

Number: **BP 007**

Related Admin. Procedure N/A

Authority: Board of Directors

Effective: May 5, 2011

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Reviewed: March 22, 2023

Initiating Dept./Div.: Secretary of the District



BOARD POLICY

BOARD MEMBER TELECONFERENCING

PURPOSE

To encourage physical attendance by all members of the Board of Directors at all meetings and set forth guidelines¹ for Board Members to participate in District meetings via teleconference in accordance with California Government Code Section 54953.

POLICY

A Board Member may participate in a Board meeting via teleconferencing in accordance with the procedures in California Government Code Section 54953, when the Member is unable to resolve a scheduling conflict, or in situations of family emergencies. The Code defines teleconference as a meeting of the legislative body in different locations and connected by electronic means (e.g., telephone, audio/video technology (Teams, Zoom, etc.), or both).

If a Member anticipates being absent from a Board meeting at which an item of significance is being discussed, he/she may ask that the matter be moved to a meeting at which he/she will be in attendance.

Staff will, to the extent practical, consider planned absences when scheduling matters for Board action if District business will not be hindered by any delay or advancement of schedule.

GUIDELINES

A. Traditional Teleconferencing

Government Code: Section 54953(b) of the Brown Act (California Government Code Sections 54950-54963) provides that in connection with a meeting, *“the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body.”* The Code requires that:

¹ This policy guideline is for standard Brown Act compliance and does not pertain to situations of State or Local Emergency declarations where other forms of teleconference or virtual participation may be enacted under separate guidelines.

1. A quorum of the members of the legislative body must participate from locations within the agency's jurisdiction.
2. Agendas must be posted identifying all locations where members of the legislative body will be present during the meeting and posted as required by law at all such locations.
3. All locations must be accessible to the public and the public must be given an opportunity to address the legislative body directly at all such locations.
4. All votes taken during a teleconferenced meeting shall be by roll call and publicly reported of the vote or abstention of the action taken.

Board Member: If a Board Member will be unavailable to participate in a Board or Committee meeting (i.e., scheduling conflict, such as travel, or family emergencies) and wishes to participate via teleconference, he/she must notify the Secretary of the District either through writing or verbally with an acknowledgement from the Secretary of the District at least 96 hours (four days) prior to the start of the meeting to provide location information and allow time for the Secretary of the District to comply with legal noticing requirements for teleconferenced meetings. He/she shall comply and/or assist with the required posting requirements.

Other Requirements

1. Ideally, each Board Member or member of staff speaking at the meeting will first identify themselves, so any listeners know who is speaking.
2. Each Board Member or staff member shall allow the teleconference party the opportunity to finish speaking in case of a technical or connection difficulty.

B. AB 2449 Just Cause/Emergency Circumstance Teleconferencing

Government Code: Section 54953(f) of the Brown Act (California Government Code Sections 54950-54963) provides that in connection with a meeting, "*the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body.*" The Code requires that:

1. A quorum of the members of the legislative body must participate in person in a single, physical location clearly identified on the agenda that is open to the public and situated within the agency's jurisdiction.

2. An individual member may attend a meeting by teleconference only under two very specific circumstances where a Just Cause or an Emergency Circumstance exists:
 - a. **Just cause** means:
 - A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires the Board Member to participate remotely.
 - A contagious illness that prevents a member from attending in person.
 - A need related to a physical or mental disability of a member not otherwise accommodated under the 'reasonable accommodation' provisions of the Americans with Disabilities Act.
 - Travel while on official business of the District or another state or local agency.
 - b. **Emergency Circumstances** means:
 - A physical or family medical emergency that prevents a Board Member from attending in person.
3. All votes taken during a teleconferenced meeting shall be by roll call and publicly reported of the vote or abstention of the action taken.

Board Member

If a Board Member will be unavailable to participate in a Board Meeting due to "Just Cause" and wishes to participate via teleconference, he/she must do the following:

- Notify the Secretary of the District at the earliest possible opportunity, including at the start of a regular meeting, of the need to participate remotely.
- Provide a general description of the circumstances necessitating the remote appearance.
- The Board does not need to take action to permit teleconference participation.

If a Board Member will be unavailable to participate in a Board or Committee meeting due to “Emergency Circumstances” and wishes to participate via teleconference, he/she must do the following:

- Must give a general description of the emergency circumstances, but the Board Member is not required to disclose any medical diagnosis, disability, or personal medical information.
- The Board must take action to approve the request to participate by teleconferencing by a majority vote.

Other Requirements of Board Members

1. Must disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room with the member, and the general nature of the member's relationship with any such individuals.
2. Must participate through both audio and visual technology (i.e. the Board Member must be on-screen).
3. For “Emergency Circumstances” a Board Member cannot attend meetings remotely for a period of more than three consecutive months or five regular Board meetings within a calendar year.
4. For “Just Cause” circumstances a Board Member may participate remotely no more than two times per calendar year.

Exhibit A: Teleconference Meeting Participation Options for additional summarized details.

[Original Retained by the Secretary of the District]

EXHIBIT A

Teleconference Meeting Participation Options

	AB 2449 Just Cause/Emergency Circumstances Teleconferencing (Gov. Code, § 54953(f); becomes (e) on 1/1/24.)	Traditional Teleconferencing (Gov. Code, § 54953(b).)
Applicable Timeframe	▪ Available beginning <u>January 1, 2023</u> and ending <u>December 31, 2025</u> .	▪ Available anytime.
Who May Appear Remotely and Quorum Requirements	▪ Individual board members if: (1) a quorum of the members participates in person; and (2) the quorum meets in a single, physical location clearly identified on the agenda that is open to the public and situated within the agency's jurisdiction.	▪ Individual board members, if at least a quorum of the members of the body participate from locations within the jurisdictional boundaries of the body.
Bases for Remote Appearance	<p>▪ A member may appear remotely for "Just Cause" or "Emergency Circumstances":</p> <p>► "Just cause" is any of the following:</p> <ol style="list-style-type: none"> (1) A need to care for a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner; (2) A contagious illness that prevents a member from attending in person; (3) A need related to a physical or mental disability that is not otherwise accommodated for; or (4) Travel while on official business of the body or another state or local agency. <p>► "Emergency circumstances" is a physical or family medical emergency that prevents a member from attending in person.</p>	▪ Applies when a board member is unable to attend in person.

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Teleconference Meeting Participation Options

	AB 2449 Just Cause/Emergency Circumstances Teleconferencing (Gov. Code, § 54953(f); becomes (e) on 1/1/24.)	Traditional Teleconferencing (Gov. Code, § 54953(b).)
Notification and Approval Requirements	<ul style="list-style-type: none"> ▪ To attend remotely for: <ul style="list-style-type: none"> ► “Just Cause” <ul style="list-style-type: none"> ▪ The member must notify the Secretary of the District at the earliest possible opportunity, including at the start of a regular meeting, of the need to participate remotely. ▪ The member must provide a general description of the circumstances necessitating the remote appearance. ▪ The body does not need to take action in response. ► “Emergency Circumstances” <ul style="list-style-type: none"> ▪ The member’s request to appear remotely must include a general description of the need to appear remotely, which need not exceed 20 words, and need not include any personal medical information. ▪ The member must make the request to participate remotely as soon as possible and must make a separate request for each meeting. ▪ The body must take action on the request at a public meeting. ▪ If there is insufficient time to include the item on a posted agenda, the body may take action at the beginning of the meeting. 	<ul style="list-style-type: none"> ▪ No additional requirements.

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Agenda and Public Access and Comment Requirements	<ul style="list-style-type: none"> ▪ Must provide notice and post agendas as otherwise required under the Brown Act and must indicate on the notice how the public may access the meeting and offer comment. ▪ The agenda must include an opportunity for all persons to attend and address the body via a call-in option, an internet-based service option, and at the in-person location. ▪ The law does not require that the agency post an agenda at the remote location, include the address of the remote location, or provide for public access to the remote location. ▪ The body may not require public comments to be submitted in advance and must allow the public to address the body and comment in real time. ▪ An individual may be required to register for public comment before being allowed to comment, where the body uses a third-party platform (like Zoom) for the meeting. 	<ul style="list-style-type: none"> ▪ The teleconference location must be open to the public. ▪ The agenda must be posted at all meeting locations, including the teleconference location. ▪ The agenda must identify all meeting locations, including the teleconference location. ▪ The agenda must provide for public comment at all meeting locations, including the teleconference location.
Voting Requirements	<ul style="list-style-type: none"> ▪ Members must vote by roll call. 	<ul style="list-style-type: none"> ▪ Members must vote by roll call.

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Technological Requirements	<ul style="list-style-type: none"> ▪ The public must be able to remotely hear and visually observe the meeting, and remotely address the body. Thus, the body must provide either: <ol style="list-style-type: none"> (1) a two-way audiovisual platform; or a two-way telephonic service and a live webcasting of the meeting. 	
Other Requirements	<ul style="list-style-type: none"> ▪ If a member participates remotely, the member must also: <ol style="list-style-type: none"> (1) Publicly disclose at the meeting before any action is taken, whether any other individuals 18 years or older are in the room at the remote location with the member and the general nature of the member's relationship with such individuals; and (2) Participate through both audio and visual technology. ▪ If the broadcasting of the meeting to the public by phone or internet service is disrupted, or a disruption within the local agency's control prevents members of the public from commenting using the phone or internet service, the body shall not take any action at the meeting, until public access to the meeting via the phone option or the internet service option is restored. Actions taken on agenda items during a disruption that prevents the body from broadcasting the meeting may be challenged pursuant to Section 54960.1. ▪ The body must have and implement a <ul style="list-style-type: none"> ▪ procedure for receiving and quickly resolving reasonable accommodation requests for individuals with disabilities. <p>Any doubt should be resolved in favor of accessibility.</p>	
Limitations on Frequency of Remote Appearances	<ul style="list-style-type: none"> ▪ A member may participate remotely for "just cause" no more than two times per calendar year. ▪ A member may not participate remotely for more than three consecutive months or five regular meetings for the local agency within the calendar year, or more than two meetings if the body regularly meets less than 10 times per year. 	None.