



July 15, 2021

Board of Directors  
Ventura Regional Sanitation District  
Ventura, California

## **DISCUSSION OF RETURN TO IN-PERSON BOARD MEETINGS AS ALLOWED BY STATE OF CALIFORNIA STANDARDS AND ORDERS**

### **RECOMMENDATION**

Discuss the return to in-person Board of Directors meetings in light of State standards and orders; and Direct VRSD staff to prepare accordingly.

### **FISCAL IMPACT**

None.

### **BACKGROUND/ANALYSIS**

At its regular board meeting of July 1, 2021, the Board requested this item to be placed on this agenda to discuss the timing for its return to in-person board meetings in light of apparently improving conditions surrounding the COVID-19 Pandemic.

#### A. California Emergency Temporary Standards for Public & Private Employers

On June 17, 2021, the State of California Occupational Safety and Health Standards Board adopted revised COVID-19 Prevention Emergency Temporary Standards (ETS) that reflect the state's latest COVID-19 public health order. Governor Gavin Newsom signed an executive order making these revisions effective immediately, providing clarity and consistency for public and private employers.

Perhaps one of the most salient changes in the new ETS is the relaxation of requirements for physical distancing and face covering use by fully vaccinated individuals. Employees who are not fully vaccinated are still required to maintain a six-foot physical distance from others and wear face coverings while indoors.

The ETS requires employers to document vaccination status of employees in order to allow them to follow the requirements for fully vaccinated individuals (*i.e.* not wear face coverings and not practice physical distancing). VRSD staff members have already been asked to self-certify their vaccination status. Those who do not self-certify as fully vaccinated or who fail to return their form are automatically treated as not fully vaccinated. From a VRSD management perspective, this methodology seems superior to other

alternatives such as assuming all employees are not fully vaccinated or forcing employees to divulge their vaccination status.

Note that under the ETS, an employer is not obligated to require employees to submit proof of being fully vaccinated. Absent such a requirement, an employee has the right to decline to state if they are fully vaccinated or not. In that case, the employer must treat the employee as not fully vaccinated and must not take disciplinary or discriminatory action against the employee. Also, an employer is not permitted to use a simple honor system—it must document the vaccination status of employees.

These ETS changes have specific implications for VRSD's return to in-person meetings at its board room at 1001 Partridge Drive in Ventura. For the purposes of the ETS, the board room is considered a part of VRSD's workspace, and Board Members and the Legal Counsel are considered as employees along with staff.

The current configuration of the dais in the board room does not provide for sufficient space for physical distancing requirements for all nine directors.

#### B. CDPH Rules for the General Public

Rules for members of the public applicable to a public Board of Directors meeting are different than rules for employees, as the ETS does not apply. However, State of California Department of Public Health rules still apply to the general public. The VRSD Board has more latitude in making rules in this regard but should not circumvent CDPH guidelines.

With regard to face coverings, the Board could choose one of the following alternatives and remain consistent with CDPH Rules:

- (1) Provide information to all patrons, guests and attendees regarding vaccination requirements and allow vaccinated individuals to self-attest\* that they are fully vaccinated or meet an approved masking exemption prior to entry; or
- (2) Implement vaccine verification to determine whether individuals are required to wear a mask; or
- (3) Require all patrons, guests, and attendees to wear masks.


\* Strictly speaking, self-attestation of some type is required. The Board should discuss whether a simple honor system similar to that used by most retail establishments should be allowed or if a more rigorous system should be employed.

With regard to physical distancing, a Board meeting is not considered a mega event as per CDPH, so there are no restrictions to impose on public attendees. The Board may choose to impose restrictions such as physical distancing or a limit on the number of attendees, if desired.

If you have any questions or need additional information, please contact me by phone at (805) 658-4600 or via email at [ChrisTheisen@vrsd.com](mailto:ChrisTheisen@vrsd.com).

This letter was prepared with the assistance of the labor and human resources law firm of Liebert Cassidy & Whitmore.

CHRIS THEISEN

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Attachments: None.

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