

CAPISTRANO UNIFIED SCHOOL DISTRICT  
**BOARD REPORT**

To: Board of Trustees

From: Colleen Hayes, Manager II Board Operations/Superintendent's Office

Date: November 3, 2021

Board Item: RESOLUTION NO. 2122-22, CONTINUING AUTHORITY TO HOLD VIRTUAL MEETINGS PURSUANT TO ASSEMBLY BILL 361

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**HISTORY**

This is a new item. On March 4, 2020, Governor Newsom declared a statewide emergency arising from COVID-19 pursuant to Government Code section 8625.

**BACKGROUND INFORMATION**

On September 16, 2021, Governor Newsom signed Assembly Bill (AB) 361, which immediately amended the Brown Act allowing governing boards to continue holding virtual meetings outside the teleconferencing requirements of Government Code section § 54953(b), if the Board makes a finding that there is a proclaimed State of Emergency, and either (1) state or local officials have imposed or recommended social distancing measures, or (2) meeting in person would present imminent risks to the health or safety of attendees due to the emergency. The Board is committed to open and transparent governance in compliance with the Brown Act, and continues to conduct virtual meetings by way of telephonic and/or internet-based services as to allow members of the public to fully participate in meetings and offer public comment.

**CURRENT CONSIDERATIONS**

Through this resolution, the Board of Trustees of Capistrano Unified Schools District authorizes the use of teleconferencing for all meetings in accordance with Government Code section 54953(e) and all other applicable provisions of the Brown Act, for a period of thirty (30) days from the adoption of this resolution, or such a time that the Governing Board adopts a subsequent resolution in accordance with Government Code section 54953(e)(3). Based on the findings made above, the Board of Trustees of the Capistrano Unified School District will continue holding its meetings in a safe and efficient manner, with a priority of having members of the public participate in-person from the location of the Board meeting. In the event a Trustee must participate in a meeting through a virtual platform (such as Zoom or an equivalent program), s/he will follow all the requirements of AB 361. The Trustee's participation in public session shall be visible to all meeting participants in the same manner as if the Trustee were present. The Trustee may also participate in executive/closed session meetings of the Board.

**FINANCIAL IMPLICATIONS**

There is no financial impact.

**TRUSTEE RECOMMENDATION**

It is recommended the Board adopt Resolution No. 2122-22, Continuing Authority to Hold Virtual Meetings Pursuant to Assembly Bill 361.

**PREPARED BY:** Colleen Hayes, Manager II, Board Operations, Superintendent's Office

**APPROVED BY:** Kirsten Vital Brulte, Superintendent

CAPISTRANO UNIFIED SCHOOL DISTRICT  
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**RESOLUTION NO. 2122-22, CONTINUING AUTHORITY TO HOLD VIRTUAL  
MEETINGS PURSUANT TO ASSEMBLY BILL 361**

**WHEREAS**, on March 4, 2020, Governor Gavin Newsom declared a statewide emergency arising from the coronavirus (COVID-19); and

**WHEREAS**, on March 17, 2020, Governor Newsom issued Executive Order N-29-20 suspending certain provisions of the Brown Act pertaining to teleconferenced meetings; and

**WHEREAS**, on June 11, 2021, Governor Newsom issued Executive Order N-08-21 which indicated that Executive Order N-29-20's authorization for holding virtual meetings would expire on September 30, 2021; and

**WHEREAS**, on September 16, 2021, Governor Newsom signed AB 361 (Rivas) as urgency legislation effective immediately, which provides that legislative bodies may continue to meet remotely during a declared State of Emergency subject to certain conditions; and

**WHEREAS**, on September 20, 2021, Governor Newsom issued Executive Order N-15-21 suspending the implementation of AB 361 until October 1, 2021; and

**WHEREAS**, AB 361 amends the Brown Act (Government Code section 54953) to add the following provision:

(e)(1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

**WHEREAS**, AB 361 amends the Brown Act (Government Code section 54953) to add the following provision:

(e)(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than

30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

**NOW, THEREFORE, BE IT RESOLVED** that the Board of Trustees of Capistrano Unified School District finds that the Governor's March 4, 2020 declaration of a state of emergency due to the COVID-19 pandemic remains active.

**BE IT FURTHER RESOLVED**, the Board of Trustees of Capistrano Unified School District has reconsidered the circumstances of the state of emergency and finds that as a result, under certain circumstances meeting in person would present imminent risks to the health or safety of attendees, including the potential to adversely affect Trustees due to one or more of the following reasons:

1. The prevalence of the Delta and subsequent variants, the indoor setting of meeting facilities;
2. The potential presence of unvaccinated individuals attending meetings;
3. The potential for noncompliance with mask wearing requirements; and
4. The desire to protect the health of immuno-compromised trustees, staff and the public.

**BE IT FURTHER RESOLVED**, based on the findings made above, the Board of Trustees of the Capistrano Unified School District will continue holding its meetings as follows:

**Public Participation:** The Board will continue to hold all meetings in a safe and efficient manner, with a priority of having members of the public participate in-person from the location of the Board meeting.

**Trustee Participation:** Consistent with the above findings, in the event a Trustee must participate in a meeting through a virtual platform (such as Zoom or an equivalent program), s/he will follow all the requirements of AB 361. The Trustee's participation in public session shall be visible to all meeting participants in the same manner as if the Trustee were present. The Trustee may also participate in executive/closed session meetings of the Board.

PASSED AND ADOPTED by the Board of Trustees of the Capistrano Unified School District on November 3, 2021, by the following vote:

AYES	( )
NOES	( )
ABSTAIN	( )
ABSENT	( )

I, Kirsten M. Vital Brulte, Secretary of the Capistrano Unified School District Board of Trustees, hereby certify that the above and foregoing Resolution was duly and regularly adopted by the said Board at the meeting on November 3, 2021, by a roll call vote.

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Gila Jones  
Clerk of the Board of Trustees

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Kirsten M. Vital Brulte, Superintendent  
Secretary of the Board of Trustees