

**Resolution 21/22-1, Continuing Authority to Hold Virtual Meetings Pursuant to AB 361 –
Open Meetings: State and Local Agencies: Teleconferences**

WHEREAS, on March 4, 2020, pursuant to the California Emergency Services Act and Government Code Section 8625, Governor Gavin Newsom declared a statewide emergency arising from the coronavirus (COVID-19); and

WHEREAS, the aforementioned declaration of emergency has not been rescinded, and, thus, remains in effect; and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, 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. [-OR-]

(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. [-OR-]

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.; 1.c.4 Item No.

WHEREAS, AB 361 further 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. [-AND]

(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; [-OR-] (ii) state or local officials continue to impose or recommend measures to promote social distancing.

WHEREAS, according to the Orange County Health Care Agency (OCHCA) COVID-19 data page, as of January 19, 2022 there were 4,261 new daily cases reported and 1,232 current hospitalizations¹;

WHEREAS, the CDC has established a “Community Transmission” metric with 4 tiers designed to reflect a community’s COVID-19 case rate and percent positivity;

WHEREAS, Orange County currently has the highest community transmission metric of “high”²;

THEREFORE, BE IT RESOLVED that the North Orange Continuing Education (NOCE) Academic Senate hereby makes the following findings:

(1) The NOCE Academic Senate has considered the circumstances of the Governor’s March 4, 2020 declaration of a state of emergency due to the COVID-19 pandemic, and the NOCE Academic Senate finds that the declared state of emergency remains active and continues to directly impact the ability of Senators to meet safely in person.

BE IT FURTHER RESOLVED, that these findings apply to all NOCE 10+1 committees and/or workgroups including but not limited to the Curriculum Committee;

BE IT FURTHER RESOLVED, that based on the findings herein, the NOCE Academic Senate shall hold meetings via teleconference as permitted by Government Code section 54953(e) for the next thirty (30) days from the date of this Resolution;

BE IT FURTHER RESOLVED, that any meetings held via teleconference pursuant to this

¹ OCHCS COVID-19 Case Counts and Testing Figures

² CDC COVID-19 County Check

Resolution shall comply with all requirements of Government Code section 54953(e)(2), including, but not limited to, Government Code section 54953(e)(2)(E), which provides: "The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment."

BE IT FURTHER RESOLVED, that this resolution shall take effect immediately upon its adoption and shall be effective until the earlier of March 1, 2022 or such time the NOCE Academic Senate adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the NOCE Senate may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

Approved by Academic Senate on February 1, 2022 with 28 in favor, one nay, no abstention