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How to Run a Virtual Charter School Board Meeting During the Time of "Shelter in Place" Rules

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THE CHARTER LAW FIRM

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YM&C Firm Overview

- Partners have over 100 years of collective experience working with charter schools
- 35 attorneys working with charter schools throughout the state in all areas of charter school law (e.g., employment/labor, special education, nonprofits, litigation, audits, facilities, etc.)
- Represent most of California charter schools
- Conduct workshops for charter schools in all areas of legal compliance

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Governor's Executive Orders

A charter school board may hold teleconference meetings without adhering to all of the requirements of the Ralph M. Brown Act, Government Code Section 54950, et seq. (the "Brown Act").

Most of the Brown Act still applies!

The exceptions are with teleconferencing rules.

To make it easier for governing boards to convene meetings during this challenging time Executive Orders N-25-20 and N-29-20 allow the following flexibility in teleconference meetings.

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Governor's Executive Orders



- Agenda does not need to be posted at the teleconference location;
- The agenda does not need to provide notice of each teleconference location;
- No physical location for the meeting is required;
- All governing board members may participate in a teleconference from any location (jurisdictional requirements waived); and
- Governing board members may participate in a teleconference meeting from places that are not publicly accessible.


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Governor's Executive Orders



The charter school board may take advantage of this additional flexibility in teleconference meetings so long as the school complies with the following:

- The public is provided access to the meeting via either telephone line and/or website;
- Public notice is provided using the same time frames as the Brown Act requires (72 hours for a general meeting, 24 hours for a special meeting; 1 hour for emergency meeting); and
- The charter school uses its sound discretion and makes reasonable efforts to adhere, as closely as possible, to the other provisions of the Brown Act in order to maximize transparency and provide public access.


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Education Code 47604.1



Don't Forget Most of the Brown Act and New Law on Charter School Transparency are Still in Effect!

- The Public Records Act, Brown Act, Political Reform Act, and Government Code 1090 are applicable to charter schools and entities managing/operating charter schools.

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Education Code 47604.1

- Boards that manage multiple charter schools in more than one county must audio and/or video record the meeting and post it on the school website.
- Location requirements of Board meetings are currently waived.

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"Virtual" Issues

- What web format should be used and how do all Board members participate in a meeting?
- How should members of the public access the board meeting?
- How should public comment be handled?
- What to do if someone tries to take control of meeting or "Zoombombs" the meeting?

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Web Formats

- Zoom
- GoToMeetings (offers a translation service)
- Skype for Business
- Google Hangouts
- Join.me
- Zoho
- Nextiva

Just to name a few...

Zoom and GoToMeetings have encryption which is FERPA and HIPAA compliant – check with the others.

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Hosting a Meeting



- Start by going to <http://zoom.us/> and create an account for free or sign-in to an existing account




- If you do not have the Zoom app installed, select “Host a Meeting” to begin the installation; or
- If you *do* have the Zoom app installed, open it and sign-in to your account.




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Hosting a Meeting



- Click on the schedule icon




- Enter the topic, date, and time and select the settings you prefer;
- Select advanced options → to enable a required password and other security features

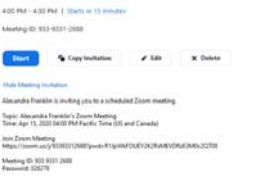

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Hosting a Meeting



- Click “Schedule”, which will schedule the meeting, and then click on the specific meeting and select “copy invitation”
- Go to your email platform, and place the copied invitation in the body of your email; it will have all of the meeting information for the participants to join.

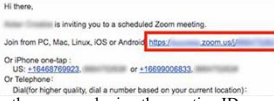




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The Ways to Join


- In order to join a Zoom meeting, you must receive the meeting ID; this can be provided to you by:
 - an email inviting you to join the meeting





- Or another person sharing the meeting ID or teleconferencing number with you.

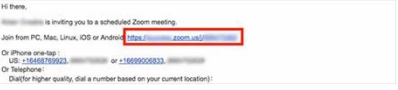
***Pro tip:** No account is necessary to join a meeting as a participant.



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Joining by Video if Installed

- To join a Zoom meeting on your computer or cellular device when Zoom is already installed, you will need to:
 - simply click on the link lined in red in the email invite to launch Zoom and join the meeting by entering the meeting ID





***Pro tip:** if Zoom suggests an update to the latest version, make the update. It will enable the application to operate at its full capability with any new features and fixes.

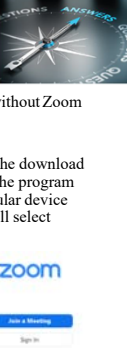

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Joining by Video for the First Time

- To join a Zoom meeting on your computer or cellular device without Zoom installed, you can either:
 - Click on the link lined in red in the email invite to initiate the download of Zoom, which on a computer will prompt you to “Run” the program and allow it to make changes to your device, and on a cellular device will take you to the app store, once this is complete you will select “Join a Meeting” and enter the meeting ID






OR....


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Joining by Video (Continued)

➤ Manually download the Zoom app for PC and Mac computers at <https://zoom.us/download> under “Zoom Client for Meetings” which on a computer will prompt you to “Run” the program and allow it to make changes to your device, once the download is complete you will select “Join a Meeting” and enter the meeting ID



or

➤ Manually download the Zoom app for cellular devices at <https://zoom.us/download> under “Zoom Mobile Apps” which will take you to the app store, once the download is complete you will select “Join a Meeting” and enter the meeting ID



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Virtual Background Video



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Joining by Audio

- To join a Zoom meeting by audio, simply call the telephone number listed in the invitation (as seen by the arrow pointing towards it below)
 - When the Zoom virtual attendant asks you, dial the meeting ID to enter the meeting

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Public Access



The Governor’s Executive Orders require a Board to provide public access to the meeting by either:


- Internet (web format)
- Telephone (conference call)

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Public Access



INTERNET ACCESS

- Provide the access internet address on the agenda:

“Members of the public who wish to access this Board meeting may do so at: <https://zoom.us/j/772030273?pwd=akxOL1lsUTRKR2pVajVFM2Fpem4UQT099>.”


Members of the public who wish to comment during the Board meeting may use the “raise hand” tool on the Zoom platform. Individual comments will be limited to three (3) minutes. If an interpreter is needed for comments, they will be translated to English and the time limit shall be six (6) minutes. The Board of Directors may limit the total time for public comment to a reasonable time. The Board reserves the right to mute or remove a member of the public if comments or actions disrupts the Board meeting.”

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Public Access



TELEPHONE ACCESS

- Provide the telephone access on the agenda:

“The Board of Directors and employees of the Best Charter School shall meet via the Zoom meeting platform. Members of the public who wish to access this Board meeting may do so by calling a conference telephone line (213) 555-5555.


Individuals wishing to provide public comment at this Board meeting must send their comments in writing to Board@bestcharter.org prior to the meeting or prior to the discussion of the Agenda item during the meeting – comments received after that point in the meeting will not become part of the record. In your email, please include whether you are commenting on non-agenda items or a specific agenda item (reference the agenda item number). Comments submitted by email will be read aloud during the Board meeting for up to three (3) minutes. If comments are in Spanish or another language, they will be translated to English and such comments will be limited to six (6) minutes. The Board of Directors may limit the total time for public comment to a reasonable time.”

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Public Comment




During meeting:

- Make sure to mute members of the public except during proper comment time. Have them muted upon entry on the format you use (web or telephone);
- Use "raise hand" feature in Zoom or similar feature on other platforms;
- If taking comment by email, make sure someone is monitoring address throughout meeting;
- Have the Chair set expectations for public comment at the beginning of the meeting. Recommend simply reading the agenda language.

If you are taping the meeting (either video or audio or both), the Board Chair should announce that at the start of the meeting so members of the public understand and have that expectation.

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Video on Muting Participants




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Helpful Settings

Screen Sharing: This will prevent anyone other than the host from sharing their computer screen during the meeting.




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Helpful Settings



Turn off Chat: To prevent a participant from posting chat message(s) that everyone can see uncheck the following settings:

Chat
 Allow meeting participants to send a message visible to all participants


Private chat
 Allow meeting participants to send a private 1:1 message to another participant.

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Helpful Settings



Prevent Removed Participants from Rejoining: This setting will prevent a removed participant from rejoining the meeting:


Allow removed participants to rejoin
 Allow previously removed meeting participants and webinar periods to rejoin.

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Helpful Settings



Prevent participants from renaming themselves: This will prevent participants from changing their screen name after joining the meeting:


Allow participants to rename themselves
 Allow meeting participants and webinar periods to rename themselves.

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"Zoom Bombers"



It is imperative that the Board takes and keeps control of their meeting.


- Remember: you cannot require members of the public to give their names to attend the meeting;
- You can only remove members of the public for being "disruptive"; and
- In virtual meetings, inappropriate behavior/words/photos/videos can be disruptive.

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"Zoom Bombers"




- Always make sure you are ready to mute and/or disconnect a member of the public during comment;
- Don't "jump the gun" – criticism is not "disruptive";
- It must be inappropriate:
 - Examples include pornography, being in the bathroom, rude language, or gestures.

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Sample Board Meeting



Video of a sample Zoom Board meeting

Watch for:

- Public comment via internet and phone;
- Taking roll and voting;
- Having staff present reports;
- Going into and out of closed session; and
- Dealing with a Zoom bomber.

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Sample Board meeting




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Sample Board Meeting



“Pro Tips” or Takeaways


- Practice, practice, practice before a meeting;
- Person who schedules the meeting has the control of Zoom and should be the “host”; and
- Remind everyone that they may be “on camera” at all times and that members of the public might be recording the meeting at home.

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Board Meeting Pro Tips




- Work as a team;
- Closed session must be confidential and private;
- One more Pro Tip:
 - Sharing documents and having a Co-Host

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Video on Screen Sharing




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Meetings



Brown Act Applies to Meetings of the Board:

- **Basic Definition:**
When any congregation of a majority of the members of the body meet to hear, discuss, deliberate, or take action on any item of Charter School business

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Meetings



Board Committees
Nearly all committees must comply with the Brown Act

Exception:

A Committee that is:

- Advisory (not decision making)
- Composed of only Board members
- Less than a quorum of the Board
- Must not be a standing committee

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Meetings

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- Remember: No Serial Meetings!
- Technology may result in meetings at times you might not expect
 - E-mails
 - Text messages
 - Social media
 - Website postings
 - Online forums
 - Telephone calls

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Meetings

Executive Compensation

Board approval of new contract for school leader must be approved in open session during a regular meeting.

Government Code Section 54953: Prior to final action, Board must verbally report a summary of the recommendation for salary, salary schedule, fringe benefits.

IRS Regulations: Show "due diligence" in determining "reasonable compensation" by having an Executive Compensation Survey produced.

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Notice Requirements

Notice and Agendas

General Rule: The agenda shall be posted properly in advance of a meeting and must include a brief description of items to be transacted or discussed. With a few exceptions, if an item is not on the agenda, the Board cannot discuss it.

Agenda must include:

- How to request disability-related accommodation
- Location for inspection of docs distributed to Board

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Notice Requirements

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Notice and Agendas

When?

- Regular meetings – 72 hours notice
- Special meetings – 24 hours notice
- Emergency meetings – 1 hour notice

Where to Post?

- Physically at a publicly accessible location within the jurisdiction during the entire posting period (waived during COVID-19)
- On the website – prominent, direct link on homepage

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Rights of the Public

Rights to enable access and participation

- Give oral testimony at meeting
 - Addressing disruptive speakers
- Audio record and broadcast
- Limitations on conditions of public attendance
- Copies of agendas and other public writings (best practice right now: post online with the agenda)

Govt. Code 54954.3(b)(2): Must provide 2x the time for public testimony to persons utilizing a translator to ensure equal opportunity.

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Closed Session

Requirements: Confidentiality is Required

- Use "Safe Harbor" agenda language (GC 54954.5)
- Prior to Closed Session:
 - Board Must Make a Public Announcement of Reasons for Closed Session Prior to Closed Session
 - Public Must Have an Opportunity to Comment
- In Closed Session: Confirm with each member that there is no one in the room listening in to virtual meeting.
- After Closed Session: Board must make a public report of action taken in closed session and vote or abstention of every board member.
- Only allow attendance of individuals who have a need to be in closed session discussing the item.

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Enforcement

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Complaints and Challenges

- Notice of Concern
 - Often brought by Charter Authorizer
 - Short turnaround to respond
 - Seek advice from legal counsel on response
- Notice and Demand for Cure or Cease and Desist
 - Can be brought by DA or member of the public
 - Board must cure/respond within 30 days
 - Seek advice from legal counsel on response

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Upcoming Critical Webinar

Critical Webinar on AB 1505 Related to Charter Renewal and New Charter Petitions

With recent seismic changes to our legal landscape, you may feel on shaky ground in seeking charter renewal or a new charter. YM&C remains your trusted partner and resource. Janelle Ruley (Partner) will present a detailed analysis of how AB 1505 has drastically changed the law regarding charter renewal and charter establishment, including how COVID-19 might impact charter renewal in 2020 and beyond.

Attend this no-cost webinar to learn what we anticipate the biggest hot spots will be and what strategies your school can take now to best position itself for success. Sign up at mycharterlaw.com

Date: Wednesday, April 22, 2020
Time: 10:30 a.m. – 12:00 p.m.
No Cost

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QUESTIONS AND RESPONSES

THANKS FOR ATTENDING TODAY!

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