

Virtual Meetings Are Done; Long Live Teleconference/ Videoconference Meetings

February 28, 2023

On February 28, 2023, Governor Newsom ended the COVID-19 State of Emergency. For charter school boards, this means that, as of March 1, 2023, boards can no longer utilize the relaxed virtual meeting rules, to which we've become accustomed over the past three years. Charter school boards must now meet in-person, or in a hybrid fashion, with a standard teleconference or emergency/just cause videoconference rules, described below.

A State of Emergency was a condition precedent for Assembly Bill 361 (2021) virtual meetings; if a State of Emergency was in place, then charter school boards could make a finding that meeting in person would present imminent risks to the health of safety of attendees. With such a finding, charter school boards could hold virtual meetings without posting an agenda at each virtual location, allowing the public to access those locations, or meeting jurisdictional requirements (typically, the county where the charter school operates).

Now, with the State of Emergency ended, charter school boards revert to traditional Ralph M. Brown Act (the "Brown Act") rules, which strongly favor in-person meetings and only allow teleconferencing or videoconferencing if additional requirements are met.

Are There Exceptions to In-Person Meeting Attendance?

Yes! Charter school board members who cannot attend the meeting in person can utilize the standard teleconference rules under the Brown Act, which require:

1. All votes during the meeting must be taken by roll call
2. The agenda must identify the teleconference location(s)
3. The agenda must be posted at the teleconference location(s)
4. The teleconference location(s) must be accessible (in compliance with the Americans with Disabilities Act)
5. Members of the public must be permitted to address the Board directly at the teleconference location(s)
6. A quorum of the Board must be physically present within the jurisdiction during the meeting (see chart below)

Also! Assembly Bill 2449 (2022) created two (very limited) pathways for **emergency/just-cause videoconference** meetings. When an individual charter school board member has “just cause,”[1] or an “emergency,”[2] they can participate in the meeting remotely, without adhering to the standard teleconference rules.

Sound too good to be true? It just might be. The just cause and emergency options for **emergency/just cause videoconference** meetings: (a) can only be used on a limited basis (no more than twice in a calendar year for just cause, or the greater of two or 20% of the regular meetings in a calendar year, or three consecutive meetings); (b) require board approval or acknowledgment; and (c) in order to be used, at least a quorum of the board must be in-person, in a singular location within the charter school’s jurisdiction.

Additionally, emergency/just cause videoconference meetings also require: (1) a quorum of board members must attend the meeting in-person, from a singular location; (2) the charter school must make available and publish a link for the public to access the meeting virtually (which must be on the meeting agenda, meaning that boards should consider publishing a link for virtual participation for the public for every meeting); and (3) the member participating by emergency/just cause videoconference must announce the presence of any adults in the room.

The YMC team is standing by to assist the board through any kind of scenario that arises, with personalized legal advice.

Do We Have to Set Up Teleconference Locations at All Schoolsites and Resource Centers?

Yes. Charter schools, unique among all agencies that adhere to the Brown Act, are required to establish a two-way teleconference location at each school site and each resource center. While this requirement was effectively paused during the virtual meeting era, charter schools must once again observe it. Relevant requirements:

Board Operates	Jurisdiction	Teleconference	Recording Requirement?
One charter school	County where authorized	Each schoolsite and each resource center	No
One nonclass-room-based school	County where the greatest number of enrolled students reside	Each schoolsite and each resource center	No
Multiple charter schools, one county	County where authorized	Each schoolsite and each resource center	No
Multiple charter schools, multiple counties	County where the greatest number of enrolled students reside	Each schoolsite and each resource center	Audio, video, or both, posted on the website

[1] “Just cause” is defined as:

- A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires the member to participate remotely.

- A contagious illness that prevents a member from attending in person.
- A need related to a physical or mental disability as defined (see addendum for definitions) and not otherwise accommodated (e.g., through reasonable accommodations provided consistent with the Americans with Disabilities Act).
- Travel while on official business of the Board or another state or local agency.

[2] An “emergency” is defined as: A physical or family medical emergency that prevents a member from attending in person.

Contact YM&C with questions regarding this Legal Alert: [Jerry W. Simmons](#), ESQ., Partner or [Janelle A. Ruley](#), ESQ., Partner - 916.646.1400.