

Upcoming Brown Act Changes During Spring 2023

Key Highlights

- Starting in March, Brown Act meetings have to meet in-person again.
 - The governor's Covid-19 related state of emergency is set to expire February 28, which will mean AB 361 no longer applies unless there is a new Governor declared state of emergency that calls for social distancing.
- If AB 361 no applies, then AB 2449 only very slightly relaxes regular Brown Act teleconference requirements and actually adds some new restrictions.
 - The general purpose of AB 2449 is to ensure that all Brown Act bodies are meeting in-person and strictly limits how many times a voting member can participate virtually in a calendar year.
 - For a Brown Act meeting to occur while using AB 2449, **there has to be a quorum of voting members in a single physical location.**
 - For Academic Senate, **a voting member could only participate virtually two times for “just cause” and once for “emergency circumstances” in a calendar year.** See below for some of the additional restrictions on virtual participation by voting members.

AB 2449 Key Details

- For a voting member to join virtually without following the traditional Brown Act teleconference requirements, they have to notify the Senate/body of “just cause” or “emergency circumstances”
 - Just cause can only be used by an individual twice for the same Senate/body in a calendar year.
 - If “just cause” is cited, then the individual only needs to refer to one of the four specified reasons.
 - “Just cause” reasons:
 - (A) A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires them to participate remotely.
 - (B) A contagious illness that prevents a member from attending in person.
 - (C) A need related to a physical or mental disability as defined in Sections 12926 and 12926.1 not otherwise accommodated by subdivision (g).
 - (D) Travel while on official business of the legislative body or another state or local agency.
 - If “emergency circumstances” is cited, then the Senate/body would have to vote to approve remote participation during the meeting.
 - Notice that the only reason to use “emergency circumstances” is if a member wanted to participate virtually (without following the traditional teleconferencing rules) for more than two meetings in a calendar year.

- The “emergency circumstance,” requires an approximately 20-word written explanation that would be voted on by the Senate during a meeting.
- Members can notify the body of either “just cause” or “emergency circumstances” up to the very beginning of the meeting. So approving an emergency circumstance action is an exception to the usual 72-hour Brown Act notice of action items.
 - But this exception is constrained by the fact that if a majority of a Senate tried to participate remotely for the same meeting, then the meeting wouldn’t make quorum.
- **If a voting member is using the AB 2449 just cause or emergency circumstances provisions to join virtually, then they are required to have their video on during the meeting.**
- **Members participating through remote teleconferencing are also required to publicly disclose at the meeting before any action is taken whether any other individuals 18 years of age or older are present in the room at the remote location with the member and the general nature of the member’s relationship with the individual.**
- You can see these restrictions noted on pages 7 and 11 of the AB 2449 chaptered legislation
 - See the December 8 Academic Senate meetings material section for the complete AB 2449 legislation.
- If AB 2449 is being used, then Academic Senate must also provide a video feed of the physical location at which the main meeting is happening. It cannot be only audio.

Here is the [law firm web article write up](#) that State Academic Senate were partly informed by during their Webinar. It covers even more technical details.