

OPEN BOARD MEETINGS IN A WORLD OF SCHOOL CLOSURES

How to lawfully and effectively hold virtual school board meetings

May 1st , 2020



TODAY'S PRESENTERS

- Mike Smith, Lozano Smith, Founding Partner
- William Tunick, Dannis Woliver Kelley, Shareholder
- Bob Tuerck, CSBA, Assistant Executive Director of Policy and Governance Technology Services
- Mike Ambrose, CSBA, Associate General Counsel

BROWN ACT AND MEETINGS



WHAT DOES THE BROWN ACT REQUIRE?

- Actions & deliberations taken openly & in public
- Meetings are public, unless closed session is allowed
- Meeting agendas and packets must be available
- Agenda posted on district website





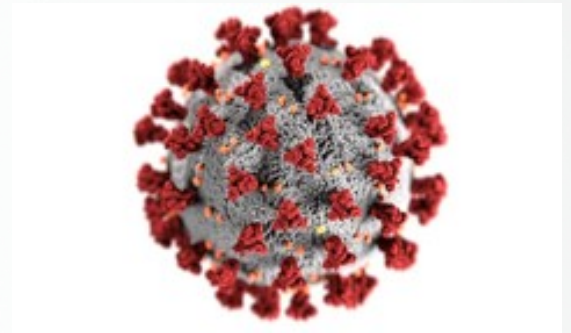
WHAT IS A MEETING?

- Majority of the members at the same time and place to hear, discuss or deliberate any item in district's jurisdiction

WHAT IS **NOT** A MEETING?

WHAT IS NOT A MEETING: COVID-19

- COVID-19 updates from federal, state or local officials



THREE TYPES OF MEETINGS

- Regular, special and emergency meetings
- Not all discussions about COVID-19 necessarily qualify as an “emergency situation”



MEETING IN COVID-19 ERA



REQUIREMENTS FOR HOLDING A MEETING



- *No change* in purpose
- *No change* to limits on closed sessions
- *No change* to notice periods
- *No reduction* in agenda requirements

TELEPHONIC MEETINGS: PRE-COVID-19 ERA



- ✓ Location must be open and accessible to the public
- ✓ Agenda shall identify all locations
- ✓ Agenda must be posted at all locations
- ✓ Public comment at all locations
- ✓ Majority must be within the boundaries
- ✓ All votes by roll call
- ✓ Address potential technical problems

DIALING IT IN... THE COVID-19 ERA



- ~~✓ Location must be open and accessible to the public.~~
- ~~✓ Agenda shall identify all locations.~~
- ~~✓ Agenda must be posted at all locations.~~
- ~~✓ Public comment at all locations.~~
- ~~✓ Majority must be within the boundaries.~~
- ✓ All votes by roll call
- ✓ Address potential technical problems
- ✓ Provide ability to “observe and address ... telephonically or otherwise electronically”
- ✓ Provide notice of method(s)
- ✓ Indicate procedure for resolving accessibility requests

ELECTRONIC MEETINGS

- Various models:
 - Telephone
 - Videoconference/livestream
- New challenges:
 - Meeting logistics
 - Record creation
- Hybrid meetings

PUBLIC PARTICIPATION



PUBLIC PARTICIPATION

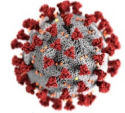
- Board meeting IS:
 - Meeting of the Board in public to conduct the agency's business
- Board meeting is NOT:
 - A meeting of the public
 - A townhall meeting
 - A press conference



PUBLIC PARTICIPATION OPPORTUNITIES

- Public comment on open and closed session agenda items
- Public comment on items not on the agenda
- Special v. regular meeting public comment rules

PUBLIC COMMENT AND COVID-19



- How does public comment work with virtual board meetings?
- No physical board meeting location required.
- Public must be able to comment “telephonically, or otherwise electronically”
- Agenda Considerations: Provide details

PUBLIC COMMENT OPTIONS: VIRTUAL BOARD MEETINGS

- Emails in advance of the board meeting (read or distribute to the Board)
- Voice mail messages in advance of the board meeting (read or transcribe)
- Live telephonic public comment (Call-in numbers at designated time)
- Live comments if video streaming on Zoom or similar platform
- Use all or the above, any combination, or only one alternative
- Note: Designate a person to read public comments (Use a script/disclaimer)
- Posting public comments: Lawful but not required or advised
- Tell the public in your agenda how to comment
- First Amendment Considerations

ADDITIONAL RESOURCES

- Board Bylaw 9130 - Board Committees
- Board Bylaw 9320 - Meetings and Notices
- Board Bylaw 9321 - Closed Session
- Board Bylaw 9322 - Agenda/Meeting Materials
- Board Bylaw 9323 - Meeting Conduct
- Board Bylaw 9323.2 - Actions by the Board
- Board Bylaw 9324 - Minutes and Recordings

COVID-19 WEBINAR SERIES

- **Going the Distance to Bridge the Digital Divide**

May 8, 2020 at 1:00 p.m.

Strategies for implementation and instruction when distance learning is the new normal

- **Special Education in Extraordinary Times**

May 13, 2020 at 1:00 p.m.

Serving students with disabilities during a pandemic

- **Supporting Student Well-Being from Afar**

May 20, 2020 at 1:00 p.m.

Caring for students' mental and physical health during school closures

Please visit www.csba.org/coronavirus for registration information, links to past presentations and slide decks.

CSBA COVID-19 RESOURCES

csba

Updates Resources Ask Questions FAQ Advocacy Surveys CSBA

COVID-19 News and Resources

Updates Resources Ask Questions FAQ Advocacy

CSBA would like to commend California's education leaders for confronting the challenges presented by the novel coronavirus (COVID-19). We understand these are demanding times with innumerable questions and few easy answers. As the organization representing nearly 1,000 school districts and county offices of education, we hope to provide — to the extent possible — clarity, resources and relief. Thank you for sharing your knowledge, passion and concern; these are some of the greatest assets we have as we care for and educate California's 6.2 million public school students during a time of profound crisis.

Recent Updates

April

- 4/27/20: U.S. Dept. of Ed. News Release: Secretary DeVos Reiterates Learning Must Continue for All Students, Declines to Seek Congressional Waivers to FAPE, LRE Requirements of IDEA
- 4/27/20: U.S. Dept. of Ed. News Release: Secretary DeVos Launches New Grant Competition to Spark Student-Centered, Agile Learning Opportunities to Support Recovery from National Emergency
- 4/27/20: On the CSBA blog: Board member electronic communications in the virtual world of COVID-19
- 4/24/20: On the CSBA blog: New report projects significant learning loss due to COVID-19 school

COVID-19 Webinar Series

Governance and Guidance in the Age of COVID-19
Examination and interpretation of state and federal guidance related to COVID-19

[Watch Now](#)

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How to lawfully and effectively hold virtual school board meetings

May 1 at 1:00 p.m. | [Register Now](#)

www.csba.org/coronavirus

**THANK YOU FOR JOINING US
TODAY.**

