

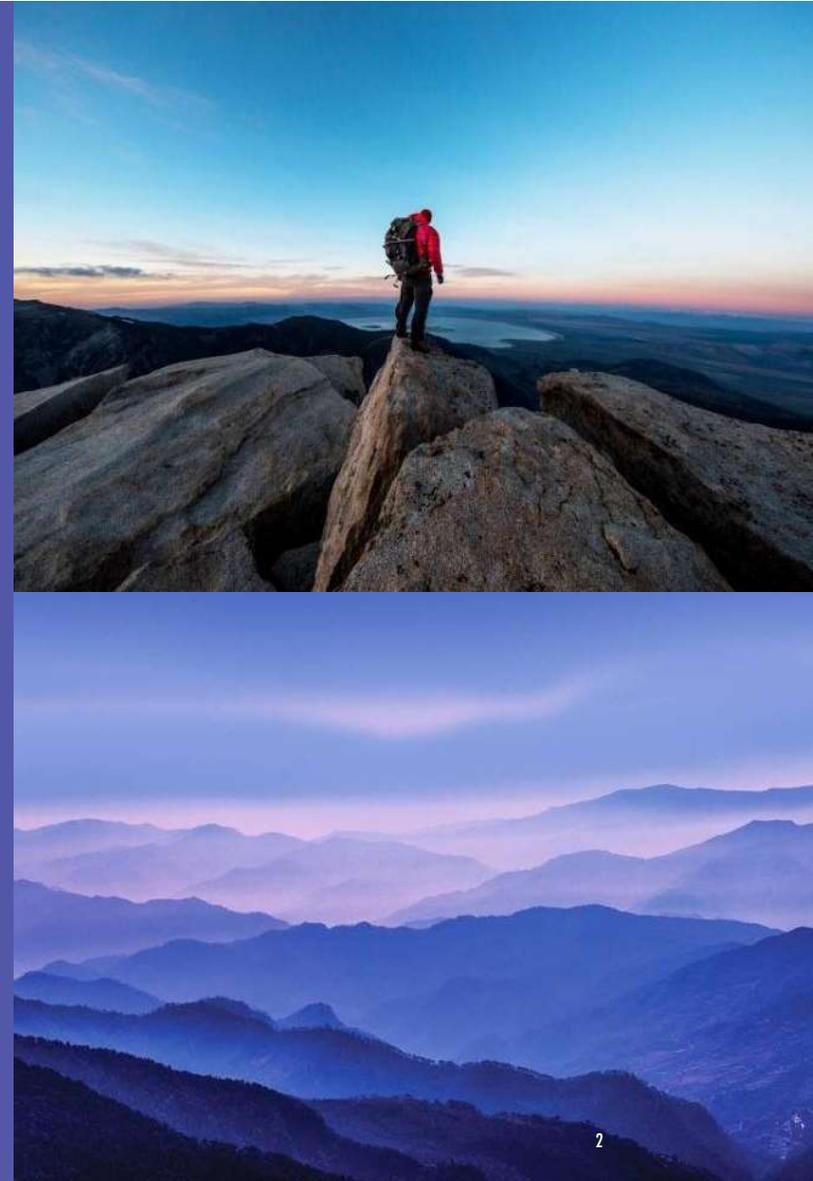
TELECONFERENCE OPTIONS UNDER THE BROWN ACT 2023

Mono County Counsel



WHAT WE'LL COVER

1. Traditional Brown Act teleconference rules
2. Modified AB 361 rules, which apply during periods of proclaimed emergency where public health officials recommend/require social distancing
3. AB 2449 hybrid rules, which will come into play when emergency proclamation terminates





INTRODUCTION

Traditional teleconference rules (in effect long before COVID) allow for remote participation by members of legislative bodies, requiring that public access be provided at all remote locations.

COVID-19 caused California to modify its traditional rules for teleconference meeting participation by board members – remote locations do not need to be publicized or open to the public. (AB 361)

Those modified rules will not be available after the COVID emergency proclamation terminates, but the legislature has taken some of the key concepts, made them more burdensome and confusing, and left a narrow window for remote participation without public access to the remote location. (AB 2449)

1. TRADITIONAL TELECONFERENCE RULES UNDER THE BROWN ACT

Public access to teleconference locations



TRADITIONAL BROWN ACT RULES

What do the “traditional” rules require?

Teleconference location(s) must be listed on the agenda

Teleconference locations must be open to the public and accessible to individuals with disabilities

Meeting agendas must be posted at all teleconference locations

At least a quorum (3 of 5 members) of the legislative body must participate from a location that is within the jurisdictional boundaries of the agency

Takeaway:

If you're going to participate remotely, you are going to invite and welcome the public to join you!

2. MODIFIED TELECONFERENCE RULES UNDER AB 361

During COVID, the public was not invited to participate from teleconference locations



AB 361

What's different about the AB 361 rules?

Teleconference location(s) do not need to be listed on the agenda

Teleconference locations do not need to be open to the public

Agendas do not need to be posted at the teleconference location

There is no requirement that at least a quorum of the members (3 of 5 members) be physically present within the jurisdiction during a meeting

Takeaway:

In a declared public health emergency - where health officials are recommending or requiring social distancing - public access to teleconference locations is not required!

(These rules remain on the books until January 1, 2024, but if there's no declared public health emergency, they cannot be used.)

3. NEW TELECONFERENCE RULES UNDER AB 2449

Hybrid rules after the emergency proclamation ends



AB 2449 RULES

What's different (and the same) about the AB 2449 rules?

Teleconference location(s) do not need to be listed on the agenda

Teleconference locations do not need to be open to the public

Agendas do not need to be posted at the teleconference location

**SO FAR, JUST LIKE AB 361, BUT . . .
USE OF THESE RULES IS EXTREMELY
LIMITED (SEE NEXT SLIDE)**

HOW AB 2449 DIFFERS FROM AB 361

AB 2449'S LIMITATIONS

At least a quorum of the board (3 of 5 members) must participate in person from a singular physical location clearly identified on the agenda and open to the public.

Members participating remotely must meet/comply with one of the following:

Just cause exception:

Notify the board at earliest opportunity of need to participate remotely

Describe "just cause*" for remote participation (*defined in the statute)

Can only do this for 2 meetings each calendar year, OR

Emergency exception:

Notify the board of an emergency and the board must take action to approve the request

Provide a general description of the emergency circumstances

Request must be remade for each meeting (i.e., no standing requests)

Disclose whether any person aged 18 or older is present with them during the meeting

Participation must be both audio and visual

May be used for no longer than 3 consecutive months or more than 20% of regular meetings of the board.

Compare to traditional rules:

- quorum of members need to be within the jurisdiction (but not in a singular physical location)
- no just cause or emergency is required under old rules

Takeaway:

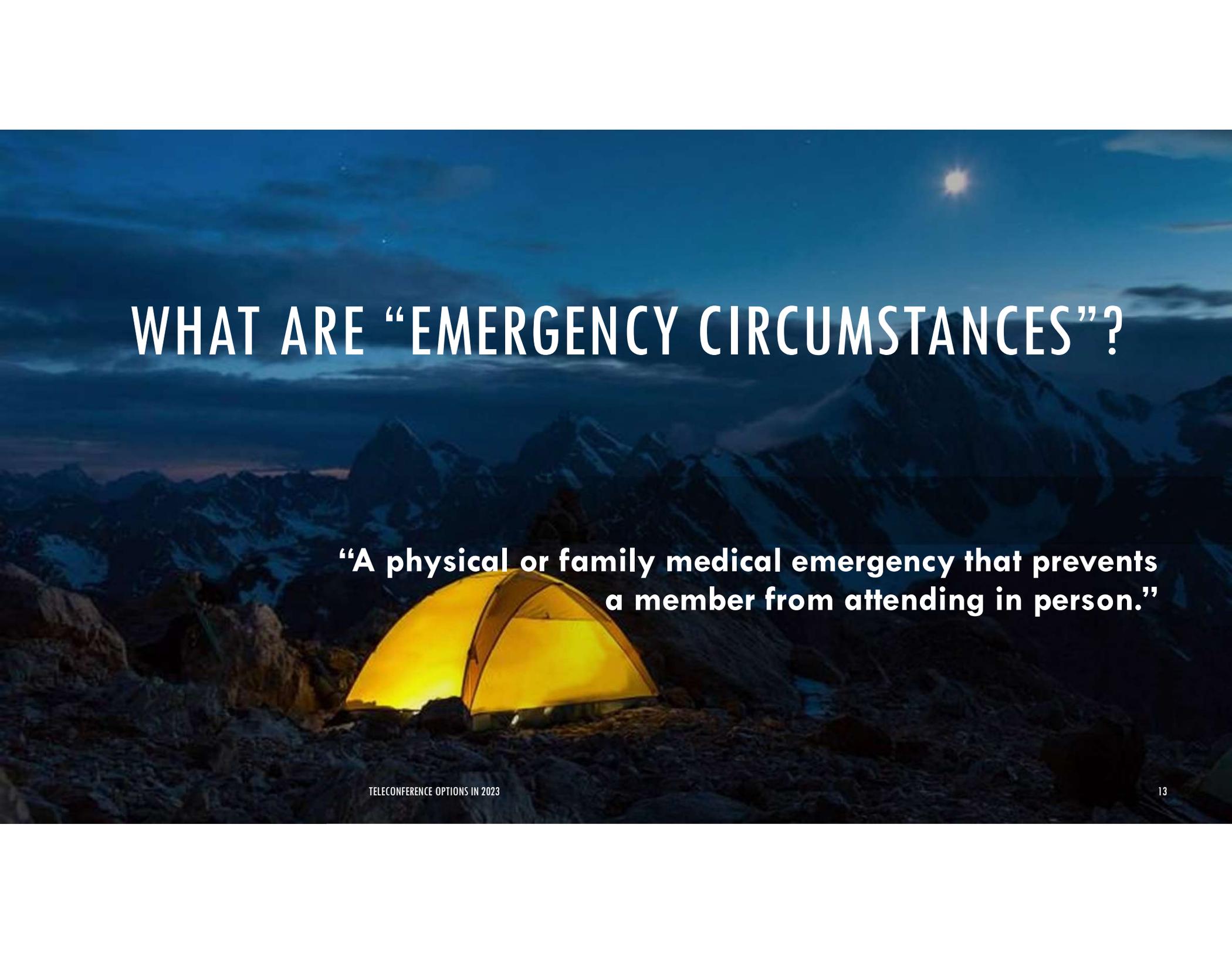
New rules may only be used in specific, narrow circumstances



WHAT CONSTITUTES “JUST CAUSE”?

JUST CAUSE UNDER AB 2449

Caregiver needs	Contagious illness	Disability	County-related travel	PROCESS
The member must care for a child, parent, grandparent, grandchild, sibling, spouse or domestic partner	A contagious illness prevents the member from attending in person	The member has a need related to a physical or mental disability that is not otherwise accommodated under the Brown Act	The member is traveling on official business of the legislative body or another state or local agency	Remember! The member must notify the board at the earliest opportunity of the need to participate remotely for just cause Limit of 2x per calendar year!

A glowing yellow tent is pitched on a rocky mountain peak at night. The tent is illuminated from within, casting a warm glow. The background features dark, jagged mountain peaks under a deep blue night sky with a bright star or moon in the upper right. The overall scene is serene and isolated.

WHAT ARE “EMERGENCY CIRCUMSTANCES”?

“A physical or family medical emergency that prevents a member from attending in person.”



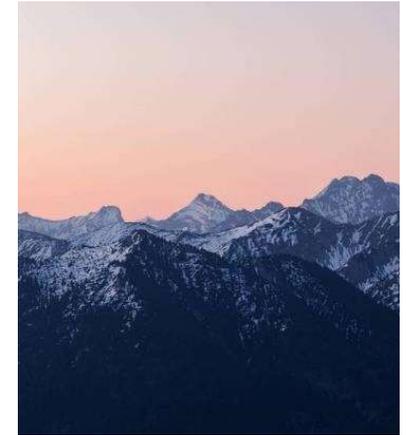
Process for emergency circumstances

1. At the earliest possible opportunity, the member requests that the legislative body allow them to participate remotely due to emergency circumstances.
2. The member provides the legislative body with a general description of the reason for the emergency (without disclosing medical diagnosis, information or disability).
3. The legislative body takes action on the request. It must either be on the agenda or qualify to be added as an urgency item.
4. If any other person (over age 18) is present in the remote location, the member must disclose their presence and the nature of their relationship to the member.

SUMMARY

Remember, the traditional Brown Act teleconference rules are still in effect.

The new AB 2449 rules may only be used if there is an emergency or “just cause” and only if certain procedures are followed.





QUESTIONS? |