OPEN BOARD MEETINGS IN A WORLD OF SCHOOL CLOSURES

How to lawfully and effectively hold virtual school board meetings

May 1st, 2020
TODAY’S PRESENTERS

- Mike Smith, Lozano Smith, Founding Partner
- William Tunick, Dannis Woliver Kelley, Shareholder
- Bob Tuerck, CSBA, Assistant Executive Director of Policy and Governance Technology Services
- Mike Ambrose, CSBA, Associate General Counsel
BROWN ACT AND MEETINGS
WHAT DOES THE BROWN ACT REQUIRE?

- Actions & deliberations taken openly & in public
- Meetings are public, unless closed session is allowed
- Meeting agendas and packets must be available
- Agenda posted on district website
WHAT IS A MEETING?

- Majority of the members at the same time and place to hear, discuss or deliberate any item in district’s jurisdiction

WHAT IS NOT A MEETING?
WHAT IS NOT A MEETING: COVID-19

- COVID-19 updates from federal, state or local officials
THREE TYPES OF MEETINGS

- Regular, special and emergency meetings
- Not all discussions about COVID-19 necessarily qualify as an “emergency situation”
MEETING IN COVID-19 ERA
REQUIREMENTS FOR HOLDING A MEETING

- No change in purpose
- No change to limits on closed sessions
- No change to notice periods
- No reduction in agenda requirements
TELEPHONIC MEETINGS: PRE-COVID-19 ERA

- Location must be open and accessible to the public
- Agenda shall identify all locations
- Agenda must be posted at all locations
- Public comment at all locations
- Majority must be within the boundaries
- All votes by roll call
- Address potential technical problems
Location must be open and accessible to the public.
Agenda shall identify all locations.
Agenda must be posted at all locations.
Public comment at all locations.
Majority must be within the boundaries.
All votes by roll call
Address potential technical problems
Provide ability to “observe and address … telephonically or otherwise electronically”
Provide notice of method(s)
Indicate procedure for resolving accessibility requests
ELECTRONIC MEETINGS

- Various models:
  - Telephone
  - Videoconference/livestream

- New challenges:
  - Meeting logistics
  - Record creation

- Hybrid meetings
PUBLIC PARTICIPATION
PUBLIC PARTICIPATION

- Board meeting **IS:**
  - Meeting of the Board in public to conduct the agency’s business

- Board meeting is **NOT:**
  - A meeting of the public
  - A townhall meeting
  - A press conference
PUBLIC PARTICIPATION OPPORTUNITIES

- Public comment on open and closed session agenda items
- Public comment on items not on the agenda
- Special v. regular meeting public comment rules
PUBLIC COMMENT AND COVID-19

- How does public comment work with virtual board meetings?
- No physical board meeting location required.
- Public must be able to comment “telephonically, or otherwise electronically”
- Agenda Considerations: Provide details
PUBLIC COMMENT OPTIONS: VIRTUAL BOARD MEETINGS

- Emails in advance of the board meeting (read or distribute to the Board)
- Voice mail messages in advance of the board meeting (read or transcribe)
- Live telephonic public comment (Call-in numbers at designated time)
- Live comments if video streaming on Zoom or similar platform
- Use all or the above, any combination, or only one alternative
- Note: Designate a person to read public comments (Use a script/disclaimer)
- Posting public comments: Lawful but not required or advised
- Tell the public in your agenda how to comment
- First Amendment Considerations
ADDITIONAL RESOURCES

- Board Bylaw 9130 - Board Committees
- Board Bylaw 9320 - Meetings and Notices
- Board Bylaw 9321 - Closed Session
- Board Bylaw 9322 - Agenda/Meeting Materials
- Board Bylaw 9323 - Meeting Conduct
- Board Bylaw 9323.2 - Actions by the Board
- Board Bylaw 9324 - Minutes and Recordings
COVID-19 WEBINAR SERIES

➢ Going the Distance to Bridge the Digital Divide
  May 8, 2020 at 1:00 p.m.
  Strategies for implementation and instruction when distance learning is the new normal

➢ Special Education in Extraordinary Times
  May 13, 2020 at 1:00 p.m.
  Serving students with disabilities during a pandemic

➢ Supporting Student Well-Being from Afar
  May 20, 2020 at 1:00 p.m.
  Caring for students’ mental and physical health during school closures

Please visit www.csba.org/coronavirus for registration information, links to past presentations and slide decks.
CSBA COVID-19 RESOURCES

www.csba.org/coronavirus
THANK YOU FOR JOINING US TODAY.