

## Communication from Public

**Name:** Jillian Schultz

**Date Submitted:** 01/16/2023 04:00 PM

**Council File No:** 23-0002-S17

**Comments for Public Posting:** Although I am not speaking on behalf of my council today, I have been on the East Hollywood Neighborhood Council since 2017. I cannot emphasize enough how vital virtual meetings have been to our engagement and accessibility. We have seen a major uptick in public engagement in meetings at the committee level, as well as monthly governing board meetings. It has improved our ability to engage parents (or care givers of all sorts) because it allows participation without having to arrange alternative care (which can be logistically and financially challenging). Furthermore, it has allowed board members who may need to travel occasionally for work to remain engaged and not potentially jeopardize quorum by being away from LA when meetings are scheduled. It has essentially allowed all of us to show up more consistently and effectively for our communities. I know I am not alone when I say that I will struggle to remain on the neighborhood council if hybrid or virtual meetings do not remain an option. It is a disservice to the city and the community to take a step backward in this regard. We need to amend the Brown Act to give neighborhood councils the option to keep meeting virtually. Thank you for your time.

## Communication from Public

**Name:** LIONEL MARES

**Date Submitted:** 01/16/2023 02:33 PM

**Council File No:** 23-0002-S17

**Comments for Public Posting:** Dear City Council Members: I am writing to strongly urge you to allow the Neighborhood Councils the option to meet virtually. I am a Board Member of SVANC, but I am commenting as an individual. Virtual meetings have given people the opportunity to attend government meetings and to get involved in the political process in more ways than ever before. It has given people an avenue to express their concerns and voice their opinion. Virtual meetings give people access to attend government meetings and participate in political discourse. Virtual neighborhood council meetings have made the process much more accessible and more "democratic" by giving people the freedom and the opportunity to participate in civil discourse. We need to amend the California Ralph M. Brown Act, commonly known as the "Brown Act", to give Neighborhood Councils the option to keep virtual meetings. By doing so, we give people a voice in what they have to say and express. Democracy needs to be heard! Sincerely, LIONEL MARES

December 16, 2022

# A Guide To Brown Act Changes Starting January 1, 2023

Kevin Davis, Greta Proctor

Procopio, Cory, Hargreaves & Savitch LLP

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The Legislature passed three bills in 2022 that made changes to the Ralph M. Brown Act (“Brown Act”) effective January 1, 2023, summarized below. The Brown Act requires meetings of a local public agency’s governing body to be open and public, including charter schools. The new changes address board members’ remote participation in meetings (Assembly Bill 2449), removal of disruptive individuals from meetings (Senate Bill 1100), and circulation of public meeting materials (Assembly Bill 2647).

In addition, the Governor has announced that California’s current COVID-19 state of emergency will end February 28, 2023. If and when the emergency ends, agencies will no longer be able to trigger Assembly Bill 361’s remote meeting procedures in reliance on that emergency.

The upcoming changes are summarized below, to help schools and public agencies ensure they are prepared.

## **End of Current State of Emergency, and New Remote Participation Rules (Assembly Bill 2449)**

As of December 2022, many local public agency boards continue to hold wholly virtual board meetings as a result of the COVID-19 pandemic. Boards are expressly allowed to do this during a state of emergency by making specific findings under Assembly Bill 361 (2021). However, Governor Newsom announced that the COVID-19 state of emergency will end on **February 28, 2023**. If and when the state of emergency ends, agencies will no longer be able to trigger AB 361’s remote meeting procedures in reliance on that COVID-19 emergency.

Even after the state of emergency ends, board members may continue to participate remotely by telephone and/or videoconference under the Brown Act teleconference rules that existed before the pandemic. Those teleconference rules are found in Government Code section 54953(b).

Beginning January 1, 2023, Assembly Bill 2449 (AB 2449) also allows individual board members to participate in meetings remotely during “emergency circumstances,” such as physical or family medical emergencies, or for “just cause,” including childcare or caregiving needs, contagious illness, a disability, or travel on official agency business. Unlike the traditional teleconference rules, AB 2449 allows a board member to remotely participate without as much pre-planning. The board member’s teleconference location does not need to be posted on the meeting notice or agenda, and does not have to be open to the public. However, **all** of the following requirements apply when a board member is using the new AB 2449 rules:

- At least a **quorum of the board must participate in the meeting from a single physical location** that is identified on the notice and agenda, is open to the public, and is located within the jurisdiction. This is different from the traditional teleconference rules where a quorum of the board must be within the jurisdiction but not necessarily all at one physical location.
- The agenda must **provide an option for members of the public to participate in the meeting remotely by phone and internet, e.g. a dial-in number and link**, in addition to public participation at the physical location. It is permissible for third-party website or internet platform providers to require the public to register/log-in. The public **must be able to comment in real-time**, and the board cannot require submission of comments in advance.
- The board member using AB 2449 must notify the agency at the earliest opportunity possible, even at the start of the meeting. A separate request and disclosure is required for each meeting. The **disclosure must include a general description of the need to participate remotely**, provided that they need not disclose any medical diagnosis or disability, or personal medical information. At the meeting before any action is taken, the board member must **publicly disclose whether any adults are present in the room with the board member**, and the general nature of the person’s relationship.
- The board member must participate remotely by **audio and video**.
- A board member may only participate remotely based on “just cause” for **two meetings per calendar year**.
- In addition, a board member **may not participate remotely under AB 2449 for more than three consecutive months, or for 20 percent of the regular meetings within a calendar year**. If the governing body meets 10 or fewer times per year, each board member may only use AB 2449 twice per year.

- If the broadcast of the meeting or the public’s ability to comment via call-in or internet-based options is **disrupted, the board cannot take further action until restored**. Any actions taken during disruption may be challenged.

Because of the many conditions for using AB 2449, we expect the traditional teleconference rules under the Brown Act may continue to be the go-to rules for board members seeking to participate remotely in meetings. AB 2449 sunsets on January 1, 2026.

### **Distribution of Public Meeting Materials (Assembly Bill 2647)**

Assembly Bill 2647 (“AB 2647”) makes small changes to the requirements for agencies distributing board meeting materials to board members within 72 hours of a meeting. Currently, meeting materials distributed during the 72-hour window ahead of a regular meeting must be made available for public inspection at the office or agendized location at the same time they are distributed to a majority of the board, which can raise practical issues when documents are emailed and/or agencies are working remotely. AB 2647 gives agencies flexibility to instead post such materials online, so long as **all** of the following requirements are met:

- Posting online is only sufficient if the agency had **previously posted an initial staff report or similar document with an executive summary and staff recommendation (if any) relating to the agenda item** at least 72 hours before the meeting, at the office or meeting location identified on the agenda.
- The meeting materials are **immediately posted on the website in a way that makes it clear they relate to the same agenda item for the upcoming meeting**.
- The **web address is listed on all meeting agendas**.
- **Physical copies of the meeting materials are made available for public inspection at the next regular business hours**, at the office or meeting location designated in the agenda, and **only if the next regular business hours commence within 24 hours** (i.e., cannot be done from a Friday to a Monday).

### **Removal of Disruptive Individuals (Senate Bill 1100)**

Senate Bill 1100 (“SB 1100”) amends the Brown Act to authorize the presiding board member (e.g., the board chair) to remove disruptive individuals from a board meeting, so long as the individual is first warned by the presiding board member that their behavior is disrupting the meeting and failure to cease such behavior may result in removal. If the behavior does not promptly cease, the individual may be removed.



“Disrupting” is defined as engaging in behavior during a meeting of a legislative body that actually disrupts, disturbs, impedes, or renders infeasible the orderly conduct of the meeting. This includes failure to comply with regulations adopted by the board or engaging in behavior that constitutes the use of force or a true threat of force. “True threat of force” means a threat that has sufficient indicia of intent and seriousness, that a reasonable observer would perceive it to be an actual threat to use force by the person making the threat.

SB 1100 is in addition to existing Brown Act procedures for clearing the room when meeting order cannot be restored, as well as existing rights for agencies to adopt reasonable regulations on disruptive conduct.

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## Communication from Public

**Name:** Kristen Egermeier

**Date Submitted:** 01/16/2023 10:01 AM

**Council File No:** 23-0002-S17

**Comments for Public Posting:** As a board member of SLNC, I have found it to be necessary to keep virtual meetings as an option. A hybrid version would be the most democratic, allowing more people to participate in their community. I also think that pushing in person meetings with a virtual option should be retained for the upcoming board. It allows both board members and community members to participate on a more equitable level.

## Communication from Public

**Name:**

**Date Submitted:** 01/16/2023 10:38 AM

**Council File No:** 23-0002-S17

**Comments for Public Posting:** Virtual neighborhood council meetings have made the process much more accessible and democratic. We need to amend the Brown Act to give neighborhood councils the option to keep meeting virtually.

## Communication from Public

**Name:** Christine Louise Mills

**Date Submitted:** 01/16/2023 11:08 AM

**Council File No:** 23-0002-S17

**Comments for Public Posting:** I am writing as an individual to express support for CF 23-002-S17. As a working mom, virtual neighborhood council meetings provide important access, and have allowed me to participate in my Neighborhood Council. Virtual meetings have allowed me the opportunity to serve on my neighborhood council as Treasurer, Executive Committee member, Finance Committee chair, and as a member of our Grants and Community Impact Statements committee. I am also the liaison for the Neighborhood Council Sustainability Alliance. None of this would be possible without the option to join meetings virtually. I hope we can have the option for virtual meetings, so that committees can have the flexibility to meet online. This is particularly helpful with grant applicants who might otherwise have to travel long distances to speak about their proposal. I am also concerned about the carbon footprint of a full in-person return, from vehicle traffic to printing multiple hard copies of supplemental documents. Serving on an NC is demanding unpaid work, that is made more manageable with the virtual option. We need to amend the Brown Act to give neighborhood councils the option to keep meeting virtually.

## Communication from Public

**Name:** Ann Dorsey

**Date Submitted:** 01/16/2023 12:36 PM

**Council File No:** 23-0002-S17

**Comments for Public Posting:** I support the continuation of virtual Neighborhood Council meetings. Virtual meetings promote involvement in the Neighborhood Council system on many levels. They provide an opportunity for a greater diversity of board members, community attendance at meetings and presenters providing information. Virtual meetings also relieve boards of the burden of finding a place to hold meetings and paying rent. This allows for more funding of beneficial community projects. Thank you for your support. Ann Dorsey Northridge, CA 91325

## Communication from Public

**Name:** Mike Royce

**Date Submitted:** 01/16/2023 12:36 PM

**Council File No:** 23-0002-S17

**Comments for Public Posting:** Please amend the Brown Act to give neighborhood councils the option to keep meeting virtually! It's so much more democratic and good for our communities.