



COUNTY OF YOLO

Office of the County Council

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MEMORANDUM

TO: All Local Legislative Bodies subject to the Ralph M. Brown Act

FROM: Philip J. Pogledich, County Council
Eric May, Senior Deputy County Council

DATE: September 19, 2024

SUBJECT: ADA Accommodations for Disabled Board Members Requiring Remote Participation

The California Attorney General's Office ("AG") last month issued guidance advising local agencies that the Americans with Disabilities Act ("ADA") requires local legislative bodies to allow remote participation at meetings for any member with a disability that precludes their in-person attendance.¹ This is a reversal from a 2001 AG Opinion, in which the AG concluded that a member's in-person attendance was an essential function of participating in a public board meeting, such that the ADA did not apply. However, after agencies gained extensive experience with remote meetings during COVID, and following recent legislative enactments expanding the availability for remote participation under the Brown Act, the AG now concludes that a member's in-person attendance is no longer essential to their participation in the meeting. The ADA therefore requires an agency to make accommodations for a member whose disability precludes them from participating in the meeting in person.

What does this mean for local legislative bodies that are subject to the Brown Act? As discussed in a prior memo from this office,² the Brown Act's provisions related to remote participation for "just cause" already authorize a member's remote participation due to disability. *See* Gov. Code § 54953(2)(C). But the Brown Act only allows a member to rely on these provisions up to twice per year. The ADA would require remote participation be made available as an accommodation to a member with a qualifying disability so long as the accommodation is needed to allow the member to meaningfully participate in the meeting.

¹ The AG Opinion is available here: <https://oag.ca.gov/system/files/opinions/pdfs/23-1002.pdf>

² <https://www.yolocounty.gov/home/showpublisheddocument/75555/638058382506970000>

When offering remote participation for members with a qualifying disability, the AG recommends agencies follow the Brown Act's requirements for remote participation when providing members with ADA accommodations. This includes:

- (1) ensuring that the members are connected by video and audio;
- (2) pausing the meeting when the member's connection is interrupted; and
- (3) disclosing the identity of any adults in the room with the member and the nature of their relationship.

We also recommend that, if a member is joining a meeting remotely, the legislative body post the video conference link on their agenda and allow members of the public to provide real-time public comment remotely, as is required under the Brown Act in other situations where remote participation is allowed. While the AG Opinion does not expressly require these steps when accommodating a member with a qualifying disability, doing so is advisable unless any technological or other limitations make it infeasible.

Adhering to these guidelines will ensure meaningful public participation in the meeting while providing a reasonable accommodation for a member with a disability that precludes in-person attendance.

As always, any questions about this memo or can be directed to:

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