

Resolution No. 2023-06

**Board of Directors, Peninsula Corridor Joint Powers Board
State of California**

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Adopting Amendments to Code of Conduct for Public Meetings

Whereas, the Board of Directors (Board) of the Peninsula Corridor Joint Powers Board (JPB) is committed to the principles of government transparency and the promotion of public participation; and

Whereas, the Board seeks to ensure that meetings are conducted in an orderly fashion and that decorum is maintained so that all members of the public may observe and participate in the conduct of the people's business; and

Whereas, the Brown Act allows governing bodies to adopt codes of conduct or rules to preserve decorum and permit the orderly conduct of their meetings. The Act also specifically permits the governing body to remove disruptive individuals from meetings, as provided in the proposed amendments to the Code of Conduct, to preserve order during a meeting and allow it to continue. Cal. Gov. Code § 54957.9; and

Whereas, the governing body of a local agency must allow members of the public the opportunity to comment on items that are not on the agenda, but does not need to permit members of the public to comment on topics that are not within the subject matter jurisdiction of the body; and

Whereas, the governing body of a local agency must allow public criticism of the body to be freely expressed in its meetings. However, the governing body does not need to tolerate personal insults or slander of the board members, committee members, or staff; and

Whereas, the Board previously adopted the most recent Code of Conduct for all public

meetings on May 5, 2022. The attached Code of Conduct offers revisions in light of Senate Bill 1100 (SB 1100), passed by the California Legislature and signed by the Governor in August 2022. SB 1100 amends the Brown Act to permit the presiding member of a meeting or their designee to remove disruptive attendees under certain the circumstances. Cal. Gov. Code § 54957.95. SB 1100 became effective on January 1, 2023; and

Whereas, Staff has presented these amendments to the Code of Conduct for public meetings to the Caltrain Citizens' Advisory Committee on December 21, 2022, and has since incorporated their feedback regarding the amendments; and

Whereas, Staff recommends that the Board adopt the attached amendments to the Code of Conduct for all Regular and Special Board, Committee, and Advisory Committee meetings.

Now, Therefore, Be It Resolved that the Board of Directors of the Peninsula Corridor Joint Powers Board hereby adopts the attached Code of Conduct for all Regular and Special Board, Committee, and Advisory Committee meetings.

Regularly passed and adopted this 5th day of January, 2023 by the following vote:

Ayes: Chavez, Davis, Gee, Mueller, Walton, Zmuda, Heminger

Noes: None

Absent: None



Chair, Peninsula Corridor Joint Powers Board

Attest:



JPB Secretary

**Code of Conduct Governing Public Participation in Meetings
of the Board of Directors of the Peninsula Corridor Joint Powers Board**

Principles and Purpose

The Board of Directors of the Peninsula Corridor Joint Powers Board (“Board”) is committed to the principles of government transparency and the promotion of public participation. The Board seeks to ensure that Board and Committee meetings are conducted in an orderly fashion and that decorum is maintained so that all members of the public may observe and participate in the conduct of the people’s business. Promoting a respectful and orderly environment will ensure that all speakers have the opportunity to be heard and that members of the Board and Committees have the opportunity to hear public comment and engage in thoughtful deliberations.

The purpose of this Code of Conduct is to establish expectations regarding appropriate conduct in order to create an environment that promotes civil and respectful discussion, productivity, and efficiency while fostering public participation and a safe and welcoming environment. Caltrain encourages robust public participation in its Board and Committee meetings, and this Code of Conduct is intended to preserve free expression while addressing conduct that may disrupt or impede Board or Committee meetings. This Code of Conduct applies to all Regular and Special Board, Committee, and Advisory Committee Meetings.

I. Addressing the Board/Committee

- A. A member of the public who wishes to address the Board or Committee must seek the permission of the Chair. In the interest of facilitating the business of the Board or Committee, the Chair may limit the amount of time and the number of persons who may address the Board or Committee.
- B. In-Person Meetings
 - 1. Members of the public desiring to address the Board or a Committee at in-person meetings on a consent, discussion, closed session, or public hearing agenda item are requested, but not required, to complete a speaker request form and deposit the completed form with the Secretary of the JPB prior to the Board or Committee’s consideration of the consent calendar, the reading of the agenda item, or the opening of the public hearing.
 - 2. A person who has requested to address the Board or a Committee will be allowed up to two (2) minutes per agenda item, unless the Chair establishes a different standard based on the Board or Committee’s business needs.
 - 3. Members of the public shall have the right to address the Board or a Committee on items of interest which are within the Board or Committee’s jurisdiction. A person requesting to address the Board or Committee on a non-agenda item will be allowed up to two (2) minutes per meeting, unless the Chair establishes a different standard based on the Board or Committee’s business needs. Items

addressed by members of the public pursuant to this paragraph may be added to future agendas at the request of the Chair or two or more Board members.

C. Meetings Held Via Teleconference

1. When meetings are held via teleconference, the Secretary of the JPB shall provide the ability for members of the public to address the Board or Committee remotely via a telephonic or other Internet-based service at regular meetings.
 2. A person attending a meeting remotely and addressing the Board or a Committee on an agenda item will be allowed up to two (2) minutes per agenda item, unless the Chair establishes a different standard based on the Board or Committee's business needs.
 3. Members of the public attending a meeting remotely shall have the right to address the Board or Committee on items of interest which are within the Board or Committee's jurisdiction. A person addressing the Board or Committee on a non-agenda item will be allowed up to two (2) minutes per meeting, unless the Chair establishes a different standard based on the Board or Committee's business needs.
- D. The Board or Committee shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the Board or Committee.
- E. Any individual who engages in disruptive conduct, as defined in Section II(B) of these Rules, may be prohibited from addressing the Board or Committee on agenda items and during public comment at future meetings.
- F. When any affiliated group of persons desires to address the Board or Committee on the same subject matter, the group may select a spokesperson who may coordinate with the Chair or staff prior to the meeting, or if there are significant time constraints, the Chair may require that a spokesperson be chosen to represent the group. Subject to approval by the Chair, the Chair or staff may additionally facilitate any one of the following options for the group, including but not limited to: (i) requesting additional time for the spokesperson to speak if other members of the group cede their time; (ii) arranging speakers sequentially; or (iii) for in-person meetings, members of the group may raise their hand or stand up at their seat to show support for their designated speaker in lieu of providing remarks.
- G. Alternatively, if there are ten (10) or more speakers wishing to speak on an item, the Chair may limit all individuals to one (1) minute for their public comments on the same item.

II. Conduct

- A. Unless addressing the Board or Committee or entering or leaving the Board Room, all persons in the audience shall sit only in designated seating provided by the JPB. Standing is permitted though no person shall stand or sit in the aisles or block the doorways.
- B. Disruptions

1. A speaker may be sanctioned as described herein only if the speaker's conduct actually disrupts the orderly conduct of the meeting or interferes with the Board or Committee's ability to conduct its business. For purposes of this Rule, "disruption" of a Board or Committee meeting may include, but is not limited to, speaking beyond the time limits set by these Rules or the Chair, being unduly repetitious, engaging in an extended discussion of irrelevancies, failing to yield to the Chair, or otherwise violating a provision of the Code of Conduct or any reasonable JPB regulation designed to preserve decorum and orderly conduct in public meetings.
2. Each person who addresses the Board or Committee shall not engage in personal attacks, or use loud, threatening, profane, or abusive language that disrupts, disturbs, or otherwise impedes the orderly conduct of the Board or Committee meeting. Any such language or any other disorderly conduct that disrupts, disturbs, or otherwise impedes the orderly conduct of the Board or Committee meeting is prohibited.
3. The Chair may find that a speaker is disrupting the orderly conduct of the meeting if a comment is unrelated to the agenda item under consideration, or if the speaker's conduct violates any other provision in this Code of Conduct. If the Chair finds that a speaker is disrupting the orderly conduct of the meeting, the speaker shall forfeit their remaining time, or the Chair may issue a warning to the attendee of their disruption and order their removal from the meeting should they fail to heed the warning.
4. Meeting attendees shall not engage in conduct that disrupts the orderly conduct of any meeting, including, but not limited to, the utterance of loud or threatening language, whistling, clapping, stomping of feet, speaking over or interrupting the recognized speaker, repeated waving of arms, or other disruptive acts. Whether conduct rises to the level of being disruptive shall be determined by the Chair.
5. The Chair has the authority to issue a warning or remove from a meeting a person violating the Code of Conduct or any lawful order issued by the Chair. Removal must be preceded by a warning that the attendee's behavior violates the Code of Conduct or another reasonable JPB regulation to preserve orderly conduct and that the attendee's failure to promptly comply with the Code of Conduct or other regulation may result in their removal from the public meeting. Cal. Gov. Code § 54957.95. The presiding member or their designee may remove the individual if the individual does not promptly cease their disruptive behavior and comply with the Code of Conduct or other reasonable regulation. Cal. Gov. Code § 54957.95. If the person does not promptly leave the meeting after an order to do so by the Chair, the Chair may request that security remove the person from the meeting.
6. The Chair or their designee may remove a person from the meeting without any warning when that person engages in behavior that constitutes a threat of force or use of force. Cal. Gov. Code § 54957.95. For purposes of this Rule, a "true threat of force" means a threat that has sufficient indicia of intent and seriousness that a

reasonable observer would perceive it to be an actual threat to use force. Cal. Gov. Code § 54957.95.

7. Any person removed from a meeting shall be excluded from further attendance at the remainder of the meeting.
 8. If any meeting is willfully interrupted or disrupted by a person or by a group of persons so as to render the orderly conduct of the meeting unfeasible, the Chair may recess the meeting or order the person or group of persons willfully interrupting the meeting to leave the meeting or be removed from the meeting.
 9. If any meeting is willfully interrupted or disrupted by a person or by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of the person or persons willfully interrupting or disrupting the meeting, the Chair may recess the meeting or order the meeting room cleared and continue in session. Only matters appearing on the posted agenda may be considered in such a session. Duly accredited representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend or remain in the meeting. Cal. Gov. Code § 54957.9. The Chair may also readmit attendees after the room has been cleared. *Id.* In the event the room is cleared, attendees who were not responsible for the disturbance may request staff to readmit them once the meeting has recommenced. The determination of whether an individual, who is not a member of the press or media, seeking readmittance was responsible for the disturbance shall be at the discretion of the Chair or the Chair's designee.
- C. Meetings Held Via Teleconference
1. The prohibitions on disruptive conduct described in Section II(B) of this Code of Conduct also apply to meetings held via teleconferencing.
 2. The Chair may issue a warning or remove from the telephonic conference or online forum a person violating the Code of Conduct or any lawful order issued by the Chair. If the person does not promptly exit the conference or forum after an order to do so by the Chair, the Chair may request that the Secretary of the JPB remove the person.
 3. Removal must be preceded by a warning that the attendee's behavior violates the Code of Conduct or another reasonable JPB regulation to preserve orderly conduct and that the attendee's failure to promptly comply with the Code of Conduct or other regulation may result in their removal from the public meeting. Cal. Gov. Code § 54957.95. The presiding member or their designee may remove the individual if the individual does not promptly cease their disruptive behavior and comply with the Code of Conduct or other reasonable regulation. Cal. Gov. Code § 54957.95. However, the Chair or their designee may remove a person from the meeting without any warning when that person engages in behavior that constitutes a threat of force or use of force. Cal. Gov. Code § 54957.95.

4. Any person removed from a meeting shall be excluded from further attendance at the remainder of the meeting. The exclusion from the meeting shall be enforced by the Secretary of the JPB upon being so directed by the Chair.

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Public comments may be sent via email to publiccomment@caltrain.com. Please indicate in your email the agenda item to which your comment applies. Public comments received will be included in the board's weekly correspondence, which is posted to the Caltrain website.