



*Here for you*

**Joint San Francisco Health Authority &  
San Francisco Community Health Authority  
Governing Board Agenda  
Special Meeting Agenda**

Friday, December 2, 2022  
12:00 pm to 12:10 pm

**SPECIAL NOTICE: Coronavirus COVID-19**

Due to the COVID-19 public health emergency and in accordance with Governor Newsom’s Executive Order N-29-20, San Francisco Health Authority (SFHA) and San Francisco Community Health Authority (SFCHA) Governing Board members will be attending this meeting via video conference. The meeting will be closed to in-person public attendance. This precaution is being taken to protect members of the Governing Board, staff, and the public. All Governing Board members will attend the meeting via video conference and will participate in the meeting to the same extent as if they were present.

Members of the Governing Board and public may connect to the meeting by:

**Microsoft Teams meeting  
Join on your computer or mobile app**

[Click here to join the meeting](#)

**Or call in (audio only)**

[+1 323-475-1528](#)

Phone Conference ID: 564969786#

\*\*\*\*\*OPEN SESSION\*\*\*\*\*

1. Call to Order and Public Comment on any matters within the SFHA/SFCHA purview
2. (V) Approve Findings and Resolution 2022-015, Establishing the State of Emergency Continues to Impact the Ability of Governing Board and Committee Members to Meet Safely in Person and State or Local Officials Continue to Impose or Recommend Measures to Promote Social Distancing (Yolanda R. Richardson, Nina Maruyama, and Eunice Majam-Simpson, DSR Health Law)
3. Adjourn

(V) Denotes an Action Item Requiring a Vote (D) Denotes Discussion Item

**NOTE: NEXT GOVERNING BOARD MEETING is January 11, 2023**

**Please Note These Up Coming SFHA/SFCHA Meetings:**

- Finance Committee: January 11, 2023 (10:30 am-12:00 pm)
- Governing Board: January 11, 2023 (12:00 pm-2:00 pm)
- Member Advisory Committee: January 13, 2023 (1:00 pm-3:00 pm)
- Quality Improvement Committee: TBD (7:30 am-9:00 am)
- Member Advisory Committee: February 10, 2023 (1:00 pm-3:00 pm)

Please note that members of the public will be allowed to make public comments. If a person wishes to make a public comment during the meeting, they may either 1) use Microsoft Teams and will have the option to notify San Francisco Health Plan (SFHP) staff by alerting them via the “Chat” function or they can 2) contact SFHP staff via email at [vhuggins@sfhp.org](mailto:vhuggins@sfhp.org), in which staff would read the comment aloud during the public comment period. Public comments will be limited to two (2) minutes per comment.

If you plan to attend, please contact Valerie Huggins at (415) 615-4235.

If you plan to attend and need to request disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting, please contact Valerie Huggins at (415) 615-4235.



## MEMO

**Date:** November 28, 2022

**To:** Governing Board

**From:** Nina Maruyama, Chief Compliance & Regulatory Affairs Officer

**Regarding:** Findings of the COVID-19 State of Emergency and Resolution 2022-15 to Establish the Findings That the State of Emergency Continues to Impact the Ability of Governing Board and Standing Committee Members to Meet Safely in Person and/or State or Local Officials Continue to Recommend Measures to Promote Social Distancing

### RECOMMENDATION

San Francisco Health Plan (SFHP) recommends the Governing Board adopt Resolution No. 2022-15 authorizing the continued use of remote teleconferencing pursuant to Government Code section 54953(e) ("AB 361") for a period of thirty (30) days. SFHP recommends that the Governing Board continue to make the findings required by AB 361 no later than every thirty (30) days thereafter.

### COVID-19 State of Emergency Findings Summary

To continue meeting by teleconference pursuant to AB 361, the Governing Board must reconsider the circumstances of the novel coronavirus (COVID-19) state of emergency and either establish state or local officials have imposed or recommended measures to promote social distancing, or meeting in person meeting would present imminent risks to the health and safety of attendees.

The Governor's proclaimed state of emergency due to COVID-19 remains in effect.

Holding Governing Board and Standing Committee meetings in person would present ongoing risks to the health and safety of attendees, especially given the emergence of

COVID-19 variants and the continued risk of infection. Many COVID-19 infections are caused by people who have no symptoms of illness.<sup>1</sup>

Both State of California officials and officials of the City and County of San Francisco continue to recommend measures to promote social distancing.

### **Current State of Emergency**

The state of emergency due to COVID-19 remains in effect at both the state and local levels.

#### *California Proclaimed State of Emergency*

On March 4, 2020, Governor Newsom proclaimed a state of emergency to exist in California as a result of the threat of COVID-19.<sup>2</sup> The proclaimed state of emergency in California due to COVID-19 remains in effect. Per Executive Order N-11-22, signed by the Governor on June 17, 2022, the State of Emergency proclaimed on March 4, 2020 shall remain in place and shall have full force and effect for the duration of this emergency.

#### *Local Emergency Declarations*

On February 25, 2020, Mayor London Breed declared a local emergency due to the spread of COVID-19 within the City and County of San Francisco.<sup>3</sup> On March 6, 2020, the Health Officer of the San Francisco Department of Public Health (SFDPH) declared a local health emergency under Health & Safety Code § 101080.<sup>4</sup> Both these declarations remain in effect, per Order of the Health Officer No. C19-07y (updated September 15, 2022).

### **State and Local Officials Continue to Recommend Measures that Promote Social Distancing**

Both state and local officials continue to require or recommend measures to promote physical distancing and other protections, such as a well-fitted mask.

#### *State Requirements and Recommendations*

State officials, including the California Department of Public Health (CDPH) and the California Occupational Safety and Health Administration (Cal/OSHA), continue to recommend measures that promote social distancing and other protections.

The CDPH's continues to promote vaccination and social distancing measures, such as masking. Effective March 1, 2022, the CDPH's current Guidance for Use of Face Coverings<sup>5</sup> the requirement that unvaccinated individuals mask in indoor public settings

---

<sup>1</sup> San Francisco Department of Public Health Order of the Health Officer No. C19-07y (updated April 21, 2022).

<sup>2</sup> Available at [www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf](http://www.gov.ca.gov/wp-content/uploads/2020/03/3.4.20-Coronavirus-SOE-Proclamation.pdf)

<sup>3</sup> Mayoral declarations regarding COVID-19 are available at [sfmayor.org/mayoral-declarations-regarding-covid-19](http://sfmayor.org/mayoral-declarations-regarding-covid-19)

<sup>4</sup> Available at [www.sfdph.org/dph/alerts/files/HealthOfficerLocalEmergencyDeclaration-03062020.pdf](http://www.sfdph.org/dph/alerts/files/HealthOfficerLocalEmergencyDeclaration-03062020.pdf)

<sup>5</sup> Available at <https://www.cdph.ca.gov/Programs/CID/DCDC/Pages/COVID-19/guidance-for-face-coverings.aspx>

moved to a strong recommendation that all persons, regardless of vaccine status, continue indoor masking. Universal masking shall remain required in specified high-risk settings.

The same information is provided as “current safety measures” on the State of California’s COVID-19 website.<sup>6</sup>

The California Occupational Safety and Health Administration (Cal/OSHA) issued the COVID-19 Emergency Temporary Standards (ETS),<sup>7</sup> which requires most employers to train employees about measures that can decrease the spread of COVID-19. The COVID-19 Prevention Emergency Temporary Standard are still in effect. The workplace standards were updated on May 6, 2022 and effective starting on May 6, 2022 through December 31, 2022. The ETS also requires employers to evaluate how to maximize ventilation with outdoor air to the highest level of filtration efficiency compatible with the existing ventilation system and whether HEPA filtration units would reduce the risk of COVID-19 transmission.

### *San Francisco Department of Public Health Orders*

Local City and County of San Francisco officials continue to impose or recommend measures that promote social distancing.

The SFDPH’s main health order governing the COVID-19, C19-07y – Safer Return Together,<sup>8</sup> remains in place. In the health order, which was last revised on September 15, 2022, the SFDPH aligned its policy to be consistent with the CDPH.

SFHP cannot confirm it can meet all conditions of the Order that would allow the removal of the face mask requirements during an Open public meeting at SFHP.

### **The COVID-19 State of Emergency Continues to Directly Impact the Ability of the Governing Board to Meet Safely in Person**

The spread of COVID-19 poses a continued risk to the health and safety of members of the Governing Board, Standing Committee members, SFHP staff, and members of the general public, who attend such meetings.

Prior to the COVID-19 pandemic, the Governing Board meetings, as well as meetings by the Standing Committees of the Board, took place in Conference Rooms at the SFHP headquarters, 50 Beale St, 13th Floor, San Francisco, CA 94105. The Member Advisory Committee held meetings at the Lighthouse, 1155 Market Street, 10th Floor, San Francisco, CA, which has been closed to in-person meetings. SFHP Conference Rooms and the Lighthouse cannot accommodate six feet of distance between Governing Board members, SFHP staff, and members of the public. Moreover, SFHP staff cannot ensure ventilation of the Conference Rooms and the Lighthouse meets Cal/OSHA ETS standards as ventilation is controlled by the building. SFHP Conference

---

<sup>6</sup> See <https://covid19.ca.gov/safely-reopening/#what-to-do-now>

<sup>7</sup> Available at <https://www.dir.ca.gov/dosh/coronavirus/ETS.html>

<sup>8</sup> Available at [www.sfdph.org/dph/alerts/coronavirus-healthorders.asp](http://www.sfdph.org/dph/alerts/coronavirus-healthorders.asp).

Rooms and the Lighthouse contain no windows that can be opened to maximize outdoor airflow.

Members of the public who attend Governing Board and Standing Committee meetings may be unvaccinated or partially vaccinated. Those who are unvaccinated or partially vaccinated persons are at higher risk of contracting COVID-19, including the COVID-19 Delta and Omicron variants. Even fully vaccinated persons can contract and potentially unknowingly spread COVID-19, including the Delta and Omicron variants.<sup>9</sup>

For these reasons, the COVID-19 state of emergency continues to directly impact the Governing Board's ability to meet in person. The threat of COVID-19 transmission poses a continued risk to the health and safety of vaccinated and unvaccinated members of the Governing Board, its Standing Committees, SFHP staff, and members of the general public who attend such meetings.

### **RECOMMENDATION**

SFHP recommends that the Governing Board adopt Resolution No. 2022-15 authorizing the continued use of remote teleconferencing pursuant to Government Code section 54953(e) ("AB 361") for a period of thirty (30) days. SFHP recommends that the Governing Board continue to make the findings required by AB 361 every thirty (30) days thereafter.

### **ATTACHMENTS:**

Resolution No. 2022-15

---

<sup>9</sup> See [What You Need to Know About Variants | CDC](#)

## **APPENDIX: AB 361 (Rivas), Open Meetings: local agencies: teleconferences**

### ***AB 361 Legislative History***

Governor Gavin Newsom signed Executive Order N-29-20 on March 17, 2020, in response to the COVID-19 pandemic.<sup>10</sup> Executive Order N-29-20 waived certain requirements of the Brown Act to allow public agencies' legislative bodies more flexibility to hold meetings by teleconference and was set to expire on September 30, 2021.

Governor Newsom signed AB 361 on September 16, 2021.<sup>11</sup> AB 361 amends Government Code Section 54953 of the Brown Act to allow public agencies to hold virtual meetings during a proclaimed state of emergency without having to comply with the traditional Brown Act teleconferencing requirements stated in Gov. Code § 54953(b)(3).

AB 361 was enacted as an urgency legislation and was effective immediately. However, on September 20, 2021, Governor Newsom issued Executive Order N-15-21, delaying the application of AB 361 until 11:59 p.m. on October 1, 2021.<sup>12</sup> Public agencies could continue to hold virtual meetings through September 30, 2021 consistent with Executive Order N-29-20. However, any meetings starting October 1, 2021 need to comply with traditional Brown Act requirements or the specific requirements for teleconference meetings in AB 361.

### ***Applicability of AB 361***

AB 361, Gov. Code § 54953(e)(1), states that public agencies may use teleconferencing in any of the following circumstances:

- (A) 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.
- (B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health and safety of attendees.
- (C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B) that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

Public agencies may use the AB 361 teleconferencing flexibilities only during a proclaimed state of emergency, which is defined in Government Code 8558. The definition of emergency is broader than the COVID-19 pandemic and could include fire,

---

<sup>10</sup> Available at [www.gov.ca.gov/wp-content/uploads/2020/03/3.17.20-N-29-20-EO.pdf](http://www.gov.ca.gov/wp-content/uploads/2020/03/3.17.20-N-29-20-EO.pdf)

<sup>11</sup> The full text of AB 361 is available at [leginfo.ca.gov/faces/billPdf.xhtml?bill\\_id=202120220AB361&version=20210AB36192CHP](http://leginfo.ca.gov/faces/billPdf.xhtml?bill_id=202120220AB361&version=20210AB36192CHP)

<sup>12</sup> Available at [www.gov.ca.gov/wp-content/uploads/2021/09/9.20.21-executive-order.pdf](http://www.gov.ca.gov/wp-content/uploads/2021/09/9.20.21-executive-order.pdf)

flood, epidemic, sudden and severe energy shortage, plan or animal infestation or disease, or earthquake. If there is no proclaimed state of emergency, the traditional Brown Act requirements for teleconference meetings apply, as shown in the table below.

The AB 361 teleconference flexibilities are set to expire on January 1, 2024.

***Differences Between Traditional Brown Act Teleconferencing Requirements and AB 361***

	<b>Traditional Brown Act Teleconferencing Requirements</b> Gov. Code § 54953(b)(3)	<b>AB 361 Teleconferencing Requirements</b> Gov. Code § 54953(e)
<b>Quorum</b>	At least a quorum of members must participate from locations within the boundaries of the territory over which the public agency exercises jurisdiction.	Quorum of member not required to be located within the boundaries of the territory.
<b>Agenda</b>	Each teleconference location from which a member will be participating must be identified in the meeting notice and agenda.  Agenda must be posted for the required period of time at each teleconference location from which a member will be participating.	The public agency must only give notice and post the agenda per Brown Act requirements for in-person meetings.  Agenda must include an opportunity for anyone the public to attend via a call-in or internet-based option.
<b>Teleconference Location</b>	Each teleconference location must be physically accessible to the public.  Member of the public must be able to physically address the legislative body from each teleconference location.	Public agency does not have to allow member of the public to attend at each teleconference location.  Public agency is not required to provide a physical location for the public to attend or provide comments.
<b>Public Comment</b>	Public agency required to allow public comment at the in-person meeting and from every teleconference location.	The legislative body must allow the public to address the legislative body directly and provide the means by which the public may access the meeting and offer public comment.  In the event of a technical disruption, the legislative body



<p style="text-align: center;"><b>Traditional Brown Act Teleconferencing Requirements</b> Gov. Code § 54953(b)(3)</p>	<p style="text-align: center;"><b>AB 361 Teleconferencing Requirements</b> Gov. Code § 54953(e)</p>
	<p>cannot take further action on the agenda until the technical disruption is resolved.</p> <p>The legislative body may request, but cannot require, public comments be submitted in advance of the meeting. The public must be able to address the legislative body and offer comment in real time.</p> <p>Individuals providing public comment through a website or online platform that is not controlled by the legislative body may be required to register to participate, if required by the third-party internet website or online platform.</p> <p>If the legislative body provides timed comment periods for each agenda item, it cannot close the public comment period until the timed public comment period has elapsed.</p> <p>If the legislative body does not provide time public comment period, but takes public comment separately on each agenda item, it must allow a reasonable amount of time per agenda item for public comment, including time for the public to register.</p> <p>If the legislative body provides a timed general public comment period that does not correspond to a specific agenda item, it cannot close the public comment period or the opportunity to register until the</p>

	<b>Traditional Brown Act Teleconferencing Requirements</b> Gov. Code § 54953(b)(3)	<b>AB 361 Teleconferencing Requirements</b> Gov. Code § 54953(e)
		timed general public comment period has elapsed.

***Required Action by the Legislative Body***

In addition to the AB 361 requirements described above, the legislative body must make the following factual findings, by majority vote, within 30 days after teleconferencing for the first time after September 30, 2021, and every 30 days thereafter:

1. The legislative body has reconsidered the circumstances of the state of emergency; and
2. Either of the following circumstances exist:
  - a. The state of emergency continues to directly impact the ability of the members to meet safely in person.
  - b. State or local officials continue to impose or recommend measures to promote social distancing.

**San Francisco Health Plan Governing Board**  
**Joint Resolution for San Francisco Health Authority/San Francisco Community Health Authority**

**Resolution 2022-15**

**Resolution to Establish the Findings That the State of Emergency Continues to Impact the Ability of Governing Board and Standing Committee Members to Meet Safely in Person and/or State or Local Officials Continue to Impose or Recommend Measures to Promote Social Distancing**

WHEREAS, the San Francisco Health Authority and San Francisco Community Health Authority's Governing Board and its Standing Committees hold meetings in its jurisdiction of the City and County of San Francisco subject to the Ralph M. Brown Act (Cal. Gov. Code §§ 54950-54936, hereinafter "Brown Act"); and

WHEREAS, on March 4, 2020, the Governor of the State of California proclaimed a state of emergency in California in connection with the novel coronavirus ("COVID-19") pandemic, and that state of emergency remains in effect; and

WHEREAS, in February 25, 2020, the Mayor of the City and County of San Francisco (the "City") declared a local emergency, and on March 6, 2020 the City's Health Officer declared a local health emergency, and both those declarations also remain in effect; and

WHEREAS, on September 16, 2021, the Governor signed AB 361, a bill that amends the Brown Act to allow legislative bodies of local public agencies to continue to meet by teleconferencing during a state of emergency, as defined in Government Code Section 8558, without complying with restrictions in State law that would otherwise apply, provided that the legislative bodies make certain findings at least once every 30 days; and

WHEREAS, the findings that must be established per AB 361 are 1) the legislative body has reconsidered the circumstances of the proclaimed state of emergency, and 2) either state or local offices have imposed or recommended measures to promote social distancing, or meeting in person would present imminent risks to the health and safety of attendees; and

WHEREAS, while federal, State, and local health officials emphasize the critical importance of vaccination and consistent mask-wearing to prevent the spread of COVID-19, the City's Health Officer has issued at least one order (Health Officer Order No. C19-07y, available online at [www.sfdph.org/healthorders](http://www.sfdph.org/healthorders)) and one directive (Health Officer Directive No. 2020-33i, available online at [www.sfdph.org/directives](http://www.sfdph.org/directives)) that continue to recommend measures to promote physical distancing and other social distancing measures, such as masking, in certain contexts; and

WHEREAS, the California Department of Industrial Relations Division of Occupational Safety and Health ("Cal/OSHA") has promulgated Section 3205 of Title 8 of the California Code of Regulations ("COVID-19 Prevention Emergency Temporary Standards"), which requires most employers in California, including in the City, to train and instruct employees about measures

that can decrease the spread of COVID-19, including physical distancing and other social distancing measures; and

WHEREAS, without limiting any requirements under applicable federal, state, or local pandemic-related rules, orders, or directives, the City's Department of Public Health, in coordination with the City's Health Officer, has advised that for group gatherings indoors, such as meetings of the San Francisco Health Authority Governing Board, people can increase safety and greatly reduce risks to the health and safety of attendees from COVID-19 by maximizing ventilation, wearing well-fitting masks (as required by Health Officer Order No. C19-07y), using physical distancing where the vaccination status of attendees is not known, and considering holding the meeting remotely if feasible, especially for long meetings, with any attendees with unknown vaccination status and where ventilation may not be optimal; and

WHEREAS, San Francisco Health Authority's Governing Board and its Standing Committees meetings are held in Conference Rooms at 50 Beale St, 13th Floor, San Francisco, CA 94105; and

WHEREAS, the Member Advisory Committee meetings are held at the Lighthouse, 1155 Market Street, 10th Floor, San Francisco, CA, which has been closed to in-person meetings; and

WHEREAS, Conference Rooms, and the Lighthouse cannot accommodate at least six feet distance between Governing Board members, its Standing Committee members, members of the public, and SFHP staff; and

WHEREAS, San Francisco Health Authority staff cannot ensure Conference Rooms and the Lighthouse meet the ventilation standards of the Cal/OSHA COVID-19 Prevention Emergency Temporary Standards; and

WHEREAS, the threat of COVID-19 transmission poses a continued risk to the health and safety of vaccinated and unvaccinated members of the Governing Board, San Francisco Health Authority staff, and members of the general public who attend such meetings; and

WHEREAS, even though a high percentage of people are vaccinated in San Francisco and the Bay Area region against the virus that causes COVID-19 and an increasing percentage are boosted, there remains a risk that people may come into contact with others who have COVID-19 when outside their residence; and

WHEREAS, many COVID-19 infections are caused by people who have no symptoms of illness; and

WHEREAS, there are people in San Francisco who have not completed their initial vaccine series or who are not yet eligible to receive a booster; and

WHEREAS, the San Francisco Health Authority Governing Board has met remotely

during the COVID-19 pandemic and can continue to do so in a manner that allows public participation and transparency while minimizing health risks to members, staff, and the public that would be present with in-person meetings while this emergency continues; and

WHEREAS, the San Francisco Health Authority Governing Board has approved Resolutions 2021-01, 2021-02, 2022-01, 2022-02, 2022-04, 2022-05, 2022-06, 2022-07, 2022-08, 2022-09, 2022-10, 2022-11, 2022-12, 2022-13, and 2022-14, which establish the continued findings of the public health emergency, that State and local health departments continue to recommend physical distancing and that conducting meetings in person would present imminent risks to the safety of meeting attendees.

NOW, THEREFORE, BE IT RESOLVED, that the San Francisco Health Authority Governing Board finds as follows:

1. The State of California and the City remain in a state of emergency due to the COVID-19 pandemic.
2. At this meeting, the members of the Governing Board have reconsidered the circumstances of the state of emergency.
3. State and City officials continue to recommend measures to promote physical distancing and other social distancing measures, in some settings.
4. Due to the COVID-19 pandemic, conducting meetings of this Governing Board and its Standing Committees in person would present imminent risks to the safety of attendees, and the state of emergency continues to directly impact the ability of members to meet safely in person; and

BE IT FURTHER RESOLVED, that for at least the next 30 days meetings of the San Francisco Health Authority's Governing Board and its Standing Committees will continue to occur exclusively by teleconferencing technology and not by any in-person meetings or any other meetings with public access to the places where any Governing Board member is present for the meeting. Such meetings of the Governing Board and its Standing Committees that occur by teleconferencing technology will provide an opportunity for members of the public to address this Governing Board and its Standing Committees and will otherwise occur in a manner that protects the statutory and constitutional rights of parties and the members of the public attending the meeting via teleconferencing; and

BE IT FURTHER RESOLVED, that the San Francisco Health Authority staff is directed to place a resolution substantially similar to this resolution on the agenda of a future meeting of the San Francisco Health Authority Governing Board within the next 30 days.

**Adopted by the Governing Board on December 2, 2022.**

---

Steven Fugaro, MD, Chair

San Francisco Health Authority/San Francisco Community Health Authority