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Board Cover Memorandum

To Board of Education

From Kyla Johnson-Trammell, Superintendent
Joshua R. Daniels, General Counsel

Meeting Date September 22, 2021

Subject Resolution No. 2122-0014 - Making Certain Findings Necessary To Permit Virtual Meetings In Specified Circumstances

Ask of the Board Approval by the Board of Education of Resolution No. 2122-0014 - Making Certain Findings Necessary To Permit Virtual Meetings In Specified Circumstances

Background At the beginning of the COVID-19 pandemic, Governor Newsom suspended certain aspects of the Brown Act via executive order. These executive orders permitted the School Board to hold virtual meetings without needing to publish the physical locations of Board members or make those locations open to the public. (In fact, OUSD appears to have been the first local government in the state to hold a virtual meeting.) The latest of these executive orders is N-08-21, which suspends those provisions of the Brown Act through September 30, 2021.

Assembly Bill No. 361 (“AB 361”) was approved by the Legislature on September 10, 2021 as urgency legislation, which means that it would go into effect immediately upon the Governor’s signature (which, as of this writing, has not yet occurred but is expected). The intent of AB 361 is 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 board 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.”

These or similar conditions would need to be met every thirty (30) days in order to continue to hold virtual meetings without needing to publish the physical locations of Board members. It is also important to note that AB 361 is written in such a way as to apply 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 a meeting held in the “Great Room” at the La Escuelita/KDOL/MetWest campus to a virtual setting (e.g., Zoom) if any attendee violates any state, local, or District health and safety protocols or engages in other unsafe behavior in light of COVID-19 without publishing the physical locations from where the members would be joining the resumed virtual meeting. The first in-person Board meeting to be held under this schema would be the regular Board meeting scheduled for October 13, 2021 (unless a special Board meeting is called after September 30, 2021 and prior to October 13, 2021).
- 2) The Resolution would permit the Board, Board committees, OUSD commissions, and other OUSD legislative bodies subject to the Brown Act that normally meeting in the “Conference Room” at the La Escuelita/KDOL/MetWest campus to meet virtually without publishing the physical locations of members. The Resolution would also permit a Board committee, 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 it is safe to do so.

As Executive Order N-08-21 expires September 30, 2021, this Resolution would need to be approved at this Board meeting to go into effect by October 1, 2021 and permit the various committees, commissions, and other legislative bodies (outside the Board) to continue to meet virtually. If the Resolution is not approved, all committees, commissions, and other legislative bodies would need to meet in person starting October 1, 2021.

Fiscal Impact N/A

Attachment ● Resolution No. 2122-0014 - Making Certain Findings Necessary To Permit Virtual Meetings In Specified Circumstances

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

Resolution No. 2122-0014

Making Certain Findings Necessary To Permit Virtual Meetings In Specified Circumstances

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 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”;

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

WHEREAS, prior to the COVID-19 pandemic and again on August 11, 2021, Board meetings were disrupted by means that would “present imminent risks to the health or safety of attendees” if Board meetings were to be similarly disrupted now;

WHEREAS, prior to the COVID-19 pandemic, the Board (typically for retreats only), Board committees, OUSD commissions, and most other OUSD legislative bodies subject to the Brown Act normally met in a small, poorly-ventilated room (“Committee Room”) on the second floor of the La Escuelita/KDOL/MetWest campus, 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 another location to serve consistently as an alternative meeting space to the Conference Room that would currently present 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),
- 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 Board meeting

held in the Great Room “would present imminent risks to the health or safety of attendees”,

- In-person meetings of the Board, 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” given the small, poorly ventilated nature of the Committee Room;

BE IT FURTHER RESOLVED, the intent of these findings is to (i) permit the Board to recess a meeting held in the Great Room to a virtual setting (e.g., Zoom) if such an attendee violates any state, local, or District health and safety protocol or engages in other unsafe behavior in light of COVID-19 without publishing the physical locations from where the members would be joining the resumed virtual meeting and (ii) permit the Board, Board committees, OUSD commissions, and other OUSD legislative bodies subject to the Brown Act to meet virtually rather than in the Conference 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 a Board committee, OUSD commission, or other 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 the desired in-person meeting(s) and the desired location(s), and (iii) the chief legal officer of the District approves, in writing, that the desired location(s) “would [not] present imminent risks to the health or safety of attendees”; and

BE IT FURTHER RESOLVED, this Resolution is effective for the month of October 2021.

PASSED AND ADOPTED by the Board of Education of the Oakland Unified School District this 22nd day of September, 2021, by the following vote:

PREFERENTIAL AYE: None

PREFERENTIAL NOE: None

PREFERENTIAL ABSTENTION: None

PREFERENTIAL RECUSE: None

AYES: Aimee Eng, VanCedric Williams, Gary Yee, Mike Hutchinson, Clifford Thompson,
 Vice President Benjamin "Sam" Davis and President Shanthy Gonzales

NOES: None

ABSTAINED: None

RECUSED: None

ABSENT: Samantha Pal (Student Director) and Natalie Gallegos Chavez (Student Director)

CERTIFICATION

We hereby certify that the foregoing is a full, true and correct copy of a Resolution passed at a Regular Meeting of the Board of Education of the Oakland Unified School District held on _____ September 22, _____, 2021.

Legislative File	
File ID Number:	21-2351
Introduction Date:	9/22/2021
Enactment Number:	21-1482
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By:	If

OAKLAND UNIFIED SCHOOL DISTRICT



Shanthi Gonzales
President, Board of Education



Kyla Johnson-Trammell
Superintendent and Secretary, Board of Education

EXECUTIVE DEPARTMENT
STATE OF CALIFORNIA

PROCLAMATION OF A STATE OF EMERGENCY

WHEREAS in December 2019, an outbreak of respiratory illness due to a novel coronavirus (a disease now known as COVID-19), was first identified in Wuhan City, Hubei Province, China, and has spread outside of China, impacting more than 75 countries, including the United States; and

WHEREAS the State of California has been working in close collaboration with the national Centers for Disease Control and Prevention (CDC), with the United States Health and Human Services Agency, and with local health departments since December 2019 to monitor and plan for the potential spread of COVID-19 to the United States; and

WHEREAS on January 23, 2020, the CDC activated its Emergency Response System to provide ongoing support for the response to COVID-19 across the country; and

WHEREAS on January 24, 2020, the California Department of Public Health activated its Medical and Health Coordination Center and on March 2, 2020, the Office of Emergency Services activated the State Operations Center to support and guide state and local actions to preserve public health; and

WHEREAS the California Department of Public Health has been in regular communication with hospitals, clinics and other health providers and has provided guidance to health facilities and providers regarding COVID-19; and

WHEREAS as of March 4, 2020, across the globe, there are more than 94,000 confirmed cases of COVID-19, tragically resulting in more than 3,000 deaths worldwide; and

WHEREAS as of March 4, 2020, there are 129 confirmed cases of COVID-19 in the United States, including 53 in California, and more than 9,400 Californians across 49 counties are in home monitoring based on possible travel-based exposure to the virus, and officials expect the number of cases in California, the United States, and worldwide to increase; and

WHEREAS for more than a decade California has had a robust pandemic influenza plan, supported local governments in the development of local plans, and required that state and local plans be regularly updated and exercised; and

WHEREAS California has a strong federal, state and local public health and health care delivery system that has effectively responded to prior events including the H1N1 influenza virus in 2009, and most recently Ebola; and

WHEREAS experts anticipate that while a high percentage of individuals affected by COVID-19 will experience mild flu-like symptoms, some will have more serious symptoms and require hospitalization, particularly individuals who are elderly or already have underlying chronic health conditions; and

WHEREAS it is imperative to prepare for and respond to suspected or confirmed COVID-19 cases in California, to implement measures to mitigate the spread of COVID-19, and to prepare to respond to an increasing number of individuals requiring medical care and hospitalization; and

WHEREAS if COVID-19 spreads in California at a rate comparable to the rate of spread in other countries, the number of persons requiring medical care may exceed locally available resources, and controlling outbreaks minimizes the risk to the public, maintains the health and safety of the people of California, and limits the spread of infection in our communities and within the healthcare delivery system; and

WHEREAS personal protective equipment (PPE) is not necessary for use by the general population but appropriate PPE is one of the most effective ways to preserve and protect California's healthcare workforce at this critical time and to prevent the spread of COVID-19 broadly; and

WHEREAS state and local health departments must use all available preventative measures to combat the spread of COVID-19, which will require access to services, personnel, equipment, facilities, and other resources, potentially including resources beyond those currently available, to prepare for and respond to any potential cases and the spread of the virus; and

WHEREAS I find that conditions of Government Code section 8558(b), relating to the declaration of a State of Emergency, have been met; and

WHEREAS I find that the conditions caused by COVID-19 are likely to require the combined forces of a mutual aid region or regions to appropriately respond; and

WHEREAS under the provisions of Government Code section 8625(c), I find that local authority is inadequate to cope with the threat posed by COVID-19; and

WHEREAS under the provisions of Government Code section 8571, I find that strict compliance with various statutes and regulations specified in this order would prevent, hinder, or delay appropriate actions to prevent and mitigate the effects of the COVID-19.

NOW, THEREFORE, I, GAVIN NEWSOM, Governor of the State of California, in accordance with the authority vested in me by the State Constitution and statutes, including the California Emergency Services Act, and in particular, Government Code section 8625, **HEREBY PROCLAIM A STATE OF EMERGENCY** to exist in California.

IT IS HEREBY ORDERED THAT:

1. In preparing for and responding to COVID-19, all agencies of the state government use and employ state personnel, equipment, and facilities or perform any and all activities consistent with the direction of the Office of Emergency Services and the State Emergency Plan, as well as the California Department of Public Health and the Emergency Medical Services Authority. Also, all residents are to heed the advice of emergency officials with regard to this emergency in order to protect their safety.
2. As necessary to assist local governments and for the protection of public health, state agencies shall enter into contracts to arrange for the procurement of materials, goods, and services needed to assist in preparing for, containing, responding to, mitigating the effects of, and recovering from the spread of COVID-19. Applicable provisions of the Government Code and the Public Contract Code, including but not limited to travel, advertising, and competitive bidding requirements, are suspended to the extent necessary to address the effects of COVID-19.
3. Any out-of-state personnel, including, but not limited to, medical personnel, entering California to assist in preparing for, responding to, mitigating the effects of, and recovering from COVID-19 shall be permitted to provide services in the same manner as prescribed in Government Code section 179.5, with respect to licensing and certification. Permission for any such individual rendering service is subject to the approval of the Director of the Emergency Medical Services Authority for medical personnel and the Director of the Office of Emergency Services for non-medical personnel and shall be in effect for a period of time not to exceed the duration of this emergency.
4. The time limitation set forth in Penal Code section 396, subdivision (b), prohibiting price gouging in time of emergency is hereby waived as it relates to emergency supplies and medical supplies. These price gouging protections shall be in effect through September 4, 2020.
5. Any state-owned properties that the Office of Emergency Services determines are suitable for use to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services for this purpose, notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.
6. Any fairgrounds that the Office of Emergency Services determines are suitable to assist in preparing for, responding to, mitigating the effects of, or recovering from COVID-19 shall be made available to the Office of Emergency Services pursuant to the Emergency Services Act, Government Code section 8589. The Office of Emergency Services shall notify the fairgrounds of the intended use and can immediately use the fairgrounds without the fairground board of directors' approval, and

notwithstanding any state or local law that would restrict, delay, or otherwise inhibit such use.

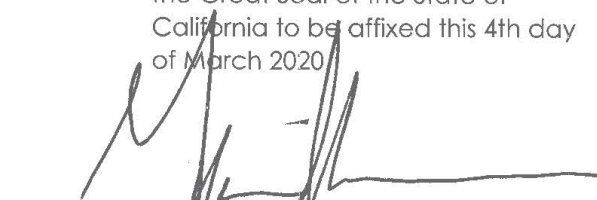
7. The 30-day time period in Health and Safety Code section 101080, within which a local governing authority must renew a local health emergency, is hereby waived for the duration of this statewide emergency. Any such local health emergency will remain in effect until each local governing authority terminates its respective local health emergency.
8. The 60-day time period in Government Code section 8630, within which local government authorities must renew a local emergency, is hereby waived for the duration of this statewide emergency. Any local emergency proclaimed will remain in effect until each local governing authority terminates its respective local emergency.
9. The Office of Emergency Services shall provide assistance to local governments that have demonstrated extraordinary or disproportionate impacts from COVID-19, if appropriate and necessary, under the authority of the California Disaster Assistance Act, Government Code section 8680 et seq., and California Code of Regulations, Title 19, section 2900 et seq.
10. To ensure hospitals and other health facilities are able to adequately treat patients legally isolated as a result of COVID-19, the Director of the California Department of Public Health may waive any of the licensing requirements of Chapter 2 of Division 2 of the Health and Safety Code and accompanying regulations with respect to any hospital or health facility identified in Health and Safety Code section 1250. Any waiver shall include alternative measures that, under the circumstances, will allow the facilities to treat legally isolated patients while protecting public health and safety. Any facilities being granted a waiver shall be established and operated in accordance with the facility's required disaster and mass casualty plan. Any waivers granted pursuant to this paragraph shall be posted on the Department's website.
11. To support consistent practices across California, state departments, in coordination with the Office of Emergency Services, shall provide updated and specific guidance relating to preventing and mitigating COVID-19 to schools, employers, employees, first responders and community care facilities by no later than March 10, 2020.
12. To promptly respond for the protection of public health, state entities are, notwithstanding any other state or local law, authorized to share relevant medical information, limited to the patient's underlying health conditions, age, current condition, date of exposure, and possible contact tracing, as necessary to address the effect of the COVID-19 outbreak with state, local, federal, and nongovernmental partners, with such information to be used for the limited purposes of monitoring, investigation and control, and treatment and coordination of care. The

notification requirement of Civil Code section 1798.24, subdivision (i), is suspended.

13. Notwithstanding Health and Safety Code sections 1797.52 and 1797.218, during the course of this emergency, any EMT-P licensees shall have the authority to transport patients to medical facilities other than acute care hospitals when approved by the California EMS Authority. In order to carry out this order, to the extent that the provisions of Health and Safety Code sections 1797.52 and 1797.218 may prohibit EMT-P licensees from transporting patients to facilities other than acute care hospitals, those statutes are hereby suspended until the termination of this State of Emergency.
14. The Department of Social Services may, to the extent the Department deems necessary to respond to the threat of COVID-19, waive any provisions of the Health and Safety Code or Welfare and Institutions Code, and accompanying regulations, interim licensing standards, or other written policies or procedures with respect to the use, licensing, or approval of facilities or homes within the Department's jurisdiction set forth in the California Community Care Facilities Act (Health and Safety Code section 1500 et seq.), the California Child Day Care Facilities Act (Health and Safety Code section 1596.70 et seq.), and the California Residential Care Facilities for the Elderly Act (Health and Safety Code section 1569 et seq.). Any waivers granted pursuant to this paragraph shall be posted on the Department's website.

I FURTHER DIRECT that as soon as hereafter possible, this proclamation be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this proclamation.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 4th day of March 2020.



GAVIN NEWSOM
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State