

RESOLUTION NO. 22-007

**RESOLUTION OF THE BOARD OF EDUCATION OF
THE BERKELEY UNIFIED SCHOOL DISTRICT
PROCLAIMING A LOCAL EMERGENCY, RATIFYING THE PROCLAMATION OF
A STATE OF EMERGENCY BY GOVERNOR NEWSOM DATED MARCH 4, 2020,
AND AUTHORIZING REMOTE TELECONFERENCE MEETINGS
FOR THE PERIOD OCTOBER 1, 2021 THROUGH OCTOBER 30, 2021**

WHEREAS, the Berkeley Unified School District is committed to preserving and nurturing public access and participation in meetings of the Board of Education; and

WHEREAS, all meetings of the Berkeley Unified School District's legislative bodies 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), as amended by Assembly Bill 361, Chapter 165 of the Statutes of 2021, makes provisions for remote teleconferencing 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 that the legislative body meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, such conditions now exist in the District, specifically, a State of Emergency has been proclaimed by the Governor on March 4, 2020, based on an outbreak of respiratory illness due to COVID-19; and

WHEREAS, the World Health Organization, the United States Centers for Disease Control and Prevention, the State of California including the California Department of Public Health, and the City of Berkeley Public Health Office have recognized that the country, state, and city face a life-threatening pandemic caused by the COVID-19 virus;

WHEREAS, with the continuing presence of COVID-19 and the recent surge of the highly contagious Delta variant, opening a physical meeting location to the public to hold in-person

Board of Education meetings would present an imminent risk to the health and safety of attendees given that members of the public are not required to be vaccinated to attend Board meetings, and with limited staff members, it is impractical to check and enforce the mask mandate and other indoor COVID-19 health and safety protocols for members of the public; and

WHEREAS, the Board of Education does hereby find that the Governor's March 4, 2020, State of Emergency proclamation due to the continuing presence of COVID-19 and its extremely contagious recent Delta variant has caused, and will continue to cause, conditions of peril to the safety of persons within the District that are likely to be beyond the control of services, personnel, equipment, and facilities of the District, and desires to proclaim a local emergency and ratify the proclamation of state of emergency by the Governor of the State of California; and

WHEREAS, as a consequence of the local emergency, the Board of Education does hereby find that the legislative bodies of the Berkeley Unified School District, including any subsidiary bodies and committees created by action of the Board, shall conduct their meetings without compliance with paragraph (3) of subdivision (b) of Government Code section 54953, as authorized by subdivision (e) of section 54953, and that such legislative bodies shall comply with the requirements to provide the public with access to the meetings as prescribed in paragraph (2) of subdivision (e) of section 54953; and

WHEREAS, to ensure the public has access to the Board of Education meetings on Zoom, the District has posted and will continue to post the Zoom login information on its website and meeting agendas, and the public has and will continue to have the opportunity to provide live public comments during the Zoom meeting.

NOW, THEREFORE, THE BOARD OF EDUCATION OF THE BERKELEY UNIFIED SCHOOL DISTRICT DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Proclamation of Local Emergency. The Board hereby proclaims that a local emergency now exists throughout the District, and opening a physical meeting location to the public to hold in-person Board of Education meetings would present an imminent risk to the health and safety of attendees due to the continuing presence of COVID-19 and its extremely contagious Delta variant.

Section 3. Ratification of Governor's Proclamation of a State of Emergency. The Board hereby ratifies the Governor of the State of California's Proclamation of a State of Emergency, effective as of its issuance date of March 4, 2020.

Section 4. Remote Teleconference Meetings. The Superintendent and legislative bodies of the Berkeley Unified School District are hereby authorized and directed to take all actions necessary to carry out the intent and purpose of this Resolution including, conducting open and public meetings in accordance with Government Code section 54953(e) and other applicable provisions of the Brown Act.

Section 5. Effective Date of Resolution. This Resolution shall take effect October 1, 2021, and shall be effective until the earlier of (i) October 30, 2021, or such time the Board of Education adopts a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which the legislative bodies of the Berkeley Unified School District may continue to teleconference without compliance with paragraph (3) of subdivision (b) of section 54953.

PASSED AND ADOPTED by the Board of Education of the Berkeley Unified School District, this 29th day of September, 2021, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN: