

## **AB 2449 TELECONFERENCE POLICY**

**Authorizing Manager:** Chief Counsel

**Effective Date:** February 8, 2023

**Last Updated:** July 12, 2023

**Mandatory Review:** Before January 1, 2026

**Policy Type:** Joint Board Policy

**Approval Level:** Board of Retirement and Board of Investments

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### **1. PURPOSE**

The purpose of this AB 2449 Teleconference Policy (Policy) is to establish a process (1) for Trustees to request Teleconference attendance at a publicly noticed Board and Committee meeting under the Act for Just Cause or Emergency Circumstances, and (2) to select Trustees who shall be permitted under the Act to attend a meeting by Teleconference, including when more than the maximum number of Trustees (which is one less than the number constituting a quorum allowed of the Board or any Committee) make a request for the same meeting.

### **2. SCOPE**

This Policy applies only to Teleconference attendance at publicly noticed Board and Committee meetings for Trustees who request it based on a showing of Just Cause or Emergency Circumstances under AB 2449 (which enacted California Government Code Section 54953(f) for meetings until January 1, 2024, and Section 54953(e) for meetings from January 1, 2024 until January 1, 2026). This Policy expires and has no effect for meetings on and after January 1, 2026, unless extended.

The Policy does not apply to (1) teleconference meetings when the Board or Committee makes the findings required under California Government Code Section 54953(e) (applicable for meetings until January 1, 2024 during a proclaimed state of emergency), (2) teleconference meetings agendized under Section 54953(b) (which requires that all teleconference locations be identified on the agenda, open to the public, and ADA-compliant), or (3) to meetings that are not publicly noticed under the Brown Act. The Board of Retirement and Board of Investments' separate Teleconference Meeting Policies previously adopted shall continue to apply to requests for teleconference meetings under Government Code Section 54953(b).

To the extent that state law or federal law provides for additional restrictions or conflicts with this Policy, the law shall prevail over this Policy.

### **3. LEGAL AUTHORITY**

This Policy is adopted pursuant to the plenary authority of the Board of Retirement and Board of Investments over the administration of the system (Cal. Const., art. XVI, sec 17), the County Employees Retirement Law of 1937 (CERL), including California

Government Code Sections 31520, 31520.1, 31520.2, and 31595, and other governing law. The authority of both Boards includes the ability to establish policies to implement the Brown Act (California Government Code Section 54950 *et seq.*), including AB 2449.

#### 4. **DEFINITIONS**

**4.1 Just Cause** means any of the following:

- (A) Childcare or caregiving needs of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires a Trustee to participate remotely. “Child,” “parent,” “grandparent,” “grandchild,” and “sibling” have the same meaning as those terms do in Government Code Section 12945.2;
- (B) A contagious illness that prevents a Trustee from attending in person;
- (C) A need related to a physical or mental disability as defined in California Government Code Sections 12926 and 12926.1, to the extent not otherwise accommodated under this Policy; or
- (D) Travel while on official business of LACERA or another state or local agency.

**4.2 Emergency Circumstances** means a physical or family medical emergency that prevents a Trustee from attending a meeting in person.

**4.3 Teleconference** means both audio and on camera visual participation throughout a meeting.

#### 5. **LEGAL REQUIREMENTS AND PROCESS FOR TELECONFERENCE MEETING ATTENDANCE UNDER AB 2449**

##### **5.1 Teleconference Meeting Requests**

Subject to the other requirements of this Policy, a Trustee shall be eligible to attend a meeting by Teleconference if one of the following circumstances apply:

- (A) A Trustee submits an email request to attend by Teleconference for Just Cause to the Executive Board Assistants, at [boardoffices@lacera.com](mailto:boardoffices@lacera.com), as soon as possible prior to a Board or Committee meeting, but no later than the start of a meeting. The request must include a general description that need not exceed 20 words relating to their Just Cause. No action by the Board or Committee is required to approve a request based on Just Cause; or
- (B) A Trustee submits an email request to attend by Teleconference due to Emergency Circumstances to the Executive Board Assistants, at [boardoffices@lacera.com](mailto:boardoffices@lacera.com), as soon as possible prior to a Board or Committee meeting, but no later than the start of a meeting. The request must include an email statement that need not exceed 20 words of the Emergency Circumstances. The Board or Committee must take action to approve the request. If a request is not submitted in time for it to be placed on the noticed

agenda, a Board or Committee may take action at the beginning of the meeting under Government Code Section 54954.2(b).

The required email statement of Just Cause or Emergency Circumstance shall not disclose any medical diagnosis or disability, or any medical or private information exempt under applicable law, including the Confidentiality of Medical Information Act (California Civil Code Section 56 *et seq.*). However, it shall provide sufficient non-confidential information to provide a general description of the basis for the Just Cause or Emergency Circumstances and allow the request to be evaluated for compliance with the definitions of Just Cause or Emergency Circumstances.

## **5.2 Process for Deciding and Allocating Teleconference Requests**

In conjunction with the Board or Committee Chair, the Executive Board Assistants shall advise Trustees as soon as possible upon completion of the process described in this Section 5.2 as to whether their Teleconference request is allowed or denied or, in the case of a request based on Emergency Circumstances, recommended for approval or denial to a Board or Committee.

When less than a quorum of a Board or Committee request to attend a meeting via Teleconference, all requests shall be allowed if they are based on Just Cause and comply with this Policy, and all requests shall be recommended for approval by the Board or Committee if they are based on Emergency Circumstances and comply with this Policy.

When a quorum or more of a Board or Committee request to attend a meeting via Teleconference, attendance for Trustees whose requests comply with this Policy shall be allowed in the case of Just Cause or recommended in the case of Emergency Circumstances on a first come, first served basis based on the time the requests were first received by the Executive Board Assistants, including the statement describing Just Cause or Emergency Circumstances. Requests based on the Americans with Disabilities Act of 1990 (42 U.S.C. § 12132) (ADA) shall be given priority, notwithstanding when submitted.

In all cases, the Executive Board Secretaries shall review Teleconference requests for compliance with this Policy. They shall then submit all requests to the Chair of the Board or Committee and include information regarding compliance of each request with this Policy and recommendations as to which requests are proposed to be granted or denied. The Chair of the Board or Committee shall oversee the allocation process, including the final decision as to which requests are granted or denied, or recommended to be granted or denied in the case of Emergency Circumstances which require Board or Committee

approval, and to ensure that requests based on the ADA are given proper accommodation and priority.

As a condition of Teleconference meeting attendance that is allowed, at the beginning of a Teleconference meeting and, for requests based on Emergency Circumstances, before a Teleconference request is approved or acted upon, the Trustee shall publicly disclose whether any other individuals 18 years of age or older are present in the room from which the Trustee remotely attends, and the general nature of the Trustee's relationship with any such individuals. This information must be updated by each Trustee attending by Teleconference as needed during the meeting if other such individuals join the Trustee's meeting room.

Board and Committee agendas will include, at the beginning of each agenda, an item where those participating for Just Cause will be identified, for action regarding those requesting to attend for Emergency Circumstances, and the required statement as to other persons present in the room with Teleconference participants may be made.

If a Teleconference request is granted, the Trustee must participate by audio and on camera visual technology throughout a meeting, provided, however, that such Trustee may mute their audio and/or turn off their video when they are not speaking or voting, and on an incidental and minimal basis, so as to avoid undue disruption of the meeting.

### **5.3 A Quorum Must be Physically Present for the Entire Meeting**

A quorum of Trustees of a Board or Committee must be physically present together for the entire Teleconference meeting at the same single location in the County of Los Angeles stated in the meeting agenda and open to the public in order for Teleconference attendance under this Policy to be allowed. A physical quorum can be established through the in-person attendance of alternate members of a Board or Committee. No action can be taken by a Board or Committee if there is not a physical quorum or if the quorum is lost during the meeting, provided, however, that if a Committee meeting is agendaized, and non-Committee Board members attend that meeting, such non-Committee Board members will not be counted for purposes of determining whether a quorum of the Board is physically present for purposes of the Teleconferencing meeting, because such non-Committee Board members are not permitted to take action on any Committee agenda items during that meeting.

### **5.4 Public Participation**

At any meeting of a Board or Committee at which Teleconference attendance is permitted under this Policy, the meeting must provide in-person attendance at the noticed location and one of the following means for the public to remotely hear

and visually observe the meeting, and remotely address the meeting:

- (A) A two-way audiovisual platform; or
- (B) A two-way telephonic service and a live webcasting of the meeting.

The meeting agenda shall state the in-person and remote methods for the public to observe and participate in the meeting and provide instructions. Public comments must be allowed in real time up until the end of the Public Comment section on the meeting agenda in the case of oral comment or until the end of the meeting in the case of written comment. If there is a technological disruption in the method for the public to remotely observe and participate, no further action may be taken by the Board or Committee until remote access is fully restored.

### **5.5 Limitation on Trustee Teleconference Attendance**

No more than two requests based on Just Cause may be granted per calendar year, whether the meetings are regular or special.

As to requests based on either Just Cause or Emergency Circumstances, the following limitations apply and will be monitored by the Executive Board Assistants:

- (A) Subject to (B) and (C), no more than three consecutive meetings, whether regular or special, of a Board or Committee within a calendar year, of which no more than two may be regular or special meetings for Just Cause;
- (B) Subject to (C), no more than 20% of the regular meetings of a Board or Committee within a calendar year, of which no more than two may be regular or special meetings for Just Cause; and
- (C) If a body meets regularly less than 10 times per calendar year, no more than two meetings, regular and special, per calendar year.

Following the method applicable under this section, a Teleconference limit will apply to meetings noticed only of the Board or Boards. A separate and independent limit will apply for each Committee, which will be the same for both Committee members and non-Committee Board Trustees who attend a Committee meeting by Teleconference.

## **6. REFERENCES**

Ralph M. Brown Act ([California Government Code Section 54950 et seq.](#))

[AB 2449](#) California Government Code Section 54953(f) for meetings until January 1, 2024 and Section 54953(e) for meetings from January 1, 2024 until January 1, 2026).

[Americans With Disabilities Act of 1990 \(42 U.S.C. § 12132\).](#)

[Confidentiality of Medical Information Act](#) (California Civil Code Section 56 *et seq.*) and other applicable privacy and medical confidentiality laws.

[Board of Retirement Teleconference Meeting Policy.](#)

[Board of Investments Teleconference Meeting Policy.](#)

**7. VERSION HISTORY**

First approved by the Board of Retirement on February 1, 2023, and by the Board of Investments on February 8, 2023. Revised by the Board of Retirement on July 7, 2023, and by the Board of Investments on July 12, 2023.

**8. POLICY REVIEW AND APPROVAL**

This Policy is effective retroactive to the day first adopted by the Board of Retirement and Board of Investments. This Policy shall expire on January 1, 2026 and shall be reviewed by the Boards prior to that date in order to address legislative changes.