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# Board Cover Memorandum

**To** Board of Education

**From** Kyla Johnson-Trammell, Superintendent  
Joshua R. Daniels, Chief Governance Officer

**Meeting Date** January 25, 2023

**Subject** Resolution No. 2223-0028E - Making Certain Findings Necessary to Permit Virtual Meetings in Specified Circumstances for February 2023

**Ask of the Board** Approval by the Board of Education of Resolution No. 2223-0028E - Making Certain Findings Necessary to Permit Virtual Meetings in Specified Circumstances for February 2023

**Background** Assembly Bill No. 361 (“AB 361”) amended the Education Code to “improve and enhance public access to . . . local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options.” It permits local governing boards to hold virtual meetings without needing to publish the physical locations of Board members or make those locations open to the public if there is a proclaimed state of emergency and either:

- (i) state or local officials have imposed or recommended measures to promote social distancing, or
- (ii) the local governing board finds that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees or members.

AB 361 applies not just to OUSD School Board meetings but to all meetings of OUSD legislative bodies.

**Discussion** The proposed Resolution would make the findings necessary to permit virtual meetings in two situations:

- 1) The Resolution would permit the Board to recess an in-person meeting (held in the Great Room at the La Escuelita/KDOL/MetWest campus) to a virtual setting (e.g., Zoom) without publishing the physical locations from where the members would be joining the resumed virtual meeting if any attendee violates any state, local, or District health and safety protocols or engages in other unsafe behavior in light of COVID-19.
- 2) The Resolution would permit the Board (when the Great Room is unavailable), Board committees, OUSD commissions, and other OUSD legislative bodies subject to the Brown Act that normally meet in the Committee Room at the La

Escuelita/KDOL/MetWest campus to meet virtually without publishing the physical locations of members. The Resolution would also permit an OUSD commission or other OUSD legislative body subject to the Brown Act to meet in person if the body requests to do so and the chief legal officer of the District finds that doing so is consistent with state, county, and District health and safety guidelines and protocols.

If the proposed Resolution for February 2023 is not approved, then—for February 2023—the meetings of all legislative bodies would need to permit in-person attendance and would need to include a notice with the physical locations from where the members would join the meeting.

The Board previously adopted similar resolutions every month since October 2021, which permitted virtual meetings in many or all circumstances.

The Governor is expected to announce the end of the state of emergency sometime in February. Therefore, it is not likely that AB 361 will apply starting in March 2023. While Board meetings have been occurring in person, committee/commission meeting (and other legislative bodies) have been meeting virtually since March 2020. Board staff will reach out to these other bodies to ensure that they are informed about the forthcoming changes, primarily that meetings will now be in person. While members of legislative bodies can continue to join meetings virtually, their physical location will need to be included in the posted agenda open to the public during the meeting.

**Fiscal Impact** N/A

**Attachment**

- Resolution No. 2223-0028E - Making Certain Findings Necessary to Permit Virtual Meetings in Specified Circumstances for February 2023

**RESOLUTION OF THE  
BOARD OF EDUCATION OF THE  
OAKLAND UNIFIED SCHOOL DISTRICT**

**Resolution No. 2223-0028E**

**Making Certain Findings Necessary to Permit Virtual Meetings in Specified Circumstances for  
February 2023**

**WHEREAS**, Assembly Bill No. 361 (“AB 361”) is intended to “improve and enhance public access to . . . local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options”;

**WHEREAS**, AB 361 permits local legislative bodies subject to the Brown Act to hold virtual meetings without needing to publish the physical locations of Board of Education (“Board”) members or make those locations open to the public if there is a proclaimed state of emergency (pursuant to Section 8625 of the California Emergency Services Act) and either: (i) state or local officials have imposed or recommended measures to promote social distancing, or (ii) there is a finding that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees or members;

**WHEREAS**, prior to the COVID-19 pandemic, the Board held regular and most special meetings in a large, well-ventilated room at the La Escuelita/KDOL/MetWest campus (“Great Room”), with the entrance located at or near 286 East 10th Street in Oakland;

**WHEREAS**, prior to the COVID-19 pandemic and again in August 2021 and June 2022, Board meetings were disrupted by means that would present imminent risks to the health or safety of attendees or members if Board meetings were to be similarly disrupted now;

**WHEREAS**, prior to the COVID-19 pandemic, the Board (when the Great Room was unavailable), Board committees, OUSD commissions, and most other OUSD legislative bodies subject to the Brown Act normally met in a small, poorly-ventilated room on the second floor of the La Escuelita/KDOL/MetWest campus (“Committee Room”), with the entrance located at or near 286 East 10th Street in Oakland, or in similar locations that are not currently safe in light of COVID-19; and

**WHEREAS**, there is not an alternate, consistent location other than the Committee Room that offers a sufficiently safe option for in-person meetings in light of COVID-19.

**NOW, THEREFORE, BE IT RESOLVED**, the Board hereby makes the following findings:

- The Governor has proclaimed a state of emergency pursuant to Section 8625 of the California Emergency Services Act (see attached), and
- Any violation of any state, local, or District health and safety protocols or other unsafe behavior in light of COVID-19 by one or more attendees at an in-person meeting subject

to the Brown Act would present imminent risks to the health or safety of attendees or members,

- In-person meetings of the Board (when the Great Room is unavailable), Board committees, OUSD commissions, and other OUSD legislative bodies subject to the Brown Act normally held in the Committee Room or other similar locations would present imminent risks to the health or safety of attendees and members given the small, poorly ventilated nature of the Committee Room;

**BE IT FURTHER RESOLVED**, the intent of these findings is to (i) permit a legislative body of the District to recess an in-person meeting subject to the Brown Act to a virtual setting (e.g., Zoom) without publishing the physical locations from where the members would join the resumed virtual meeting if an attendee violates any state, local, or District health and safety protocol or engages in other unsafe behavior in light of COVID-19 and (ii) permit the Board (when the Great Room is unavailable), Board committees, OUSD commissions, and other OUSD legislative bodies subject to the Brown Act to meet virtually rather than in the Committee Room or similar location without publishing the physical locations of members (as such meetings would otherwise be held in unsafe locations in light of COVID-19);

**BE IT FURTHER RESOLVED**, nothing in this Resolution shall prohibit an OUSD commission or another OUSD legislative body subject to the Brown Act from meeting in person if (i) a majority of the membership of the body approves a request to do so, (ii) the request specifies the dates of or timeframe for the desired in-person meeting(s) and the desired location(s), and (iii) the chief legal officer of the District finds that the request is consistent with state, county, and District health and safety guidance and protocols; and

**BE IT FURTHER RESOLVED**, this Resolution is effective for the month of February 2023.

**PASSED AND ADOPTED** by the Board of Education of the Oakland Unified School District this 25th day of January, 2023, by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Benjamin "Sam" Davis, Nick Resnick, Valarie Bachelor, Vice President Clifford Thompson, President Mike Hutchinson

NOES: None

ABSTAINED: None

RECUSED: None

ABSENT: VanCedric Williams, Linh Lee (Student Director), Natalie Gallegos Chavez (Student Director)

**CERTIFICATION**

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at the Meeting of the Board of Education of the Oakland Unified School District held on January  
25, 2023.

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**OAKLAND UNIFIED SCHOOL DISTRICT**



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Mike Hutchinson  
President, Board of Education



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Kyla Johnson-Trammell  
Superintendent and Secretary, Board of Education