleconference rules the Board must find:

- There is a declared state of emergency and either
 - State or local officials recommend social distancing
 - or*
 - As a result of the emergency meeting in person would present imminent risks to the health or safety of attendees
- The Board must renew these findings every 30 days

These amendments also require the board to permit public comment in “real time.” (Gov. Code, § 54953, subd. (e).)

C. 2022 TELECONFERENCE AMENDMENTS

On September 13, 2022, the Governor signed Assembly Bill 2449. This bill provides additional relief from the “traditional” teleconference requirements based on the personal circumstances of individual Trustees.

These new amendments are effective January 1, 2023 and sunset January 1, 2026. These amendments provide that the Board may use teleconference technology without following the “traditional” teleconference rule. The Board must comply with all of the following:

- A majority of the Board must participate in person in a single location within the District’s boundaries;
- The Board must use a two-way video or teleconference platforms to allow public participation;
- The District must post the means for the public to access the meeting and offer public comment in the meeting notice and agenda.

The Trustee wishing to teleconference must meet either “just cause” or “emergency circumstances.”

1. Just Cause Provision

“Just cause” means:

- A family childcare or caregiving need;
- Contagious illness;
- A disability not otherwise accommodated; or
- Travel on District business.

A Trustee may only participate under this provision for two meetings each calendar year.

2. Emergency Circumstances Provision

“Emergency circumstances” means physical or family emergency that prevents the trustee from attending the meeting in person. The Trustee must request and the Board must act on the request as soon as possible. If there is not sufficient time to place the matter on the agenda, the new provisions provide that the Board may add this item to the agenda under the provision in the Brown Act that permits adding items to the agenda.

3. Provisions Governing Both “Just Cause” And “Emergency Circumstances”

Under either “just cause” or “emergency circumstances,” the Trustee must give general description of circumstances, but is not required to disclose medical diagnoses or confidential information. The trustee must also disclose if someone over the age 18 is with them and their relationship.

The Trustee must use both audio and visual technology when participating remotely. Finally, the new bill provides that a member cannot participate solely by teleconference under its provisions for more than 3 consecutive months or more than 20 percent of the agency’s regular meetings.

(Stats. 2022, Ch. 285, §§ 1, 2, 4 (AB 2449) effective January 1, 2023, amending Gov. Code, §§ 54953, subd. (f), 54954.2.)

D. CONCLUSION

The Board may still meet by teleconference under the “traditional” teleconference rules. When appropriate, and until January 2024, the Board may meet by teleconference under the “relaxed” teleconference rules by making certain findings.

Board of Trustees
Chabot Las Positas Community College District
Re: Overview of 2022 Brown Act Teleconference Amendments
October 10, 2022
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Under the 2022 Brown Act teleconference amendments, individual trustees may request to meet by teleconference for “just cause” or due to “emergency circumstances.” The Trustee must use both audio and visual technology when participating remotely. The Trustee must provide a general statement of the circumstances justifying their remote participation. Finally, the new bill provides that a member cannot participate solely by teleconference under its provisions for more than 3 consecutive months or more than 20 percent of the agency’s regular meetings.

Please let us know if you have questions or would like our assistance with any of the options identified above.