



City of Long Beach

Working Together to Serve

Office of the City Attorney

Memorandum

DATE: February 8, 2023

To: Mayor and Members of the City Council

FROM: Monica J. Kilaita, Deputy City Attorney

SUBJECT: Changes to Virtual/Hybrid Public Meeting Rules
Effective March 1, 2023

Beginning March 1, 2023, all City legislative bodies will revert back to abiding by the “traditional” Brown Act rules (including those regarding teleconferencing) or Assembly Bill (AB) 2449¹, where applicable, when holding public meetings.

During the COVID-19 pandemic, and pursuant to the authority initially established under Governor Newsom’s various Executive Orders, and later through AB 361, legislative bodies throughout the State have had flexibility with respect to holding virtual or hybrid public meetings. Such flexibility includes a legislative body’s ability to apply “relaxed” Brown Act rules, such as not having to identify each teleconference location, provide public access to such location, or allow public comment at such location, provided that certain findings are made on a monthly basis.

Governor Newsom has announced that California’s State of Emergency for COVID-19 will terminate on February 28, 2023. As such, and although the City Council again passed monthly findings on February 7, 2023, to continue allowing the City’s various legislative bodies (including boards, commissions, and committees) to hold teleconference meetings in accordance with AB 361, such authority will lose effect at the end of this month. In other words, effective March 1, 2023, legislative bodies will no longer be able to apply the “relaxed” rules under AB 361 for virtual or hybrid meetings.

Please be aware this guidance is subject to change and our office will keep you informed as needed. You are encouraged to contact us should you have any questions or concerns regarding teleconference meeting rules.

¹ See attached Memorandum, submitted on October 13, 2022, regarding AB 2449. AB 2449 allows a legislative body member to teleconference during a public meeting provided that member has shown “just cause” or has an “emergency circumstance.” Similar to AB 361, AB 2449 provides certain waivers of the traditional rules for teleconferencing under the Brown Act, however specific procedures must be followed.

Changes to Virtual/Hybrid Public Meeting Rules

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ATTACHMENT - 10/13/22 MEMORANDUM

MJK:rj

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City of Long Beach

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Memorandum

Office of the City Attorney

DATE: October 13, 2022

To: Mayor and Members of the City Council

FROM: Monica Kilaita, Deputy City Attorney

SUBJECT: AB 2449 - Teleconferencing Just Cause or Emergency Circumstances

Beginning January 1, 2023, Assembly Bill (AB) 2449 will allow more flexibility for members of legislative bodies to teleconference where they have shown just cause or have emergency circumstances.

Currently, there are two sets of teleconference procedures under the Brown Act. First, there are the traditional rules which must be followed when members of a legislative body are teleconferencing. For instance, a legislative body must provide notice of each teleconference location of each member, provide public accessibility to such location(s), allow members of the public to provide public comment at such location(s), and so on. Second, there are the AB 361 rules which allow “relaxed” teleconference procedures during a proclaimed state of emergency where certain requirements are met. Under the AB 361 rules, a legislative body does not have to identify each teleconference location, provide public access to such location, allow public comment at such location, etc.

This memorandum provides an overview of a new and third set of teleconferencing procedures under the Brown Act where a legislative body member has shown just cause or has emergency circumstances. Similar to AB 361, and as more detailed below, these procedures provide certain waivers of the traditional rules for teleconferencing under the Brown Act.

I. **REMOTE PARTICIPATION FOR JUST CAUSE OR EMERGENCY CIRCUMSTANCES:**

A. **What Does “Just Cause” or “Emergency Circumstances” Mean?:**

Under AB 2449, “**just cause**” means that a legislative body member has a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner; a contagious illness; a need related to a physical or mental disability that is not otherwise accommodated; or travel while on official business of the legislative body or another state or local agency. “**Emergency circumstance**” means that a

legislative body member has a physical or family medical emergency that prevents them from attending the public meeting in person.

B. Procedures to Authorize Remote Participation:

1. JUST CAUSE:

a) A member must inform the legislative body as soon as possible (such as at the start of a regular meeting) that they need to participate remotely for just cause.

b) The member must provide a general description of the circumstances justifying remote participation.

c) NOTES:

○ The legislative body, itself, does not need to take formal action to authorize this type of remote participation.

○ Remote participation for just cause may only be used twice per calendar year per member.

2. EMERGENCY CIRCUMSTANCES:

a) The member must ask the legislative body to participate remotely due to emergency circumstances, and the body must take action to approve the request.

b) The member must provide a general description of the circumstances which does not generally have to exceed 20 words and which does not include any private medical information exempt under existing law.

c) NOTES:

○ A member must make a request to participate remotely as soon as possible and shall make a separate request for each meeting.

○ The legislative body can take action on the request at the earliest opportunity. If there is not enough time to include the request on the agenda, it may approve it by majority vote at beginning of the meeting after publicly identifying the request.

C. Requirements for Remote Participation for Just Cause or Emergency Circumstances:

A member of a legislative body may participate remotely for just cause or emergency circumstances only if the following requirements are met:

- The member's remote participation does not exceed more than 3 consecutive months or 20% of the regular meetings within a calendar year, or more than 2 meetings if the body regularly meets fewer than 10 times per year;
- The member states at the start of the meeting whether anyone 18 years of age or older is in the room with them and the general nature of their relationship;
- At least a quorum of the members participate in person from a single physical location identified on the agenda and which is open to the public and located within the jurisdictional boundaries of the body;
- The body provides at least one of the following ways for the public to remotely hear or see the meeting and to remotely address the body: a two-way audiovisual platform and/or a two-way telephonic service and a live webcasting of the meeting;
- Where notice of the time of the teleconferenced meeting is given or the agenda is posted, notice is provided of how the public may access the meeting and give public comment;
- The meeting agenda identifies and includes an opportunity for the public to attend and address the body directly via a call-in option, an internet-based service option, and in-person at the meeting;
- In the event of a disruption that prevents the body from broadcasting the meeting to the public using the call-in or internet-based options, or that prevents the public from using said options, the body does not take further action on items appearing on the agenda until such access is restored; and
- The body does not require public comments to be submitted in advance of the meeting and provides an opportunity for the public to address the body in real time.
 - NOTE: a person who wishes to provide public comment via a website or other online platform not under control of the legislative body that requires registration to log in may be required to register as required by the third-party.

II. WAIVED BROWN ACT REQUIREMENTS DURING REMOTE PARTICIPATION FOR JUST CAUSE OR EMERGENCY CIRCUMSTANCES:

If at least one member of a legislative body teleconferences for just cause or emergency circumstances, the following traditional rules under the Brown Act are waived:

- Posting agendas at all teleconference locations;
- Identifying each teleconference location in the notice and agenda of the meeting or proceeding; and
- Making each teleconference location accessible to the public.

These new teleconferencing procedures with “relaxed” Brown Act rules for just cause or emergency circumstances sunset on January 1, 2026, when the traditional teleconferencing rules will be the only option available to legislative bodies. Please contact our office should you have any questions or concerns on this new legislation.

MJK:kjm

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