

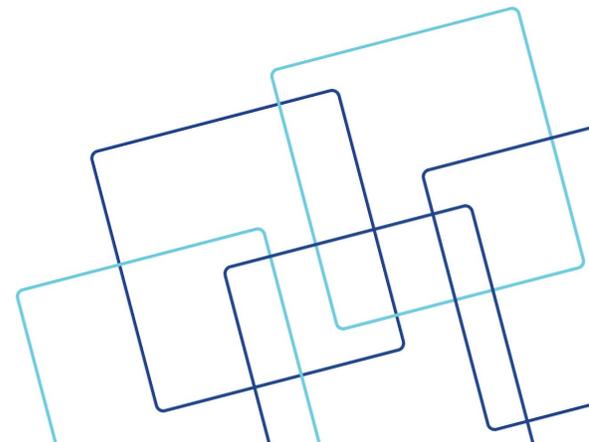


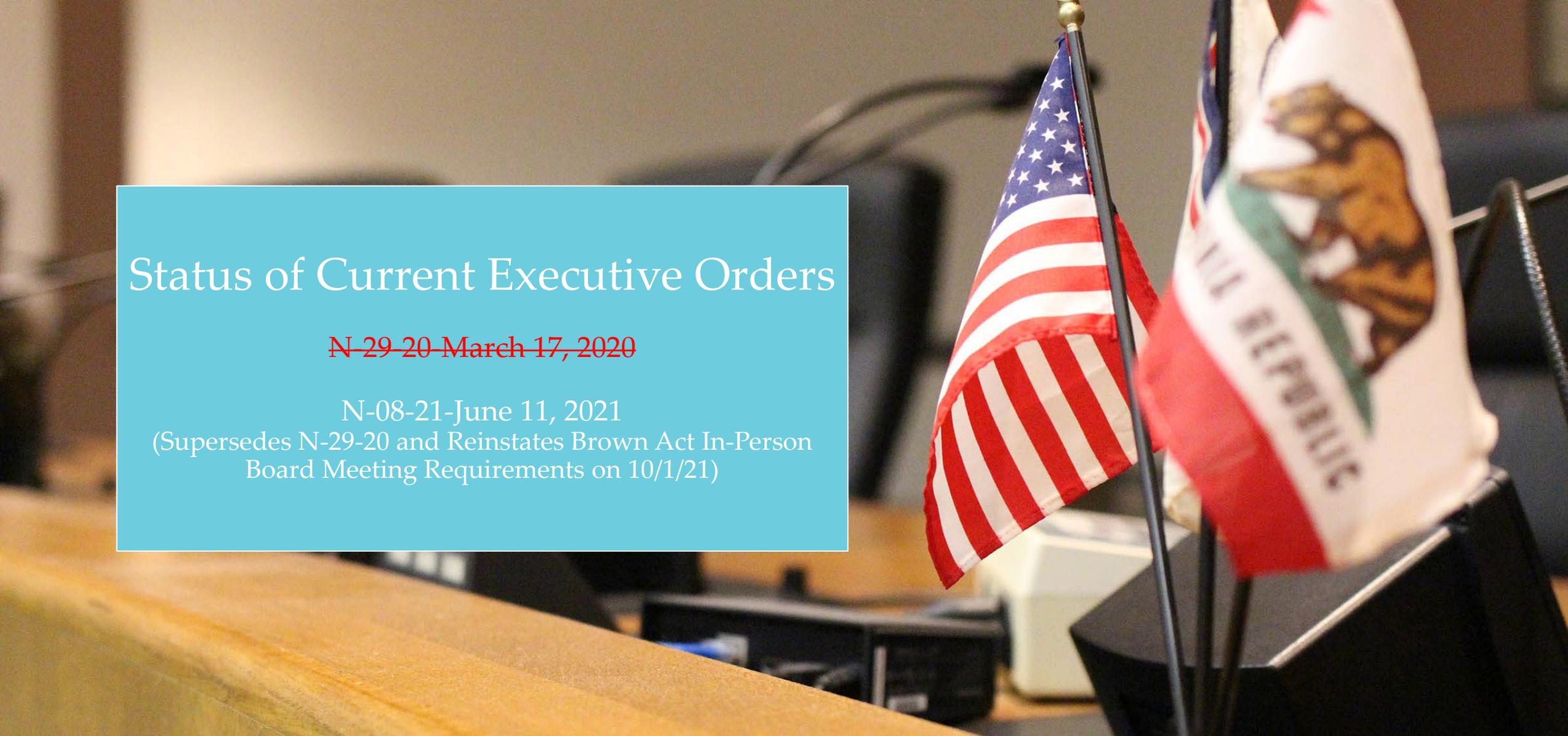
Lozano Smith
ATTORNEYS AT LAW

The Brown Act and COVID-19 Updates, California Executive Orders, and Public Comments

ELK GROVE UNIFIED SCHOOL DISTRICT

July 20, 2021





Status of Current Executive Orders

~~N-29-20 March 17, 2020~~

N-08-21-June 11, 2021

(Supersedes N-29-20 and Reinstates Brown Act In-Person Board Meeting Requirements on 10/1/21)

Elk Grove Unified School District

– Current Status

- In response to the COVID-19 pandemic, Governor Newsom issued Executive Orders including Executive Order N-29-20, which temporarily suspended provisions of the Brown Act relating to public meetings.
- Elk Grove Unified School District Board Members began conducting Board meetings via Zoom video/teleconferencing on April 21, 2020.



Elk Grove Unified School District

Current Process for Public Comments During Zoom

- For Public Comments –members of the public may submit electronic public comments through the Google Speaker’s Card Form online.
- Public comments that address topics within the jurisdiction of the Board are read during open session.
- Public Comments may be submitted on Items on Agenda or Not on the Agenda for regular board meetings.
- Electronic speaker card must be submitted prior to 4:30 p.m. on the day of the Board meeting. Public is asked whether the matter is on the Agenda or Not on the Agenda.
- Total amount of time allocated to present electronic speakers cards is limited to a maximum of three (3) minutes each, with a total of thirty (30) minutes designated for public comments on an item.
- Time limitations are at the discretion of the President of the Board of Trustees.

New Executive Order N-08-2021, June 11, 2021

The Governor issued New Executive Order N-08-21 and extended virtual public meeting flexibility through September 30, 2021.

NEW EXECUTIVE ORDER N-08-21 (June 11, 2021)

Flexibility continues through September 30, 2021:

1. No requirement for physical presence of Board Members and District personnel at Board meetings but allows it.
2. No need to make remote locations accessible to the public.
3. No need to have quorum within jurisdiction of the District.
4. Authorized to hold public Board meetings via teleconferencing.
5. Suspended obligation to notice and post location of Board members attending board meetings via teleconference.
6. Suspended obligation to allow members of the public to access the teleconference location of Board members and to address the Board from each teleconference location.

NEW EXECUTIVE ORDER N-08-21(June 11, 2021)

Flexibility continues through September 30, 2021:

7. Suspended the obligation for one member of the Board to be physically present at the location of the noticed Board meeting.
8. Public meetings could be accessible telephonically or otherwise electronically to all members of the public to observe and address the Board.
10. Board meeting procedures for access to Board meetings held via teleconferencing must be in compliance with Americans with Disabilities Act.
11. Boards were “urged to use sound discretion and make reasonable efforts to adhere as closely as reasonably possible to ...the Brown Act, ...in order to maximize transparency and provide the public access to their meetings.”

Executive Order N-08-2021:

October 1, 2021 - Brown Act Virtual Board Meeting Exceptions End

- Effective on October 1, 2021, N-08-21 reinstates Brown Act requirements.
- It requires a return to In-Person Board meetings consistent with Government Code section 54943 which includes narrow exceptions.
- Beginning on October 1st, the Brown Act's teleconferencing rules resume and require:
 - Each teleconference location be included in the posted Board agenda, and each teleconference location shall be open and accessible to the public;
 - Each teleconference location shall meet accessibility requirements, be equipped for, and allow public comment;
 - An agenda also be posted for the public at each teleconference location; and
 - A quorum of the legislative body participate from teleconference locations within the local agency's jurisdiction.
 - An obligation for one member of the Board to be physically present at the location of the noticed Board meeting.

Public Comment Options

Option A

- Keep things as they are right now
- Meetings are virtual for the Public, but In-person for staff
- Public comments are submitted via a form and are read aloud or live on the Zoom platform
- This option will go away October 1, 2021, when the Brown Act rules are reinstated to pre-pandemic requirements

Public Comment Options

Option B

- Back to the way things were done before the pandemic
- Full return to In-Person Board meetings
- Public comment live from the lectern in the Boardroom
- Blue Cards are submitted-usually before the meeting starts
- Individuals called upon to make their public comment either at general public comment time or aligned with an agenda item
- No virtual option for public comment but meeting is streamed live

Public Comment Options

Option C

- Full Return to In-Person Board meeting with live streaming to public via Zoom platform
- Public comments in-person in Boardroom or virtually via the Zoom platform
- In-person public comments - Blue Cards will be collected and organized by topic for in-person public comments
- Zoom public comments - Online form is submitted in advance of Board Meeting requesting to speak during public comment

Public Comment Options

Option D

- Full Return to in-person Board meeting with live streaming to public via Zoom platform
- Public comments in-person in Boardroom or virtually via the Zoom platform
- In-person public comments - Blue Cards will be collected and organized by topic for in-person public comments
- Zoom public comments - Online form is submitted in advance of Board Meeting requesting to speak during public comment
- Written comments will be collected via the online form 1 day prior to the meeting and distributed to the Board so there is time to read prior to the meeting

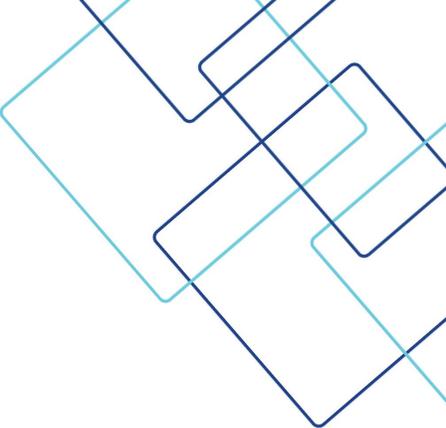
Staff Recommendations

Staff recommends Option C

- Full return to in-person Board meeting with live streaming to public via Zoom platform
- Public comments in-person in Boardroom or virtually via the Zoom platform
- In-person public comments - Blue Cards will be collected and organized by topic for in-person public comments
- Zoom public comments - Online form is submitted in advance of Board Meeting requesting to speak during public comment



Questions?



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