Samueli Academy Board of Directors

POLICY GOVERNING THE USE OF
TRADITIONAL AND VIRTUAL TELECONFERENCING OPTIONS
UNDER THE RALPH M. BROWN ACT

1. Overview

As of January 1, 2023, and through January 1, 2026, members of the governing board (the "Board") of Samueli Academy (the "Charter School") will have two options for remote attendance at Board meetings held under the Ralph M. Brown Act ("Brown Act"): **traditional teleconferencing** and **virtual teleconferencing**. (In-person attendance requirements remain as they have always been under the Brown Act.) Traditional teleconferencing means pre-COVID Brown Act requirements. Virtual teleconferencing means relaxed virtual attendance rules under Assembly Bill 2449 (2022). The key features for each remote attendance option are as follows:

	Traditional Teleconferencing	Virtual Teleconferencing
Agenda Requirements	All teleconference locations where board members are participating must be identified on the agenda (e.g., board member's home address, office, hotel, rented space, etc.) Agenda must be posted at each teleconference location, within the legal timeline.	Agenda must identify means by which the public can attend the board meeting, both (i) in-person and (ii) through video conferencing/webcasting and telephonically. Locations of board member(s) participating virtually are not agendized. Agendas need not be posted at teleconference location(s).
Accessibility Requirements	Public has the right to physically attend each teleconference location; must be accessible per Americans with Disabilities Act (ADA) standards.	Public has the right to participate at the agendized physical meeting location(s) or through videoconferencing/webcasting and telephonically, but no right to attend location(s) where board member(s) are participating virtually.
Quorum Requirements	Teleconference locations may be anywhere, so long as a quorum of board members are participating from one or more agendized location(s) anywhere within the charter school's jurisdiction (Orange County).	Board members may participate virtually from anywhere, so long as quorum of board members are participating from a singular physical location within the charter school's jurisdiction, e.g., the charter school campus.
Board Member Reasons for Utilization	Board members may use traditional teleconferencing for any reason.	Board members may use virtual teleconferencing only for specified just cause reasons as defined by law or physical or family medical emergencies.
Limits on Utilization	No limits in law; provided all other requirements are satisfied, and subject to board policies and procedures, board members may participate in board meetings via traditional teleconferencing without limit.	Limited; each member may participate virtually up to 2 times per calendar year for a board that regularly meets less than 10 times per calendar year, or 20% of regular meetings (inclusive of no more than two regular/special meetings for "just cause"); virtual participation may not exceed three consecutive meetings (regular/special).
Approvals Required	Per Board policy: Board Chair determines whether teleconference locations will be agendized.	Virtual participation for emergency circumstances is subject to board approval; virtual participation for just cause is allowable if eligibility requirements are satisfied.
Advance Notice Requirements	Per Board policy: Board member must provide notice sufficiently in advance of the agenda posting deadline to the Board	Board member must provide notice of need to participate virtually to the Board Chair and the Executive Director at earliest occasion; however,

	Chair to consider and agendize the teleconference location.	requests not submitted prior to publication of agenda may be considered at the meeting.

The purpose of this policy is to identify the requirements, considerations, and procedures for Board members to participate in meetings via traditional teleconferencing and virtual teleconferencing.

2. Key Considerations

The Board finds that maintaining its meeting schedule, achieving quorum, and compliance with the Brown Act are fundamental to the conduct of its affairs. While it is the Board's strong preference that members attend each meeting on campus, it is the Board's policy that members may utilize teleconferencing as necessary to ensure their regular participation in meetings to the greatest extent possible. Teleconferencing may not be utilized, however, to the extent doing so would impede the Board's ability to hold meetings, e.g., where it would prevent the Board from achieving quorum requirements.

The Brown Act allows for the utilization of **traditional teleconferencing** for *any* reason, but it is the Board's expectation that traditional teleconferencing should be used only when meeting attendance on campus is impractical, infeasible, ill-advised, or unsafe for a personal, family, or work-related reason. If a member is unable or unwilling to participate in a meeting using traditional teleconferencing, or it is impractical or unfeasible to do so, members may participate via virtual teleconferencing in the event of circumstances constituting just cause or an emergency, as identified below.

Virtual Participation: **Just Cause** Reasons	Virtual Participation: **Emergency Circumstances**
• A childcare or caregiving need of a child, parent, grandparent, grandchild, sibling, spouse, or domestic partner that requires the member to participate remotely. • A contagious illness that prevents a member from attending in person. • A need related to a physical or mental disability as defined (see addendum for definitions) and not otherwise accommodated (e.g., through reasonable accommodations provided consistent with the Americans with Disabilities Act). • Travel while on official business of the Board or another state or local agency.	• A physical or family medical emergency that prevents a member from attending in person.

Compliance with Teleconference Quorum Requirements

As demonstrated in the examples below (for a five-member board requiring a three-member quorum), whether either teleconferencing rule may be utilized depends on the threshold matter of whether the Board will be able to satisfy the teleconferencing quorum requirements:

(1) Traditional Teleconferencing • Two board members are meeting at the school, and one member is meeting at a different location in the jurisdiction, as agendized. • One member is participating through traditional teleconferencing from Colorado; one member is participating through traditional teleconferencing from Georgia, as agendized.	**Allowable**. As long as a quorum is meeting anywhere in the jurisdiction, other members may participate anywhere via traditional teleconferencing anywhere. All teleconference locations must be listed in the agenda, and the agenda must be posted at all teleconference locations.
(2) Traditional Teleconferencing • One board member is meeting at the school • One member is meeting at a different location in the jurisdiction, as agendized. • One member is participating through traditional teleconferencing from Colorado. • One member is participating through traditional teleconferencing from Georgia, as agendized. • One member is absent.	**Not Allowable**. A quorum of the Board must be present in the Charter School's jurisdiction for traditional teleconferencing to proceed. Here, only two Board members are present in the jurisdiction.
(3) Virtual Teleconferencing • Three members are meeting at the school (a quorum). • One member is participating virtually from Georgia for a just cause reason. • One member is participating virtually from Colorado due to an emergency.	**Allowable**. Because a quorum is meeting at the same location within the jurisdiction, other members may participate anywhere, via virtual attendance rules. The Board must provide for the public to attend in-person, and by video, or webcast with telephonic access.
(4) Traditional/Virtual Teleconferencing Hybrid • Three members are meeting at the school (a quorum). • One member is participating via traditional teleconferencing in Colorado, as noticed on the agenda. • One member is participating virtually due to an emergency, which was not agendized.	**Allowable**. Because a quorum is meeting at the same location within the jurisdiction, other members may participate anywhere via teleconferencing through the traditional or virtual attendance rules.
(5) Traditional/Virtual Teleconferencing Hybrid • Two board members are meeting at the school. • One member is meeting at a different location in the jurisdiction, as agendized. • One member is meeting at a different location in Georgia, as agendized. • One member requests to participate virtually due to an emergency or just cause.	**Not Allowable**. Virtual participation rules cannot be used unless a quorum is meeting at a singular physical location in the charter school's jurisdiction.

3. Before the Meeting

Member Request to Participate via Teleconferencing

To ensure that the Board can achieve quorum and that a meeting may proceed as scheduled, it is important that members seeking to participate via teleconferencing make their requests as soon as possible prior to the publication of the relevant meeting agenda. The Board Chair shall be responsible for decisions on agenizing teleconferencing-related matters.

A member wishing to participate remotely under the traditional teleconferencing rules or under the virtual participation rules shall utilize the following email templates, sending their request to the Chair or Secretary of the Board, and copying the Executive Director.

Traditional Teleconferencing Request

To the Chair of the Board:

*I am requesting to participate in the Board meeting(s) scheduled on [*dates*] through traditional teleconferencing under Government Code Section 54953(b). My teleconferencing location will be [*address*], [*city*], [*county*], [*state*], [*zip*]. This location will be open and accessible to the public, including to members of the public with disabilities consistent with the requirements of the Americans with Disabilities Act. I understand that if I am permitted to participate via traditional teleconferencing that this address will be included on the posted meeting agenda(s), and that I am responsible for posting a copy of the agenda at this meeting location during the agenda posting period. I understand that I must allow members of the public to hear and observe the meeting from the teleconference location and address the Board during designated public comment period(s).*

[Board member name]

Just Cause Virtual Teleconferencing Request

To the Chair of the Board:

I intend to participate virtually in the meeting on [date] for just cause pursuant to Government Code Section 54953(e)(2)(A)(i)[1].

I am providing the following general description of the circumstances related to my need to appear remotely at the meeting:

[choose one:

- *A childcare/caregiving need for my [see list above of qualifying relatives]*
- *A contagious illness that prevents me from attending in person*
- *I have a disability within the meaning of Government Code Section 54953(j)(2)(C) which cannot be readily accommodated at an in-person meeting.* [see definition of physical and mental disability in addendum]
- *I am required to travel on official business of [the Board]/[a state agency]/[a local agency].]*

I have not participated virtually in a meeting during this calendar year for just cause on more than two occasions, nor have I participated virtually for the greater of two or 20% of regularly scheduled meetings during this calendar year, nor have I participated virtually for the three immediately preceding meetings.

*[*Board member name*]*

[1] Until January 1, 2024, Government Code Section 54953(e) is codified as Section 54953(f). All references to Section 54953(e) in this Policy shall be treated as Section 54953(f) until January 1, 2024.

Emergency Virtual Teleconferencing Request

(a separate request shall be made for each board meeting at which a member wishes to participate virtually due to an emergency)

To the Chair of the Board:

I am requesting that the Board approve my virtual participation at the meeting scheduled for [date] pursuant to Government Code Section 54953(e)(2)(A)(ii) due to a personal emergency.

*I am providing the following general description of a [*physical*]/[*family*] medical emergency that prevents me from attending in person:*

[insert brief description not to exceed twenty words; the description need not contain confidential medical information]

I have not participated virtually for the greater of two or 20% of regularly scheduled meetings, overall, during this calendar year, nor have I participated virtually for the three immediately preceding meetings.

*[*Board member name*]*

Based on the request(s) received, the Board Chair shall determine whether quorum requirements for a given meeting are expected to be achieved, assess Board member participation and eligibility for participation via teleconferencing, inform the requesting Board member of the same, and in coordination with the Executive Director, prepare the agenda consistent with the template language below.

If under the circumstances, a member is not able to submit a request to participate virtually for a physical or family medical emergency, or for just cause, prior to the publication of the agenda, including up until the start of a regular meeting, the Board may nonetheless take up the member's request at the start of the meeting by following the procedures described below.

Agenda Requirements

Standing Board Agenda Language

Because Government Code Section 54953(e)(2)(A) provides that a Board member may request to participate in a meeting virtually after the time the agenda has been posted, and the public has the right to attend virtually if at least one member participates virtually, **all Board agendas published after January 1, 2023 should include language allowing for the public to access the meeting via videoconferencing/webcasting (with a dial-in option)**:

One or more board members may qualify to participate in the meeting virtually without agendizing their location pursuant to Government Code Section 54953(e). *Such circumstances, to the extent not agendized, will be addressed following roll call. In the event one or more board members participates virtually under Section 54953(e), members of the public may attend and address the Board during public comment period(s) at the meeting location(s) identified above, and may also attend virtually and address the Board during public comment period(s) by logging into* _____, *and/or by dialing* _____.

If a Board member seeks to participate in a meeting virtually, and the agenda has not provided information on how the public may attend and participate via videoconferencing/webcasting and a dial-in option, the member may not attend the meeting virtually.

Agenda Language Based on Type of Participation

If a Board member requests to participate through traditional teleconferencing or virtually, the agenda shall include the following information:

Traditional Teleconferencing

Each teleconferencing location must be identified on the agenda. No action is required to approve or explain the member's participation via traditional teleconferencing at the meeting.

Virtual Teleconferencing – Emergency

Add the below action item(s) after roll call:

> Member [name] has made a request to the Board to participate in the meeting virtually pursuant to Government Code Section 54953(e) due to circumstances constituting an emergency: [describe] [Do not reveal confidential private medical information.] The Board shall consider approving the request on the basis that Member [name] has (1) provided an adequate emergency reason for participating remotely under Section 54953(e); (2) has not exceeded the cap for participation under Section 54953(e); and (3) that a quorum of members is participating at a singular physical location within the jurisdiction.

Virtual Teleconferencing – Just Cause

No language is required to be added to the agenda reflecting participation by a Board member for a just cause reason.

Agenda Posting

- Traditional teleconferencing: agenda must be posted in the jurisdiction for the entire posting period (e.g., 72 hours for a regular meeting) and at each teleconference location.
- Virtual teleconferencing: agenda must be posted in the jurisdiction for the entire posting period.

4. At the Meeting

Check Eligibility for Virtual Teleconferencing

The Board shall confirm the below circumstances prior to allowing a board member to attend a meeting virtually due to a just cause or emergency reason:

1. Confirm Eligibility	Has the member articulated a valid just cause or emergency basis to participate virtually? (See definitions above.)
2. Check the Member's Virtual Attendance Record	Is the member within the numerical cap for virtual participation? (Check the tracking document, template below.)

3. Ensure Quorum requirements Are Met	Is a quorum of the Board participating at the same physical singular location within the Charter School's jurisdiction?

If the answer to each of the above questions is "yes," the board member should qualify to attend the meeting virtually. If the answer is "no" to one or more of the above questions, the member must be treated as absent and may not participate in discussing or voting on any item.

After roll call, the Board Chair shall utilize the scripts below to create a record of eligibility. During roll call, a member seeking to participate virtually may be considered provisionally present, subject to confirmation of their eligibility to participate virtually as addressed below.

Script: Confirm Eligibility on the Record

Just Cause

Conditions Satisfied:

Member [name] informed the Board that they intend to participate in the meeting virtually pursuant to Government Code Section 54953(e) due to circumstances constituting just cause. I confirm that Member [name] has (1) provided an adequate just cause reason [describe briefly]; (2) has not exceeded the cap for participation under Section 54953(e); and (3) that a quorum of members is participating at a singular physical location within the jurisdiction.

Conditions Not Satisfied:

Member [name] informed the Board that they intend to participate in the meeting virtually pursuant to Government Code Section 54953(e) due to circumstances constituting just cause. However, Member [name] is not eligible to participate remotely because (1) they have not provided a valid just cause reason; AND/OR (2) they exceeded the cap for participation under Section 54953(e); AND/OR (3) a quorum of members is not participating at a singular physical location within the jurisdiction.

Emergency Reason

[If request was not agendized, state: After the agenda for this meeting was posted, and without sufficient time to place the proposed action on the posted agenda for this meeting…]

Member [name] made a request to the Board to participate in the meeting pursuant to Government Code Section 54953(e) due to circumstances constituting an emergency of the following nature: [describe briefly without relaying personal confidential information.] The Board shall take action to approve the request and confirm that Member [name] has (1) provided an adequate emergency reason; (2) has not exceeded the cap for participation under Section 54953(e); and (3) that a quorum of members is participating at a singular physical location within the jurisdiction.

[If the member does not qualify or the conditions for virtual teleconferencing are not satisfied, state them on the record. A member should make a motion that the request for the member to participate remotely be approved or not approved, as applicable.]

After Confirming Eligibility to Participate via Virtual Teleconferencing

- Ensure that each virtual teleconferencing member's eligibility is reflected in Board minutes, as well as the Board's vote (as applicable) to allow virtual teleconferencing.
- Update the Virtual Attendance Tracker (see attached template) to reflect each member's virtual attendance.

Reminders: Traditional Teleconferencing Requirements

- Member must post a copy of the agenda outside of the teleconference meeting location and admit any member of the public seeking to attend.
- Member may participate via audio only, or audio and visual, but any members of the public attending the teleconference location must be able to listen and observe the meeting.
- All votes must be by taken by roll call.
- Any members of the public attending the teleconferencing location must be allowed to provide public comment and address the board at designated times for public participation.

Reminders: Virtual Participation Requirements

- All votes must be by taken by roll call.
- Member must announce any individuals over the age of 18 present with them in the room prior taking any action, and a general description of their relationship to the individual (e.g., spouse, colleague, parent, etc.).
- Member must participate via both audio and visual means.
- The Board must ensure that members of the public are able to see and hear the meeting through videoconferencing or a webcast of the meeting, and a dial-in option for audio. If access/broadcast is disrupted, Board must not take any action until access is restored.
- Any members of the public participating via videoconferencing/webcast/dial-in must be allowed to provide public comment and address the board at designated times for public participation.

Virtual Attendance Tracker Template

[Does Not Apply to Members Participating Via Traditional Teleconferencing]

Board members may not participate virtually in a meeting in excess of the statutory caps during the course of a calendar year. The purpose of this document is to assist the Board in tracking member participation and ensuring compliance with applicable caps.

Calendar Year: January 1, 2023 to December 31, 2023

Number of Regular Meetings Scheduled During the Calendar Year	Example: 11
Maximum Number of Regular Meetings a Member May Participate Virtually Per Calendar year (2 times, if the Board regularly meets less than 10 times per calendar year, or 20% of regular meetings)	Example: 2

Instructions

Each time a member participates virtually, the Board Secretary shall notate the meeting date, the meeting type (regular or special) and whether the reason was for "just cause" or an emergency, file a copy of the member's request with this tracker, and note the approval in the meeting minutes.

Using this chart allows the Board to determine whether during the calendar year:

- A member has already utilized two "just cause" participations (regular/special meetings)
- A member has already participated virtually for three consecutive meetings (regular/special meetings)
- A member has already participated virtually for two meetings (if the Board regularly meets fewer than 10 times per calendar year) or 20% of regular meetings.

Calendar Month	Meeting Date*	Meeting Type (Special/Regular)	Member(s) Participating for Just Cause	Member(s) Participating for Emergency Reasons
January				
February				
March				
April				
May				
June				
July				
August				
September				
October				
November				
December				

*Must add a row to track attendance at any additional meetings held in the same calendar month.