



February 10, 2022

Dear Commissioners:

I write to provide you with important updates regarding (1) vaccination and reporting requirements applicable to all "City Policy Body"<sup>1</sup> members; and (2) to inform you about the resumption of in-person public meetings.

### **Vaccination and Reporting Requirement for All Policy Body Members**

As you are aware, consistent with the previous vaccination mandates that the City has imposed on its employees and contractors, all members of City Policy Bodies were required to be documented in the City's personnel system as fully vaccinated against COVID-19 no later than **February 1, 2022**. Moreover, no member of a City Policy Body may attend or participate in any in-person meeting of the City Policy Body unless the member is fully vaccinated. These important measures are intended to protect not only you, but City employees, your fellow City Policy Body members, and members of the public.

Thank you to the majority of you who have already reported your vaccination documentation. The City very much appreciates your

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<sup>1</sup> "City Policy Body" is defined in the attached "Thirty-Eighth Supplement to Mayoral Proclamation Declaring the Existence of a Local Emergency Dated February 25, 2020" ("Supplement") as follows: "[Any] City board, commission, committee, task force, or other legislative or policy body established by the Charter, City ordinance, or California statute and that is subject to the open meeting requirements of the Ralph M. Brown Act (Cal. Govt. Code §§ 54950 et seq.). "City Policy Body" also means all subcommittees of bodies described in the preceding sentence. Please see your secretary/departmental administrative support staff if you have questions about the applicability of this definition to your meeting body.

understanding and compliance as it seeks ways to further public health during these unprecedented times.

Unfortunately, however, a number of commission secretaries and department staff have reported that they have experienced a great deal of difficulty in properly uploading members' proof of vaccination status into the system such that the records we currently have may not entirely reflect all members' *current* vaccination status. Therefore, to ensure that we are guided by accurate and complete information, the Mayor is modifying the deadline by which you must submit your proof of vaccination to close of business Monday, February 28, 2022.

If you have already submitted proof of your vaccination status, you need not take any further action; the Department of Human Resources will be working with commission secretaries and department staff to address their system issues.

However, for those who have not yet complied by submitting proof of your vaccination status, this is a reminder that failure to meet the vaccination and reporting requirement deadline will be deemed official misconduct by the Mayor and could subject you to removal procedures. This means that the Mayor will proceed to remove Commissioners who serve at the pleasure of the Mayor after February 28<sup>th</sup> by initiating the official misconduct process. For those of you whose appointing authority is not the Mayor (e.g., the Board of Supervisors, the Controller, etc.) the appointing authority will determine whether and when to remove you or initiate official misconduct removal proceedings due to your continuing status as an unvaccinated Commissioner. If you are unvaccinated, we request that you immediately submit a letter of resignation from your Commission position.

In short, if you have not yet done so, please submit your documentation forthwith. There will be no further extensions beyond this date, and

removal will begin shortly thereafter if you do not submit proof of vaccination. As a reminder, irrespective of who your appointing authority is, you will not be permitted to attend in-person meetings of your policy body under any circumstance unless you have provided proof of vaccination.

Should you have any questions or concerns about this mandate, please do not hesitate to contact me directly.

### **Resumption of In-Person Meetings for All City Policy Bodies**

Under current guidance, all City Policy Bodies are required to resume in-person meetings on Monday, February 28<sup>th</sup>. Until then, in-person meetings are permitted in very limited circumstances when it is determined that the public's interest in having a matter heard in person outweighs the risk to public health.

However, this February 28<sup>th</sup> date for the resumption of in-person meetings was established prior to the most recent Omicron variant surge. Thankfully, our current test positivity rate indicates this surge has peaked and we are absolutely headed in the right direction; however, our hospitalization rate—which lags the test positivity rate—remains high. Moreover, we still have a significant number of City employees missing work due to COVID illness, exposure, or as a result of being a caregiver to someone who has COVID or is required to quarantine. Some of you have also expressed reticence about the pending mandatory February 28<sup>th</sup> date for the return to in-person meetings, both because of your own concerns regarding the continued impact of the Omicron variant in our community as well as your concerns about City staff being well enough and available to support your meetings.

Due to these issues and concerns, rather than imposing a blanket return to in-person meeting mandate for all City Policy Bodies, **commissions**

**will be required to return in stages per the following guidance, as also outlined in the attached Supplement.**

*Charter Commissions*

Commissions created by the Charter that are not advisory bodies<sup>2</sup> (“Charter Commissions”) will be the first City Policy Body group required to return to in-person/hybrid meetings, **beginning the week of March 7, 2022** (this also coincides with the date by which all City employees must return to in-person work).

We also recognize that while some Commissioners are looking forward to returning to in-person meetings as soon as possible, others, for COVID-related reasons, are not yet entirely ready to do so. The most recently-issued Supplemental Proclamation therefore provides that while all Charter Commissions are required to return to in-person meetings beginning March 7<sup>th</sup>, Commissioners may be excused from attending in-person meetings for COVID-related reasons and instead participate remotely during this interim period and provided that certain conditions are met. Any Commissioner who intends to appear remotely for COVID-related reasons must submit to their commission secretary a letter attesting to the basis for remote appearance, as provided in the Supplemental Proclamation.

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<sup>2</sup> The Charter Commissions required to return on March 7, 2022 are the following: Airport Commission, Arts Commission, Asian Art Commission, Board of Appeals, Building Inspection Commission, Civil Service Commission, Disability and Aging Services Commission, Elections Commission, Entertainment Commission, Commission on the Environment, Ethics Commission, Fine Arts Museum Board of Trustees, Fire Commission, Health Commission, Health Service Board, Historic Preservation Commission, Human Rights Commission, Human Services Commission, Juvenile Probation Commission, Library Commission, Municipal Transportation Agency Board of Directors, Planning Commission, Police Commission, Port Commission, Public Utilities Commission, Public Utilities Rate Fairness Board, Recreation and Park Commission, Retiree Health Care Trust Fund Board, Redistricting Task Force, Retirement Board, Sheriff’s Department Oversight Board, Small Business Commission, Commission on the Status of Women, and War Memorial and Performing Arts Board of Trustees

The Department of Technology (“DT-SFGovTV”) is currently preparing the City Hall hearing rooms to accommodate these Charter Commission in-person/hybrid meetings (that is, meetings in which some Commissioners may be present in the hearing room while one or more other Commissioners attend remotely, and with members of the public attending virtually or in-person), and will also support the virtual component of such meetings taking place in City Hall.

Charter Commissions that do not regularly (pre-COVID) meet in City Hall will need to consult with their Department Head to determine whether their department has sufficient staff and meeting room technology and equipment to accommodate in-person/hybrid meetings during this interim period. If not, your meetings may need to be moved to a hearing room in City Hall.

Commission secretaries for Charter Commissions are required to survey their Commissioners to determine who will be attending meetings in-person beginning March 7<sup>th</sup>, and who will need to continue attending virtually for COVID-related reasons. This information must be provided to Tyra Fennell, the Mayor’s Commissions Director ([tyra.fennell@sfgov.org](mailto:tyra.fennell@sfgov.org)) no later than February 25, 2022, particularly since we need this information ahead of the March 7, 2022 deadline in order to ensure that hearing room scheduling and staffing support needs can be adequately accommodated.

In-person/hybrid meetings will be permitted during this interim period while the City continues to monitor and evaluate COVID health indicators in San Francisco and the effectiveness of in-person/hybrid meetings for Commissions that return in person. The City will provide Charter Commissions with as much advance notice as practical before all Charter Commissioners are once again required to attend meetings in-person pursuant to local and state law.

I have included with this letter a Frequently Asked Question document to help resolve additional issues. As Commissions begin to come back, and other unforeseen issues arise, we will update this document to provide further guidance.

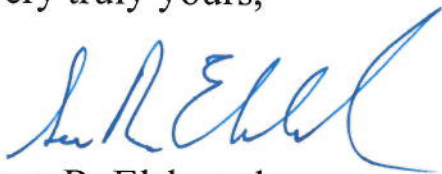
### *Non-Charter Commissions*

All other City Policy Bodies must continue to meet virtually until further notice, except when authorized in the very limited circumstances outlined under the Supplemental Proclamation. During this time the City will continue to monitor (1) the COVID health indicators, (2) the operational quality and effectiveness of Charter Commission in-person/hybrid meetings, and (3) the availability of staffing and other resources required to successfully support in-person/hybrid meetings, before establishing the date by which the remaining City Policy Bodies will return to an in-person or in-person/hybrid meeting format. We hope to provide an update in early March.

### **Conclusion**

Thank you again for your cooperation and understanding during these challenging times. We very much appreciate your continued dedication, service and hard work towards the benefit and well-being of San Franciscans, your fellow Policy Body members, City employees and the general public. You may contact Ms. Fennell or me with any general questions or concerns regarding these policies and requirements.

Very truly yours,



Sean R. Elsbernd

Chief of Staff

Office of San Francisco Mayor London N. Breed

## **Return to In-Person Meetings of City Boards, Commissions, and Advisory Bodies Frequently Asked Questions**

### **1. Are all boards and commissions required to meet in-person?**

Beginning on March 7, all Charter boards and commissions—except purely advisory bodies—must hold meetings in person unless every member of the board or commission cannot meet in person for one of the reasons summarized in Question #3. The Charter boards and commissions that are subject to the in-person meeting requirement are listed in Question #17.

### **2. What about boards, commissions and advisory bodies that are not Charter boards or commissions listed in Question #17?**

All other boards, commissions and advisory bodies all must continue to meet remotely for now, with two narrow exceptions:

- Boards and commissions may meet in person to consider personnel matters with advance permission from the Mayor.
- Boards, commissions, and advisory bodies may meet in person with advance permission if the Mayor determines that holding an in-person meeting would provide a significant benefit to the public. To hold an in-person meeting under this exception, the chairperson of the board, commission, or advisory body must submit a written request to the Mayor at least 14 days before the meeting.

### **3. Can a member of a Charter commission participate in a meeting remotely?**

In order to participate and vote at an in-person meeting, commissioners generally must attend in person. Commissioners may attend remotely only if they fit in one of two categories:

- **Vulnerable population:** The commissioner is in a vulnerable population with a heightened risk of severe illness from COVID-19 because the commissioner is over 65 years of age, has a medical condition identified by the Centers for Disease Control and Prevention as increasing the risk of severe COVID-19 illness, or is pregnant.
- **COVID illness or exposure:** The commissioner is required to isolate or quarantine based on guidance of public health officials due to COVID-19 illness or exposure, or the commissioner is caring for another person in the commissioner's household who is isolating or quarantining.

### **4. If a member of a Charter commission wants to participate remotely because of COVID-19 vulnerability, illness, or exposure, what should the member do?**

The commissioner must send a letter to the secretary of their board or commission attesting that they cannot attend the meeting and that they fit within one of the exceptions in the Mayor's emergency order. The letter must state whether the member is in a vulnerable population, is isolating or quarantining due to COVID illness or exposure, or is caring for a household member who is isolating or quarantining, and must include the date range of meetings that the commissioner intends to attend remotely. If a commissioner is in a vulnerable population, the commissioner does not need to identify their condition or their age; the letter can simply attest that the commissioner is in a vulnerable population.

**5. Do members of Charter commissions need to be fully vaccinated and boosted to attend an in-person meeting?**

Commissioners must be fully vaccinated—that is, they must have received two shots of the Moderna or Pfizer vaccine or one shot of the Johnson & Johnson vaccine at least two weeks before the meeting. Boosters are not required. There are no exceptions to the vaccination requirement for commissioners.

**6. What if only one member of a Charter commission is able to meet in person and all the other members are eligible to meet remotely?**

The commission must hold an in-person meeting as long as at least one commissioner is able to meet in person. For example, if there is a five-member commission with four members who are unable to attend because they are in a vulnerable population, the one member will attend in person and the others will attend remotely. If all commissioners are unable to attend, the commission may meet fully remotely.

**7. If the chairperson of a Charter commission is participating in a meeting remotely but other commissioners are attending in person, who will run the meeting?**

If the commission's bylaws authorize the chairperson to run the meeting, then the chairperson has authority to run the meeting as usual. But running an in-person meeting from a remote location can present serious challenges, so the chairperson should consider authorizing another member to run the meeting, or portions of the meeting, consistent with the commission's bylaws.

**8. Can remote members attending a meeting remotely call into the meeting by phone, or must they appear on video?**

All members attending remotely must appear on video during the meeting.

**9. What happens if a Charter commission member participating remotely has technical issues and drops off the meeting?**

In that situation, the meeting may continue unless the commission loses a quorum. Or the commission could decide to recess the meeting temporarily until the commissioner is able to fix the technical issues and re-join the meeting.

**10. Will members of the public attend Charter commission meetings in person?**

Yes. Members of the public will have the right to attend in-person meetings to observe and provide public comment in person. Members of the public will not be required to be vaccinated, but they must comply with all building rules and must wear masks while attending the meeting, as described in Question #10.

**11. Must commissioners, staff, and members of the public wear masks in the in-person meetings?**

Yes, all people attending the meeting—including commissioners, City staff, and members of the public—must wear a well-fitted mask. The City recommends that attendees wear higher-quality masks, like N95, KN95, and KF94 respirators, but that is not required.



**12. Must Charter commissions allow members of the public to observe the meeting remotely and provide public comment by phone or video if they are not attending the meeting in person?**

Yes. Commissions must allow members of the public to observe the meeting remotely and must allow members of the public who are not attending in person to provide public comment. Commissions must give each commenter an equal amount of time to speak on each item, whether the commenter is remote or in-person.

**13. If some members of the public attend a meeting in person and some are remote, in what order should Charter commissions take public comment?**

Commissions have discretion to decide the order of public comment. We recommend that commissions take public comment in two separate batches: first in-person public comment from everyone who seeks to comment, then remote public comment—rather than switching back and forth between the two.

**14. Must City staff attend in-person commission meetings?**

Commission secretaries should attend in person. All other staff should follow the direction of their department head as to whether they should attend a meeting in person.

**15. Will presenters who are not City employees attend in-person commission meetings?**

Each Charter commission may establish its own rules for third-party presenters who are not City employees—for example, a project sponsor speaking in a conditional use hearing at the Planning Commission, or other similar parties in an administrative appeal. If a commission anticipates that third parties will be providing a presentation at the commission's first in-person meeting, the chairperson of the commission should decide at least a week in advance whether the third parties will attend the meeting in person or appear remotely, and the commission's secretary or staff should notify the presenters as early as possible. After the initial in-person meeting, the commission may adopt a policy for future meetings.

**16. When a Charter commission holds an in-person meeting, will the commission need to make any special findings required by State law?**

If no commissioners are joining the meeting remotely, then the commission is not required to make any special findings. But if there are any commissioners joining remotely, then the commission must make special findings under State law to waive certain requirements that would otherwise apply. The City Attorney's Office can provide the commission with draft language for those findings.

**17. Which boards and commissions are Charter commissions subject to the in-person meeting requirement?**

The boards and commissions that must meet in person are:

- Airport Commission
- Arts Commission
- Asian Art Commission
- Board of Appeals

- Building Inspection Commission
- Civil Service Commission
- Disability and Aging Services Commission
- Elections Commission
- Entertainment Commission
- Commission on the Environment
- Ethics Commission
- Fine Arts Museum Board of Trustees
- Fire Commission
- Health Commission
- Health Service Board
- Historic Preservation Commission
- Human Rights Commission
- Human Services Commission
- Juvenile Probation Commission
- Library Commission
- Municipal Transportation Agency Board of Directors
- Planning Commission
- Police Commission
- Port Commission
- Public Utilities Commission
- Public Utilities Rate Fairness Board
- Recreation and Park Commission
- Retiree Health Care Trust Fund Board
- Redistricting Task Force
- Retirement Board
- Sheriff's Department Oversight Board

- Small Business Commission
- Commission on the Status of Women
- War Memorial and Performing Arts Board of Trustees.

**18. Where will Charter commissions hold in-person meetings?**

Commissions may hold in-person meetings in City Hall. The City Administrator and the Department of Technology have equipped some City Hall meeting rooms with new technology to facilitate hybrid meetings where some members of the public or commissioners may attend remotely. Commission secretaries or staff should contact City Hall Building Management for information about meeting room availability.

Commissions may also hold in-person meetings at other public buildings if the meeting rooms meet accessibility requirements and have technological capacity to support hybrid meetings. Commission secretaries or staff should coordinate with the City Administrator's Office and the City Attorney's Office before arranging an in-person meeting at a facility other than City Hall.

**19. If a Charter commission has subcommittees, may the subcommittees also meet in person?**

Subcommittees are not required to meet in person at this time. Each Charter commission can decide whether to require or allow its subcommittees to meet in person. If subcommittees meet in person, they must comply with all the same restrictions described in these FAQs. But meeting room availability may be limited, and City Hall will prioritize requests for Charter commission meetings before reserving rooms for subcommittee meetings.

**20. How long will these rules last?**

These FAQs describe the rules imposed by the Mayor's Forty-Fifth Supplement to the emergency proclamation. As the Omicron surge fades in the coming weeks, we anticipate that the Mayor will issue new orders requiring more boards, commissions, and advisory bodies to return to in-person meetings. Those future orders may require commissioners to attend meetings in person even if they attest that they are in a vulnerable population. But the Mayor's Office will provide at least two months' notice to all boards, commissions, and advisory bodies before they are required to return to in-person meetings.