

CALAVERAS PUBLIC UTILITY DISTRICT POLICIES

Policy Name:	4240 – BOARD MEMBER REMOTE ATTENDANCE AT BOARD MEETINGS (TELECONFERENCING POLICY)		
Approval Authority:	CPUD BOARD OF DIRECTORS	Adopted:	3/14/2023
Resolution No.	2023 - 04	Revised:	

PURPOSE

This Policy shall govern the use of teleconferencing and other means of remote video participation (e.g., Zoom or Microsoft Teams) for Directors’ attendance of Meetings of the Calaveras Public Utility District Board of Directors. The General Teleconferencing Policies (Section 3) and Standard Teleconferencing Procedures (Section 4) shall apply in all instances, except when (1) a Board member has either “just cause” or an “emergency circumstance” so as to permit the use of the Expanded Teleconferencing Procedures (Section 5) or (2) a State of Emergency issued by the California Governor is in effect sufficient to trigger the use of the Emergency Teleconferencing Procedures (Section 6).

POLICY STATEMENT

Section 1. General

Assembly Bill 2449, effective January 1, 2023, allows for a minority of a District Board of Directors to meet remotely without noticing or providing public access to their remote meeting location under modified Brown Act requirements, provided that the District abides by the strict substantive and procedural requirements within the legislation. The District may avail itself of the alternative agenda posting and teleconference requirements, potentially making it easier for the District Board of Directors to participate in a meeting remotely under certain circumstances that would have otherwise precluded that participation.

Section 2. Definitions

Unless otherwise defined herein, the following definitions shall apply to this policy:

Brown Act / Ralph M. Brown Act – shall refer to Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the California Government Code, known as the “Ralph M. Brown Act” pursuant to Government Code section 54950.5, as such shall be amended from time to time.

Member – shall mean a duly elected or appointed Director of the Calaveras Public Utility District Board of Directors.

Meeting – shall mean a duly noticed regular, special or emergency meeting of the Board of Directors subject to the Brown Act.

State – shall mean the State of California.

State of Emergency – shall mean a state of emergency proclaimed by the California Governor or such others as may be empowered pursuant to Section 8625 of the California Emergency Services Act, as set forth in Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2 of the California

Government Code.

Teleconferencing – attendance from different locations, other than the physical location of a meeting, by way of an audio device, whether it be telephone, audio-only internet connection, or otherwise.

Videoconferencing – attendance from different locations, other than the physical location of a meeting, by way of a dual audio and visual device, whereby participants can be both seen and heard. For purposes of this policy, videoconferencing may include attendance by way of a single device or software package, or attendance via an audio device with synced camera or webcasting.

Section 3. General Teleconferencing Policies.

- A. The general public may attend and participate in Board Meetings in person or remotely by logging in on a computer or smart phone by following the instructions on the Meeting agenda. At the discretion of the Board of Directors and/or General Manager, any employee, consultant or vendor attending a Meeting of the District Board of Directors for the purpose of making a presentation to the Board and staff shall be permitted to attend via teleconference or videoconference without compliance with the rules or conditions set forth herein. The individual Members of the Board of Directors, inclusive of any committees or bodies required to comply with the Brown Act, may only participate in a Meeting via teleconference or videoconference as permitted by the following policies.
- B. To the extent a Member desires to attend a Meeting via teleconference or videoconference, the Member shall generally be required to comply with the following “Standard Teleconferencing Procedures” (Section 4, below) unless the circumstances exist to justify the use of the “Expanded Teleconferencing Procedures” (Section 5, below) or “Emergency Teleconferencing Procedures” (Section 6, below).
- C. A Member not in compliance with any such procedures, as applicable, shall not be permitted to attend a Meeting via Teleconference or Videoconference for any purpose, whether to participate in or listen to such Meeting.
- D. In all instances in which a Member is attending a Meeting via teleconference or videoconference, the District Board of Directors shall:
 1. Take all votes by roll call;
 2. Conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and public appearing before the District Board of Directors;
 3. Provide notice and post agendas as otherwise required by the Brown Act;
 4. Permit members of the public access to the meeting and an opportunity to address the District Board of Directors as required by the Brown Act.

Section 4. Standard Teleconferencing Procedures.

- A. A Member may attend a Meeting via teleconference or videoconference if the following conditions are satisfied:
 1. At least a quorum of the Board of Directors participates in the meeting from locations within

the boundaries of the District;

2. The agenda posted for the Meeting is posted at all teleconference locations, each of which is identified in the notice and the agenda for the meeting;
3. Each teleconference location is accessible to the public, and the public is permitted to comment at each teleconference location.

Section 5. Expanded Teleconferencing Procedures (Effective Through January 1, 2026).

- A. A Member may attend a Meeting via videoconference only (teleconference will not be permitted under these procedures), without the need to comply with the Standard Teleconferencing Procedure requirements to notice and post at the agenda locations or make such locations accessible to the public, if the following conditions are satisfied:
 1. At least a quorum of the members of the Board of Directors participates in-person from a single physical location accessible to the public, which is within the boundaries of the District and clearly identified in the posted agenda;
 2. The public is permitted to attend the meeting either by teleconference or videoconference in a manner such that the public can remotely attend and offer real-time comment during the meeting;
 3. Notice of the means by which the public can remotely attend the meeting via teleconference or videoconference and offer comment during the meeting is included within the posted agenda;
 4. The Member(s) attending remotely have either “just cause” or an “emergency circumstance” that justifies their attendance via videoconference.
 - a. A Member shall only have “just cause” for remote attendance if such participation is for one of the following reasons:
 - i. To provide childcare or caregiving need to a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner, with such terms having the same meaning as those terms defined in Government Code section 12945.2;
 - ii. Due to a contagious illness that prevents the Member from attending in-person;
 - iii. Due to a need related to a physical or mental disability as defined in Government Code sections 12926 and 12926.1 not otherwise accommodated; and
 - iv. Due to travel while on official business of the District or another state or local agency;
 - b. A Member shall have an “emergency circumstance” if such participation is due to a physical or family medical emergency that prevents the Member from attending in person.
 5. The Member(s) have not attended a meeting remotely on the basis of “just cause” for more than two meetings in the current calendar year; and
 6. The Member(s) have not attended a meeting remotely on the basis of “just cause” or “emergency circumstance” for more than three consecutive months in a calendar year.
 7. The Board of Directors has, and has implemented, a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, consistent with the Federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and resolving any doubt in favor of accessibility. In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, the Board of Directors shall also give notice of the procedure for receiving and resolving requests for accommodation.

B. In order to utilize the Expanded Teleconference Procedures, a Member shall:

1. For a “just cause” circumstance, notify the Board of Directors at the earliest opportunity, including at the start of a regular meeting, of their need to participate remotely for just cause, including a general description of the circumstance relating to their need to appear remotely at the given meeting;
2. For an “emergency circumstance,” request to participate at a meeting due to an “emergency circumstance” as soon as possible, preferably before the posting of the agenda but up to the start of the meeting, with such request including a general description of the circumstances relating to their need to appear remotely at the given meeting, though any description for emergency circumstances need not exceed 20 words and need not include any medical diagnosis or disability or personal medical information exempt from disclosure by law;
3. The Member shall 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 such individuals, if any are present;
4. Participate through videoconferencing, with both audio and visual technology.

C. Upon receipt of a request from a Member to utilize the Expanded Teleconference Procedures, the Board of Directors shall:

1. Take action by majority vote on a request to participate remotely due to an “emergency circumstance” at its earliest opportunity, which may be taken as a noticed agenda item or as an added item if sufficient time was not provided to place the proposed action on the agenda;
2. In the event of a disruption that prevents the broadcast of the meeting to members of the public, or in the event of a disruption within the District’s control that prevents members of the public from offering public comment using the teleconferencing or videoconferencing options, take no further action during a meeting until such access is restored.

Section 6. Emergency Teleconferencing Procedures (Effective Through January 1, 2024).

A. Notwithstanding the Standard Teleconferencing Procedures, the District may elect to use these “Emergency Teleconferencing Procedures” to allow teleconferencing if any of the following circumstances apply:

1. The District holds a meeting during a proclaimed State of Emergency and state or local officials have imposed or recommended measures to promote social distancing;
2. The District holds a meeting during a proclaimed State of Emergency for the purpose of determining, by a majority vote, whether as a result of the emergency, meeting in person

would present imminent risks to the health or safety of attendees; or

3. The District holds a meeting during a proclaimed State of Emergency and the Board of Directors has determined, by majority vote, that as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.

B. If utilizing the Emergency Teleconferencing Procedures, the Board of Directors shall:

1. Give notice in the agenda for such Meeting of the means by which members of the public may access the meeting and offer public comment via a teleconferencing or videoconferencing option, which shall include an opportunity for public comment in real-time;
2. In the event of a disruption that prevents the broadcast of the meeting to members of the public, or in the event of a disruption within the District's control that prevents members of the public from offering public comment using the teleconferencing or videoconferencing options, take no further action during a meeting until such access is restored.

C. The District may continue use of the Emergency Teleconferencing Procedures for as long as the State of Emergency remains active, provided that, not later than 30 days after teleconferencing for the first time, and every 30 days thereafter, the Board of Directors finds by majority vote that:

1. The District has reconsidered the circumstance of the State of Emergency; and
2. Any of the following circumstances exist:
 - a. The State of Emergency continues to directly impact the ability of the members to meet safely in person; or
 - b. State or local officials continue to impose or recommend measures to promote social distancing.
 - c. In the event of the use of these Emergency Teleconferencing Procedures, it shall not be necessary for the District to provide a physical location from which the public may attend or comment.

Section 7. Miscellaneous Provisions

With respect to the Standard Teleconferencing Procedures, Expanded Teleconferencing Procedures, and Emergency Teleconferencing Procedures set forth herein, such are intended to comply with Government Code sections 54953(b), (f), and (e), respectively, and, as such, in the event of a conflict between this Policy and such statutory provisions, the statutory provisions shall control and be implemented as if set forth in full in this Policy.