



Foothill College Academic Senate
Resolution Authorizing Remote Teleconference Meetings Pursuant
to Brown Act Provisions Included In Assembly Bill (AB) 361 (Rivas)
October 2021

WHEREAS, the Foothill College Academic Senate is committed to preserving and nurturing public access and participation in its meetings; and

WHEREAS, all meetings of Foothill-De Anza Community College District's legislative bodies, which include the Foothill Academic Senate and its autonomous subcommittee, the College Curriculum Committee, are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950–54963), so that any member of the public may attend, participate, and watch the District's legislative bodies conduct their business; and

WHEREAS, the Brown Act, Government Code section 54953(e), makes provisions for remote participation in meetings by members of a legislative body, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, a required condition is that a state of emergency is declared by the Governor pursuant to Government Code section 8625, proclaiming the existence of conditions of disaster or of extreme peril to the safety of persons and property within the state caused by conditions as described in Government Code section 8558; and

WHEREAS, a proclamation is made when there is an actual incident, threat of disaster, or extreme peril to the safety of persons and property within the jurisdictions that are within the District's boundaries, caused by natural, technological, or human-caused disasters; and

WHEREAS, it is further required that state or local officials have imposed or recommended measures to promote social distancing, or, the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

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

WHEREAS, on March 17, 2020, the Board of Trustees of Foothill-De Anza Community College District officially declared a state of emergency for the district; 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, following the issuance of Executive Order N-29-20, the Foothill College Academic Senate began to conduct all public meetings virtually using the Zoom teleconference platform and has continued conducting all public meetings virtually since that time; and

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

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

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

(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; and

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

(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:

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Reaffirmed November 8, 2021

(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 Foothill College Academic Senate finds that the March 4, 2020, declaration of a State of Emergency due to the COVID-19 pandemic by Governor Gavin Newsom remains active and that the state of emergency continues to directly impact the ability of members of the public to meet safely in person.

BE IT FURTHER RESOLVED, that the Foothill College Academic Senate authorizes the continuation of virtual meetings pursuant to Assembly Bill 361 (Rivas); and

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately upon its adoption and shall be effective until the earlier of 90 days from the date of adoption or such time the Foothill College Curriculum Committee adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the Foothill College Curriculum Committee may continue to teleconference without compliance with paragraph (3) of subdivision (b) of Government Code section 54953.

Approved October 11, 2021

Reaffirmed November 8, 2021