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*Date:* December 30, 2024

*To:* Staff to Advisory Bodies

*From:* Thomas L. Geiger, County Counsel 

*Re:* **Remote Attendance at Brown Act Meetings as a Reasonable Accommodation under the Americans with Disabilities Act (ADA)**

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This memo describes a new option for members of the County's advisory bodies to attend meetings remotely if they have a qualifying disability that precludes their in-person attendance at advisory body meetings, and explains the procedure for advisory body members to attend meetings remotely as an accommodation for a qualifying disability.

## **Background**

Under the Brown Act, members of County advisory bodies generally must attend meetings in person. They also may participate remotely under the Brown Act's traditional teleconferencing rules, or they may participate remotely for "just cause" reasons or under "emergency circumstances." If an advisory body member participates from a remote location under the Brown Act's traditional teleconferencing rules, the public must be allowed to attend the meeting at the remote location.

Until recently, the California Attorney General had advised that counties and cities were not permitted to provide a teleconferencing connection at a non-public location as an accommodation for an advisory body member with a disability who is unable to attend a regularly scheduled meeting. (84 Ops.Cal.Atty.Gen. 181 (2001).) The Attorney General had concluded in its 2001 opinion that allowing an advisory body member to participate remotely in a public meeting from a location not open to the public would result in a meeting held in violation of the Brown Act.

The Attorney General, however, has reconsidered its previous opinion and now advises that the Americans with Disabilities Act (ADA) generally requires that an advisory body member who has a qualifying disability that prevents them from attending meetings in person must be allowed to participate remotely in the body's meetings from a non-public location. (Opinion No. 23-1002.) The Attorney General advises that when a member with a qualifying disability participates remotely from a non-public location, the member must (1) use two-way video and audio streaming in real time; and (2) disclose the identity of individuals 18 years or older who are present with the member at the remote location and the general nature of the member's relationship with any of these individuals.

### **Procedure for Requesting Remote Attendance as a Reasonable Accommodation**

Before an advisory body member with a qualifying disability attends a meeting remotely, the member must request to appear remotely as a reasonable accommodation and receive approval from the Clerk of the Board. Examples of a qualifying disability that would prevent in-person attendance include, but are not limited to, a mobility disability, an immunocompromising disability, or a disability that limits time spent outside of home or bed.

To request this accommodation, the member must submit a written request to the Clerk of the Board at least one week before the time of the first meeting for which remote attendance is requested. The request may be in a letter or via email, with the phrase "Advisory Body Reasonable Accommodation" in the subject line. Requests should be sent to [clerkoftheboard@cob.cccounty.us](mailto:clerkoftheboard@cob.cccounty.us). The Clerk of the Board will evaluate and approve or deny the request using the following criteria:

1. The request to attend remotely as a reasonable accommodation must include the following:
  - a. A self-attestation that the accommodation is needed as a result of a disability.
  - b. A general description explaining the need for the accommodation, which need not exceed 20 words. The member does not need to submit medical documentation or disclose a medical diagnosis or disability.
  - c. The duration of the requested accommodation.
  - d. The name of the advisory body on which the member sits.
2. In consultation with the member with a disability, the Clerk of the Board will determine if the request is approved and the most effective way to provide the accommodation. Responses to reasonable accommodation requests will be provided in writing in a timely manner before the start of the specific meeting. Otherwise, the response will be provided orally, followed by written confirmation.
3. If the Clerk of the Board approves remote appearance as a reasonable accommodation, the member may appear remotely at meetings for the approved duration of the accommodation. Members may be granted a teleconferencing accommodation on a permanent basis or a temporary basis. The duration will be determined in accordance with the member's disability-related needs. For temporary disabilities, the member may need to seek reapproval from time to time, as determined by the Clerk of the Board.

### **Procedures for Attending Meetings Remotely as a Reasonable Accommodation**

During every meeting that a member attends remotely as an approved reasonable accommodation, the member must:

1. Use two-way, real-time video and audio streaming; and
2. Disclose the presence of other adults at the remote location and nature of the member's relationship with these individuals.

When a member attends a meeting remotely as an approved reasonable accommodation, the following Brown Act requirements are waived with respect to the remote location:

1. Including the teleconference location in the notice and agenda;
2. Posting the meeting agenda at the teleconference location; and
3. Allowing public access to the teleconference location.

cc: Board of Supervisors  
Monica Nino, County Administrator  
Jami Morritt, Chief Assistant Clerk of the Board

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