

*AB 2449 FAQ and Checklist for Clerks of Legislative Bodies***Frequently Asked Questions Regarding AB 2449 Teleconferencing Authority****Overview**

AB 2449¹ implements a temporary exception, based on the circumstances of individual members of a legislative body, authorizing members of legislative bodies of local agencies to meet by teleconference without strict compliance with the traditional notice and physical access requirements of the Brown Act.² This FAQ (pages 1-3) and Checklist (pages 4-5) are intended to provide a resource for clerks of local agency legislative bodies in administering potential teleconferencing under AB 2449. Please contact the your RWG attorney with questions.

What about the authority to teleconference under AB 361?

Since September 2021, AB 361 has provided authority for local agencies' legislative bodies to meet via teleconference without strict compliance with the traditional notice and physical access requirements of the Brown Act. Among other requirements, a necessary pre-condition for AB 361 is that there must be a "proclaimed state of emergency" when the meeting is held. The Governor announced plans to lift the COVID-19 state of emergency on February 28, 2023. Once the state of emergency is lifted there will be no active proclaimed state of emergency to support use of AB 361 teleconferencing authority. Until the state of emergency is lifted, the local agencies may rely on AB 361 if all AB 361 requirements, such as making periodic findings, are met.

Does AB 2449 replace the standard Brown Act teleconference requirements?

No, AB 2449 provides a limited, and temporary (from January 1, 2023 through until January 1, 2026) alternative to the traditional teleconference requirements. Thus, members may still participate by teleconference without following these procedures, but the standard Brown Act teleconference requirements would apply, such as the requirements to (i) notice each teleconference location of each member that will be participating in the public meeting, (ii) make each teleconference location accessible to the public, and (iii) post an agenda at each teleconference location.

Is there a physical meeting requirement to teleconference under AB 2449?

Yes, at least a quorum of the members of the legislative body must participate in person from a singular physical location within the jurisdiction of the agency that is clearly identified on the agenda and open to the public. Thus, it is important to ensure that a physical quorum of members of a legislative body is secured ahead of each meeting. AB 2449 did not change the requirements under the standard teleconference rules that requires a quorum to be within the jurisdiction, but not all in one singular location, or AB 361 which does not require a quorum to be present in a singular location.

¹ [AB 2449](#): Government Code Section 54953, paragraphs (f) through (j) [1/1/2023 to 1/1/2024]; Government Code Section 54953, paragraphs (e) through (i) [1/1/2024 to 1/1/2026].

² [Standard Brown Act Teleconference Requirements](#): Government Code Section 54953, paragraph (b).

What member circumstances allow for AB 2449?

The member(s) requesting the ability to participate remotely must meet one of the following circumstances:

1. Just Cause Circumstances. Meaning one of the following conditions prevents the member from attending in person:
 - A. A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner.
 - B. A contagious illness.
 - C. A need related to a physical or mental disability not otherwise accommodated.
 - D. Travel while on official business of the legislative body or another state or local agency.
2. Emergency Circumstance Request. Meaning the member has a physical or family medical emergency that prevents them from attending in person.

The legislative body must take action to approve a request for a member to participate remotely due to Emergency Circumstances.

What steps does a member have to take to participate remotely under AB 2449?

Beyond the circumstantial requirements noted above, a member seeking to teleconference pursuant to AB 2449 must do all the following:

1. Notify the Legislative Body. The member must notify the legislative body and staff at the earliest opportunity possible of their need to participate remotely. This may include the start of a regular meeting if they are not able to do so sooner.
2. Briefly Describe the Circumstance. The member must give a general description of the circumstances relating to their need to appear remotely at the given meeting. A general description of an item generally need not exceed 20 words and shall not require the member to disclose any medical diagnosis or disability, or any personal medical information that is already exempt under existing law.
3. Disclose Presence of Other Adults. The member must 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 any such individuals.
4. Participate with Video On. The member must participate through both audio and visual technology.

What must be done to take action on Emergency Circumstances Request?

1. Staff Must Agendize Item if Time Allows. Because there is an action of the body required to approve an Emergency Circumstances Request, the item should be agendized if sufficient time allows. So, if staff is advised of the need for the body to consider an Emergency Circumstances Request before an agenda is posted (72 hours before a regular meeting or 24 hours before a special meeting), the agenda should include this item of business. Consider the following template agenda language:

Consideration of approval of a request to participate in the meeting remotely due to emergency circumstances pursuant to AB 2449.

If the timing of the member's request does not allow sufficient time to place the proposed action on the request on the posted agenda for the meeting for which the request is made, the legislative body may nonetheless take action at the beginning of the meeting.

2. Legislative Body Must Take Action on Emergency Circumstance Request. If a member requests the legislative body allow them to participate in the meeting remotely due to Emergency Circumstances, then the legislative body must take action on the request to participate remotely at the earliest opportunity. Thus, for a member to participate remotely due to Emergency Circumstances, the body must approve such a request. There is no such action required for Just Cause Circumstance remote participation.

If the body approves the request and all other requirements are met, the member may meet remotely pursuant to AB 2449. If the request is denied, then the member may not meet remotely pursuant to AB 2449.

Is there a limit to how often members may use AB 2449 remote participation?

Yes, there is a limit on total remote participation and a limit on participating remotely due to Just Cause Circumstances. Staff should therefore keep track of a member's remote participation in a calendar year, the circumstances cited to participate remotely, and the number of regular meetings in a calendar year to ensure the limits below are not exceeded.

A member may not participate remotely due to Just Cause Circumstances more than two meetings per calendar year.

Additionally, regardless of the circumstances, a member may not participate remotely for more than three consecutive months or 20 percent of the regular meetings for the local agency within a calendar year. And, if the legislative body regularly meets fewer than 10 times per calendar year, then the member may only participate remotely for no more than two meetings.

What other requirements are imposed on AB 2449 meetings?

To conduct a meeting under AB 2449, Brown Act requirements not related to teleconferencing still apply. Additionally, meetings must be noticed and held in a manner that ensures public access to the meeting by teleconference similar to the requirements of AB 361. These requirements are listed as "meeting access requirements" in the following Checklist.

AB 2449 Checklist

To comply with AB 2449, all the requirements listed in the checklist below must be met:

At least a quorum of the members of the legislative body are participating in person from a singular location within the jurisdiction of the agency.

Either (i) Just Cause Circumstances or (ii) Emergency Circumstances, detailed below, apply:

(i) if Just Cause Circumstances (*the member is prevented from attending in person due to: (a) a childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner; (b) a contagious illness; (c) a need related to a physical or mental disability not otherwise accommodated; or (d) travel while on official business of the legislative body or another state or local agency*):

Member has notified the legislative body at the earliest opportunity possible of their need to participate remotely for just cause;

Member has provided a general description of the circumstances relating to their need to appear remotely at the meeting; and

Member has not already met remotely due to just cause circumstances for more than two meetings.

(ii) if Emergency Circumstances (*the member has a physical or family medical emergency that prevents them from attending in person*):

Member has requested that the legislative body allow them to participate in the meeting remotely due to emergency circumstances;

Member has provided a general description of the circumstances relating to their need to appear remotely at the given meeting;

If request is received in advance of the agenda posting, agenda must include as an item of business the bodies action on the request to participate remotely; and

The legislative body takes action on a request to participate remotely at the beginning of the meeting. If approved, member may participate remotely as a member of the legislative body. If denied, then the member may not participate remotely except as a member of the general public.

Member has not exceeded the authorized meetings at which they may participate remotely, including any of the following as applicable:

A period of more than three consecutive months;

20 percent of the regular meetings for the local agency within a calendar year; or

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- More than two meetings, if the legislative body regularly meets fewer than 10 times per calendar year.
- Member states on the record at the beginning of each public meeting the request for a member to participate remotely under AB 2449 – either for “just cause” or due to an “emergency circumstance.”
- Member publicly discloses 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 any such individuals.
- Member participates through both audio and visual technology.
- Meeting access requirements are followed:
 - The public is allowed to remotely hear and visually observe the meeting, and remotely address the legislative body through either (i) a two-way audiovisual platform or (ii) a two-way telephonic service and a live webcasting of the meeting.
 - Notice of meeting and the posted agenda must indicate the means by which members of the public may access the meeting and offer public comment.
 - The agenda must identify and include an opportunity for all persons to attend and address the legislative body directly via a call-in option, via an internet-based service option, and at the in-person location of the meeting.
 - No action may be taken on items if there is a disruption that prevents the legislative body from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or if there is a disruption within the local agency’s control that prevents members of the public from offering public comments using the call-in option or internet-based service option, until the public access to the meeting is restored.
 - The public must have the opportunity to address the legislative body and offer comment in real time. The agency cannot require public comments to be submitted in advance of the meeting.
- All votes taken during the teleconferenced meeting must be by rollcall.