



YOUNG, MINNEY & CORR, LLP

# LEGAL ALERT

## **Governor Signs Bill to Revise Brown Act's Remote Meeting Requirements New Provisions Take Effect October 1.**

*September 23, 2021*

Governor Newsom signed AB 361, a bill that revises the requirements for charter school boards conducting teleconference meetings from now through January 1, 2024, provided that a State of Emergency has been declared by the Governor and charter school boards make certain findings during each teleconference meeting. The Governor issued an Executive Order making the new law effective on **October 1, 2021**, and Charter schools should comply accordingly. **Note that the requirements of the bill are different from the Governor's prior Executive Order, so additional steps are required in order to maintain compliance.**

### **Recent Teleconference Rule Waiver**

In March 2020, Governor Newsom issued Executive Order N-29-20, which, among other things, temporarily suspended certain Brown Act teleconference meeting requirements for as long as public health agencies have imposed or recommended social distancing measures, as the COVID-19 pandemic has made them impracticable and unsafe. The Brown Act requirements that have been suspended since March 2020 include: (1) posting the agenda at the teleconference location; (2) posting each teleconference location on the agenda; (3) providing access to the public at each teleconference location; and (4) a quorum of the Board must be in the public agency's jurisdiction during the meeting. Prior to this Executive Order's expiration, the Legislature acted to codify Brown Act requirements during State emergencies.

### **AB 361 Reforms**

The primary effect of AB 361 is to allow public bodies to dispense with certain normally applicable Brown Act teleconferencing requirements wherever a public body holds a meeting during a proclaimed state of emergency and one of three conditions are met:

1. state or local officials have imposed or recommended measures to promote social distancing; or
2. the meeting is for the purpose of determining, by a majority vote, whether as a result of the state of emergency, meeting in person would present imminent risks to the health or safety of attendees; or
3. the body has determined, by a majority vote, that, as a result of the state of emergency, meeting in person would present imminent risks to the health or safety of attendees.

If one of these three circumstances apply, a charter school board can dispense with certain otherwise applicable teleconferencing requirements so long as the teleconference meetings are held in compliance with procedural and safeguards specified in the bill, including all of the following:

- Meet the standard notice and posting requirements contained in the Brown Act; and
- Allow the public to access the meeting and give notice for how the public can access the meeting and provide public comment; and
- Identify and include in the agenda an opportunity for all persons to attend via call-in or an internet-based service option; and
- Conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the charter school board; and
- Provide a public comment period where the public can address the charter school board directly in real-time and allow for public comment up until the period is closed; and
- Prohibition on any limitation of public comments to only those submitted in advance of the meeting; and
- In the event of a disruption that prevents the charter school from broadcasting the meeting or that prevents members of the public from offering public comment, the legislative body is prohibited from taking action on items appearing on the meeting agenda until public access to the meeting via the teleconferencing option is restored.
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AB 361 provides that if a state of emergency remains in place, a local agency must make the following findings by majority vote every 30 days, in order to continue using the bill's exemption to the Brown Act teleconferencing rules:

(A) The legislative body has reconsidered the circumstances of the emergency; and

(B) Either of the following circumstances exists:

(1) the state of emergency continues to directly impact the ability of board members to meet safely in person, or

(2) State or local officials continue to impose or recommend social distancing measures.

Charter school boards will therefore be required to vote every 30 days to make the required findings regarding the continuing emergency and vote to continue using the law's exemptions. We recognize that AB 361 contains implicit assumptions about meeting frequency, which may not be accurate for some charter school boards.

As always, the attorneys of Young, Minney & Corr are available to advise you as you continue to navigate these uniquely challenging times. Please feel free to reach out if you need advice on navigating the recent changes to Brown Act requirements or if you have any other questions regarding the effect of AB 361 on your operations.

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As always, the attorneys of Young, Minney & Corr are available to advise you as you continue to navigate these uniquely challenging times. Should you have any questions about this Legal Alert, please contact Jerry W. Simmons ([jsimmons@mycharterlaw.com](mailto:jsimmons@mycharterlaw.com)) or Janelle A. Ruley ([jruley@mycharterlaw.com](mailto:jruley@mycharterlaw.com)) via email or at (916) 646-1400. You can also view past Legal Alerts [here](#).