

**A RESOLUTION OF THE GOVERNING BOARD OF THE  
GILROY UNIFIED SCHOOL DISTRICT  
RESOLUTION NO. 21/22-09  
AUTHORIZING USE OF REMOTE TELECONFERENCING PROVISIONS (AB 361)**

**WHEREAS**, the Gilroy Unified School District (“District”) is committed to preserving public access and participation in meetings of the Board of Education (“Board”);

**WHEREAS**, all meetings of the District’s legislative bodies are open and public, as required by the Ralph M. Brown Act (Cal. Gov. Code 54950 – 54963) (“Brown Act”), so that any member of the public may attend, participate, and watch the District’s legislative bodies conduct their business;

**WHEREAS**, in response to the novel coronavirus (“COVID-19”) pandemic, Governor Newsom adopted a series of Executive Orders allowing the legislative bodies of local governments to meet remotely via teleconference so long as other provisions of the Brown Act were followed;

**WHEREAS**, on September 16, 2021, Governor Newsom signed AB 361, which immediately amended the Brown Act allowing governing boards to continue holding virtual meetings outside the teleconferencing requirements of Government Code section 54953(b), if the board makes a finding that there is a proclaimed State of Emergency, and either (1) state or local officials have imposed or recommended social distancing measures, or (2) meeting in person would present imminent risks to the health or safety of attendees due to the emergency;

**WHEREAS**, as of March 4, 2020 and continuing through to present day, the Governor of California has proclaimed a state of emergency due to the threat of COVID-19, legally predicated on the Governor’s express finding that circumstances meet the conditions codified in California Government Code Section 8558(b), relating to the declaration of a state of emergency, and further predicated on the Governor’s authority vested by the State Constitution and the California Emergency Services Act, California Government Code Section 8625;

**WHEREAS**, the Centers for Disease Control and Prevention (CDC) recommends to “Protect Yourself and Others” while outside of your home by putting 6 feet of distance (or about 2 full arm lengths) between yourself and people who do not live in your household, particularly for people who are at higher risk of getting very sick from COVID-19 whenever possible;

**WHEREAS**, the County Health Officer at Santa Clara County issued a recommendation (“Recommendation”) on September 21, 2021 that “public bodies meet remotely to the extent possible, specifically including use of newly enacted Assembly Bill 361 to maintain remote meetings under the Brown Act<sup>1</sup>;

**WHEREAS**, the County Superintendent of Schools of the Santa Clara County Office of Education issued a statement on September 23, 2021 providing that the Recommendation, in combination with the current declaration of a state emergency satisfies the requirement of Assembly Bill 361 (“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”) (Gov. Code § 54953(e)(1)(A));

**WHEREAS**, with the continuing presence of COVID-19 and the surges of contagious variants, opening a Board of Education’s physical meeting location to the public would present an imminent risk to the health and safety of attendees given the fact that members of the public are not required to be vaccinated to attend Board meetings and, with limited staff members, it is impracticable to check and enforce the mask mandate and other indoor COVID-19 health and safety protocols, such as physical distancing, for members of the public;

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<sup>1</sup> <https://covid19.sccgov.org/sites/g/files/exjcpb766/files/documents/health-officer-recommendation-re-public-governmental-meetings-09-21-21.pdf>

**WHEREAS**, on December 16, 2021, the Board passed Resolution 21/22-08 authorizing virtual Board meetings for a 30-day period from December 16, 2021, until January 15, 2022, pursuant to AB 361; and

**WHEREAS**, AB 361 requires governing boards to make findings every 30 days that the board has reconsidered the circumstances of the State of Emergency and that either the State of Emergency continues to directly impact the ability of the members to meet safely in person, or state or local officials continue to impose or recommend measures to promote social distancing.

**NOW THEREFORE**, be it resolved by the Board of Education of the Gilroy Unified School District as follows:

1. That the above recitals are true and correct;
2. A proclaimed state of emergency continues to exist in California due to the threat of COVID-19;
3. A local emergency continues to exist throughout the District and completely opening a Board of Education physical meeting location to the public would present an imminent risk to the health and safety of attendees due to the outbreak of COVID-19;
4. Local officials continue to recommend measures to promote social distancing;
5. The Superintendent and the legislative bodies of the District are authorized to take all actions necessary to hold Brown Act compliant meetings virtually; and
6. This Resolution will take effect as of this 14<sup>th</sup> day of January and shall continue in effect for 30 days or such time as the Board passes a subsequent resolution in accordance with Government Code section 54953(e)(3) to extend the time during which legislative bodies of the Gilroy Unified School District may continue to teleconference without compliance with Government Code section 54953(b)(3).

**ADOPTED** this 13<sup>th</sup> day of January 2022, by the Gilroy Unified School District Board of Education by the following roll call vote:

Ayes: \_\_\_\_\_

Noes: \_\_\_\_\_

Absent or Not Voting: \_\_\_\_\_

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Linda Piceno, President of Gilroy Unified School District Board of Education

Attested to:

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Dr. Deborah A. Flores, Superintendent and Secretary to the Board of Education