



Practical and Legal Issues with Video-Broadcasted Board and Council Meetings

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Agenda

- Brown Act Changes
- Accommodation of Disabilities
- Managing Public Comment and Public Hearings
- Language Translation





Brown Act Changes

Brown Act

- Executive Orders have suspended some procedural requirements due to COVID-19 emergency & need for social distancing.
- All other Brown Act rules remain in effect.
- Public transparency still a fundamental principle.

Governor's Executive Orders

Executive Order N-29-20 (March 17, 2020)

- Suspends any requirement for physical presence of board members or of the public at meetings.
- Establishes new requirements for conduct of telephonic or electronic meetings.

Executive Order N-35-20 (March 21, 2020)

- Provides more flexibility for board members to receive emergency updates.
- Does not permit discussion or action by quorum outside of duly noticed board meeting.

Requirements for Teleconference-Only Meetings

- Allow members of the public to observe and address the meeting “telephonically or otherwise electronically.”
- Implement, and advertise in posted meeting notice, procedure to “swiftly resolve” requests for reasonable accommodation of disabilities, and for “resolving any doubt whatsoever in favor of accessibility.”
- In the posted meeting notice, include “notice of the means by which members of the public may observe the meeting and offer public comment.”
- If there is a change in such means of public participation, advertise using “the most rapid means of communication available at the time,” including agency website.

Suspended Provisions

The following Brown Act requirements have been suspended:

- The requirement to notice each teleconference location from which members of the legislative body participate.
- The requirement that each teleconference location be accessible to the public.
- The requirement that members of the public may address the legislative body at each teleconference location.
- The requirement that at least one member of the legislative body be physically present at the meeting location.
- The requirement that during a teleconference meeting, at least a quorum of the legislative body participate from locations within the boundaries of the district.

Public Participation and Accessibility

- Managing Public Comments
 - Educational Institutions Only
 - Educ. Code § 72121.5 Community Colleges
 - Educ. Code § 35145.5 K-12 Public Schools
- Translation services & extra time for non-English speakers [Gov't Code 54954.3(b)(2)]

Accommodation of Disabilities

- Accessibility focuses on how a disabled person accesses or benefits from a site, system or application.
- Check your virtual meeting platform's services to ensure that they comply with the accessibility requirements of the Americans with Disabilities Act (ADA) by providing accessibility features in accordance with standards applicable to website and online content.
- Local governments must provide “auxiliary aids and services” when needed to communicate effectively with people who have communication disabilities. The Department of Justice has published guidance regarding what is required to communicate effectively pursuant to the Americans with Disabilities Act (ADA) <https://www.ada.gov/effective-comm.htm>.

Accommodation of Disabilities

Examples of accessibility tools for effective communication with persons with communication disabilities include the following:

1. For the visual accessibility, a video conferencing platform may support common screen readers such as NVDA, JAWS, VoiceOver, and Android Talkback. Additionally, visual interfaces are designed with adequate color contrast, size, and usage of color to ensure clarity for users with various vision needs.
2. For auditory accessibility, a video conferencing platform may provide a [Closed Captioning REST API](#) that streams captions directly into the Zoom interface. Zoom's Cloud Room Connector and Virtual Room Connector also provide support for displaying closed captioning on H.323 devices.
3. For physical accessibility, a video conferencing platform may be operable for users with mobility impairments by supporting keyboard accessibility and by designing interactions that do not require fine motor control. Keyboard shortcuts are customizable and can be enabled globally.

Conducting a Virtual Public Hearing

- Convene the public hearing, which must be properly noticed.
- “Gavel in” the public hearing.
- Call for public comment on the item that is the subject of the public hearing.
- Manage public comment according to the process utilized by your agency for public meetings conducted via online video conferencing.
- Announce conclusion of the public hearing and “gavel out” the public hearing.

Translation Services and Telephonic Meetings

- Please note a legislative body is still required by the Brown Act to provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the legislative body, unless simultaneous translation equipment is used to allow the body to hear the translated public testimony simultaneously.

Helpful Tips:

- Remember to call for public comment before voting on an action items;
- Facilitate public comment through various means to maximize public participation, i.e. email, video chat, telephone.
- Time, place and manner limitations on public comment remain in effect.
- Link to guidance on how to prevent “zoom-bombing” during your meeting:
- <https://security.berkeley.edu/resources/cybersecurity-and-covid-19/settings-preventing-zoom-bombing>

Brown Act Resources

- <https://www.aalrr.com/newsroom-alerts-3629>

Question & Answer Session

Thank You

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