

4-7-2020  
Item #2

**From:** Leslie Martinez <lmartinez@leadershipcounsel.org>  
**Sent:** Monday, April 06, 2020 4:43 PM  
**To:** BOSComments  
**Subject:** Letter on Public Participation during COVID-19  
**Attachments:** COVID-19 Recommendations for Public Participation\_Fresno.pdf

**CAUTION!!! - EXTERNAL EMAIL - THINK BEFORE YOU CLICK**

Dear Chairmen Mendes and Board of Supervisors,

Please see attached a letter regarding the notice on public participation during COVID-19. We have included recommendations and suggestions for the board to consider.

I have highlighted points to be read during public comment. If any questions regarding how to implement any of the recommendations, please reach out to me directly.

Public Participation Suggestions:

- For members of the public that may not have access to the internet or a computer, or who are unable to use video applications, consistently provide an adequate telephone option—available in multiple languages—and ensure that comments can be made via phone
- Provide multiple options for teleconferencing, with two-way communication options that allows either computer-users or phone-users to engage.
  - Consider allowing the public to leave voice message comments, which can be limited to 3 minutes, and played during the comment period and ensure that these messages can be received in multiple languages and interpreted as needed
- Consider using separate teleconference lines or audio channels to meet language access needs. Interpreters should be available—for Spanish and/or other languages that are needed—for residents to understand and participate in the meeting.
- Work with community-based equity, social justice and environmental justice organizations to determine when it may or may not be appropriate to delay a hearing or meeting. Decisions that impact DACs must be done with their guidance and input, and agencies should ensure that community residents are able to give meaningful input into the process. For example, agencies must continue momentum on certain decisions and activities that are critical or time-sensitive to creating equity, extending basic resources, protecting public health, and providing healthy, sustainable community infrastructure to DACs (i.e. clean water and air). However, in some circumstances, the situation may necessitate delay of a decision in order to meaningfully incorporate resident feedback

Thank you for your time.

Respectfully,  
Leslie Martinez

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Chairman Buddy Mendes, District 4  
Vice Chairman Steve Brandau, District 2  
Supervisor Brian Pacheco, District 1  
Supervisor Sal Quintero, District 3  
Supervisor Nathan Magsig, District 5

April 7<sup>th</sup>, 2020

**RE: Recommendations to Promote Equitable Public Participation in Local and State Government Public Meetings During and After COVID-19**

Dear Chairman Mendes and Fresno County Board of Supervisors:

Public participation is a crucial part of our democratic process, including the ability for all residents to engage in public board, commission, and legislative meetings and to provide public comment. **All residents should be given the opportunity to have their voices heard in local, regional and state decision-making processes, in an inclusive and transparent manner.**

The COVID-19 pandemic and associated public health and economic crises that it has created have made such participation challenging, as California remains under a shelter-in-place order. However, the State must rise to the challenge and refuse to allow democracy to falter in the face of this pandemic—especially at the expense of communities with the least access to public process even when there is not a pandemic. As many residents cope with taking care of themselves and loved ones, and deal with added stress, limiting their participation in any board or commission meeting only adds to an already difficult time. Instead, this time of crisis—when the public’s trust in its institutions is needed—requires an unprecedented plan to assure democracy, transparency, and participation in our public processes.

Governor Newsom issued Executive Order N-25-20 (March 12, 2020), which grants local legislative and state bodies the authorization “to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to attend and to address the local legislative or state body.” While the *physical presence* requirements of the Brown Act and Bagley-Keene Act are waived, public meetings are still required to abide by all other provisions of these laws, including advanced notice of public meetings. The Order further states that state and local bodies should:



“adhere as closely as reasonably possible to the provisions of the Bagley-Keene Act and the Brown Act, and other applicable local laws regulating the conduct of public meetings, in order to maximize transparency and provide the public access to their meetings.”

**We urge the local and regional jurisdictions, state agencies, and the Legislature, to implement the following activities and practices for equitable remote public participation, to meet the legal requirements of N-25-20.** We add that these options should be available not only during a pandemic, but at all times, so that those who are not physically able to attend meetings or hearings may still participate.

The Leadership Counsel for Justice & Accountability works alongside primarily low-income communities of color in the San Joaquin and Eastern Coachella Valleys. Many of the residents we work with have experienced obstacles accessing and meaningfully participating in public meetings. During this public health crisis, COVID-19 exacerbates these challenges. For example, residents in disadvantaged communities may have limited access to complex applications, internet and email, which are currently the default for many agencies. We strongly urge agencies to begin implementing the following recommendations, which are based on our years of expertise in DAC engagement and recent conversations with residents about what would work best for them to participate in meetings during this time.

**Our recommendations are as follows:**

- Reach out to community-based organizations and other stakeholders who may be in direct communication with residents early to help make sure that residents are informed and notified through multiple channels about remote options for public meetings. Send any relevant preparatory materials and other necessary documents to community-based stakeholders, so that they may potentially share them with interested residents prior to the meeting.
- Notify the public of all hearing/meeting times, topics, and detailed information regarding participation. All translated preparatory materials and documents should be made available at the time meeting notices are posted as well. Notices should be easy to find on state or local jurisdiction websites, and disseminated *at least* 72 hours in advance. Notices must clearly show how public comments will be received.
- Provide multiple options for teleconferencing, with *two-way* communication options that allows either computer-users or phone-users to engage.



- Each teleconferencing medium will offer benefits and limitations, ranging from professional options such as Zoom, GoToMeeting, and WebEx, as well as wide-reaching mediums for video streaming like YouTube and Facebook Live. For live-streamed meetings, the public should be allowed to comment in real time, through a combination of phone, video, chat boxes, and/or email.
  - Consider allowing the public to leave voice message comments, which can be limited to 3 minutes, and played during the comment period and ensure that these messages can be received in multiple languages and interpreted as needed.
- For members of the public that may not have access to the internet or a computer, or who are unable to use video applications, consistently provide an adequate telephone option—available in multiple languages—and ensure that comments can be made via phone.
- Give ample time for the public to submit comments prior to the meeting’s start time, such as via email or a dedicated phone number. Written or voice message comments should be allowed up until the start of the meeting. Do not limit opportunities to comment only to email and avoid implementing arbitrary word limits on email comments. Limiting comments only to email leaves room for them to remain unheard and ignored. Allow email comments to be read aloud on the record by staff during the live meeting, for transparency and consideration by the full board/commission.
- Ensure that there is time for public comment after *each* agenda item during the meeting, and allow sufficient time for live comments to be submitted either electronically or via telephone.
- Consider using separate teleconference lines or audio channels to meet language access needs. Interpreters should be available—for Spanish and/or other languages that are needed—for residents to understand and participate in the meeting.
- Work with community-based equity, social justice and environmental justice organizations to determine when it may or may not be appropriate to delay a hearing or meeting. Decisions that impact DACs must be done with their guidance and input, and agencies should ensure that community residents are able to give meaningful input into the process. For example, agencies must continue momentum on certain decisions and activities that are critical or time-sensitive to creating equity, extending basic resources, protecting public health, and providing healthy, sustainable community infrastructure to DACs (i.e. clean water and air). However, in some circumstances, the situation may necessitate delay of a decision in order to meaningfully incorporate resident feedback.



The bottom line is that local and state bodies should consult with community-based organizations and should keep equity, justice, transparency and accountability at top of mind when determining action on postponing or cancelling meetings and action items.

Residents following social distancing and self-isolation practices should not be further excluded from commission and board meetings. We believe that the recommendations highlighted above will help ensure increased access to democracy in our communities during this challenging moment, and we urge all jurisdictions and agencies to do everything in their power to be inclusive and transparent as they strive for equitable public participation during this challenging time.

Sincerely,

Leslie Martinez  
Fresno County Policy Advocate