



MARCH 2023

## IN CASE YOU HAVEN'T HEARD, REMOTE BOARD MEETINGS BASED ON THE COVID-19 PANDEMIC ARE NO LONGER AUTHORIZED

As you know, Assembly Bill 361 continued and expanded upon the remote meeting flexibility initially authorized under COVID-19 Executive Orders from the Governor.<sup>1</sup> While that legislation remains in effect through the end of this calendar year, the authority is tied to the existence of a proclaimed state of emergency and thus no longer covers the COVID-19 pandemic. The COVID-19 state of emergency expired February 28, 2023.

### Teleconferencing Options Going Forward

The flexibility provided in AB 361 authorized the entire board to participate remotely without posting remote addresses, provided other criteria were satisfied including remote access for the public. Effectively, that option no longer exists.

A. Traditional Teleconferencing. Districts can still take advantage of longstanding authority in the Brown Act for “traditional teleconferencing.”<sup>2</sup> The basic requirements are as follows:

- A quorum of the board must participate from locations within district boundaries.
- The remote location(s) from which board members participate must be listed on the agenda.
- Each teleconference location must be accessible to the public.
- The agenda must be posted at the remote location for the applicable 24-hour (special meeting) or 72-hour (regular meeting) posting period as well as on the district website.
- All votes must be taken by roll call.

This authority does not allow for “last minute” requests to participate remotely, since the remote address(es) must be posted on the agenda for the applicable posting period.

B. AB 2449 Teleconferencing (sunsets December 31, 2025). Assembly Bill 2449 recently amended the Brown Act to allow for remote participation based on “just cause” or a board-approved emergency, as long as a majority of members participate from a single physical location within the district.<sup>3</sup> If the criteria are met, “last minute” requests to participate remotely can be accommodated but the requirements are substantial.

---

<sup>1</sup> See our September 2021 update entitled *Beyond the Executive Order: Teleconference Flexibility During Proclaimed State of Emergency*.

<sup>2</sup> Brown Act, Government Code section 54953(b)

<sup>3</sup> Brown Act, Government Code section 54953(f)

Please see our updated September 2022 publication on AB 2449, now augmented with a checklist to assist districts in processing those requests when received. The provisions of AB 2449 are currently only in effect until December 31, 2025.

Absent a new proclaimed state of emergency, AB 361 teleconferencing flexibility is now effectively a dead letter.

Please let us know if you need further information on this topic.

- Grant Herndon

---

*Education Law Updates are intended to alert clients to developments in legislation, opinions of courts and administrative bodies and related matters. They are not intended as legal advice in any specific situation. Please consult legal counsel as to how the issue presented may affect your particular circumstances.*