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COVID-19 Advisory



Impact of COVID-19 on (Revised) Rules For Telephonic Board Meetings

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On Tuesday night, Governor Newsom issued Executive Order N-29-20 modifying prior changes to the Brown Act made by Executive Order N-25-20. The new order allows governing boards to hold meetings by teleconference without the need for a physical location from which members of the public would be able to observe or comment on the meeting. This addresses questions raised about providing such locations in light of social distancing and shelter-in-place orders.

While the new order supersedes the prior version, it continues to suspend the requirements to notice the location of a member attending by phone, to post an agenda at that location, and, perhaps most importantly, to ensure that the location is open and accessible. In other words, board members may call into a board meeting from their homes without having to notice the location or open the location to the public. Further, the new order still waives the requirement that a quorum of the board be physically located within the district boundaries during a meeting.

Further, the new order removes the prior requirement that the district “notice at least one publicly accessible location from which members of the public shall have the right to observe and offer public comment at the public meeting.” Instead, any requirement to provide for a location at which the public may observe and comment on a meeting may be met by allowing the public to observe and address the meeting electronically.

If a board wishes to take advantage of this flexibility, it must still provide notice of its meetings. Further, such notice must indicate the electronic means by which members of the public may observe the meeting and offer public comment. For example, if the board plans to use a videoconference service or teleconference number, that information along with any procedure for organizing public comment should be included in the agenda.

Additionally, the district will need to determine how it will receive and “swiftly” resolve any requests for reasonable modification or accommodation for individuals with disabilities who wish to observe the meeting and offer public comment. At a minimum, this must include language on the agenda providing information regarding how members of the public may request such modification or accommodation.

We hope this guidance is helpful in this time of uncertainty. DWK will continue to provide guidance as information becomes available. For more information regarding the impact of COVID-19 on your district’s operations, please visit our COVID-19 Resources page at <https://www.dwkesq.com/covid-19-resources-page/>.

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