



MEMORANDUM

TO: Town of Dighton Employees & Board/Committee Members

FROM: Town Clerk

SUBJECT: Conflict of Interest Training

The State Ethics Commission has established a new conflict of interest law online training program and summary of the conflict of interest law acknowledgement.

State, county, municipal employees and board/committee members will need to create an account to access the platform so that they can complete the new conflict of interest law online training program and acknowledge receipt of the summary of the conflict of interest law. These requirements can be completed on any computer or mobile device. Completion of these mandatory training and education requirements will be automatically recorded.

Public employees and board/committee members may now register to complete their conflict of interest law training and education requirements.

To complete the training, you will first need to self-register at: <https://MassEthicsTraining.skillburst.com>

- a. Click on the “First Time Logging In” tab.
- b. Type in your “email address”, “First Name”, “Last Name” and under “Select Organization”, choose “Dighton.” If you are already set up with another municipality you must add Dighton.
- c. You will receive an email to set up your password and allow you to take your test.
- d. Once you’ve completed the Training and Acknowledgement Receipt, you’re all set for the next 2 years.
- e. The acknowledgement must be completed annually. You’ll receive separate emails from noreply@skillburst.com when it is time to renew both the Training and Acknowledgement.

*****You no longer have to print, sign and submit documents to the Clerk’s Office*****

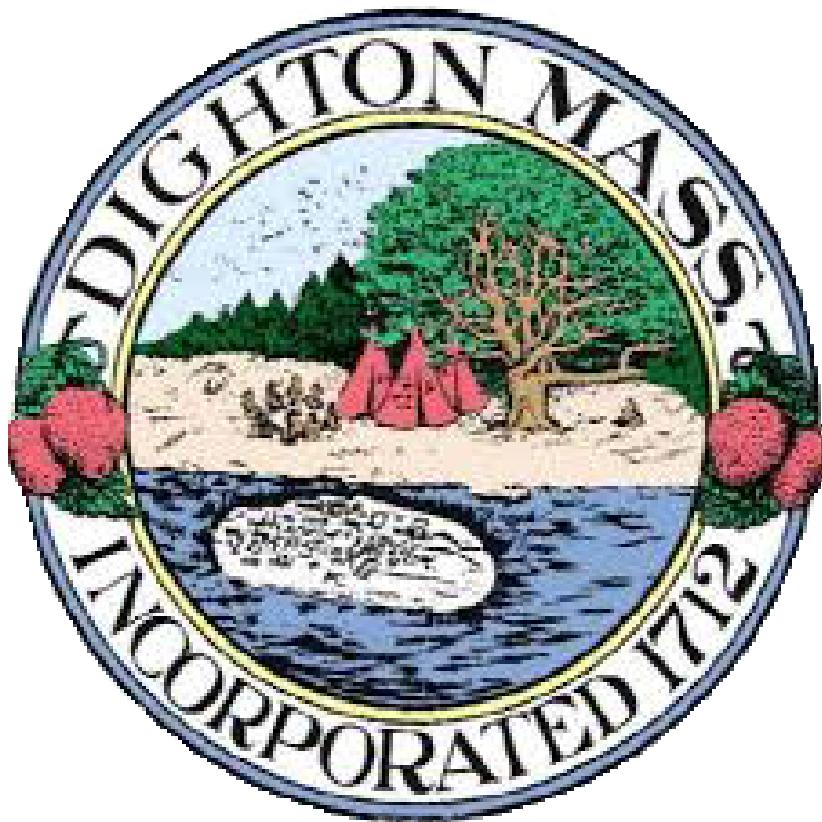
With the new portal, the Town Clerk’s Office will receive certificates automatically and will track your compliance by reviewing reports on the portal. As the local administrator for Dighton, I will be able to go into the program and monitor compliance. You have the option to complete the training in parts because your progress saves, or you can complete it all in one sitting. As a reminder, all municipal employees** in Massachusetts are required to comply with the state conflict of interest law, Massachusetts General Laws chapter 268A.

Should you have other questions about the Conflict of Interest Law and Financial Disclosure Law, please visit the Governor’s website at: <https://www.mass.gov/orgs/state-ethics-commission>

A handwritten signature in black ink that reads "Shara Costa".

Shara Costa
Town Clerk

BOARD & COMMITTEE HANDBOOK



Town of Dighton

Office of the Board of Selectmen
979 Somerset Avenue
Dighton, MA 02715
(508) 669-6431

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1.0 INTRODUCTION

1.1 Purpose

Citizens serve on boards, commissions, and committees because they have a love for their community and want to improve the quality of life in their town or city. The purpose of this handbook is to provide guidance to the many appointed boards, commissions, and committees of the Town of Dighton. It provides brief descriptions of meeting procedures, details about important state statutes, such as the Open Meeting Law, the Conflict of Interest Law, and the Public Records Law.

1.2 Additional Publications

All committee members should read and familiarize themselves with the Annual Town Report and the General Town Bylaws available on the Town of Dighton website here: [https://www.dighton-ma.gov/i want to/learn about.php](https://www.dighton-ma.gov/i_want_to/learn_about.php). In addition, all committee members should review each set of laws or bylaws that pertain to a certain board, commission, or committee.

2.0 COMMITTEE FORMATION & MEMBERSHIP

2.1 Committee Formation

The Board of Selectmen is the appointing authority for the majority of boards and committees, with the exception of the Finance Committee, who is appointed by the Town Moderator, and the Capital Outlay Committee, whose composition and appointments are outlined in the General Town Bylaws. State statutes outline the powers and duties of many boards. In addition, the General Town Bylaws further define the work of some boards, such as the Agricultural Commission. Town Meeting may request the formation of a committee by approving an article for that purpose. The appointing authority prepares the charge and receives the reports and recommendations of the committee. If appropriate, the committee may also report at a Town Meeting.

2.2 Committee Application Procedure

Notices about vacancies on boards, commissions, and committees are generally published on the Town of Dighton website under Employment & Volunteer Opportunities here: [https://www.dighton-ma.gov/government/job vacancies.php](https://www.dighton-ma.gov/government/job_vacancies.php). Candidates seeking appointment to a particular committee are asked to fill out an

electronic Town of Dighton Volunteer Form or may complete a paper form by downloading a copy on the Employment & Volunteer Opportunities webpage. If completed electronically, the form is automatically submitted to the Office of the Board of Selectmen. However, if completed on paper, the submitted form should be submitted one of several ways: emailed to boardofselectmen@dighton-ma.gov, returned in person to the Office of the Board of Selectmen, or mailed to Office of the Board of Selectmen, Town Hall, 979 Somerset Avenue, Dighton, MA 02715. The completed form will be forwarded to the appropriate committee for review. Once reviewed, the appropriate board, committee, or commission will inform the Board of Selectmen of their recommendation for appointment.

2.3 Committee Appointment

The goal of the appointing authorities is to appoint qualified and interested Dighton residents who are broadly representative of the Town. The appointing authorities carefully consider applications and recommendations/suggestions from many resources, including but not limited to the committee to which a candidate is seeking appointment, letters of interest, verbal expression of interest, recommendations by the Town Administrator, etc.

Once appointed, the appointee receives written notification of appointment from the Office of the Board of Selectmen, including a Certificate of Appointment. Each appointee must be sworn in by the Town Clerk or Assistant Town Clerk prior to attending a committee meeting as an official member. The Town Clerk provides committee members with information about the Open Meeting Law (M.G.L. Chapter 39), as the statute requires. In addition, the appointee is given information pertaining to the standards of conduct as outlined in the Conflict of Interest Law (M.G.L. Chapter 268A) as well as the Town of Dighton Policies & Procedures manual.

2.4 Committee Orientation

New members to a committee, commission, or board should be informed about the committee's specific role, powers and duties, and rules and regulations, and any issues frequently encountered by the board or committee. Such information can be provided by the committee's Chairperson, other members, and staff or personnel. The Board of Selectmen encourages committee Chairs to orient new members to committee functions and compliance with the statutes noted above.

2.5 Conflict of Interest Law (M.G.L. Chapter 268A)

2.5.1 Purpose

The purpose of the Conflict of Interest Law is to ensure that public employees' private financial interests and personal relationships do not conflict with their public obligations. The law is broadly written to prevent a public employee from becoming involved in a situation that could result in a conflict or give the appearance of a conflict.

The law restricts what a public employee may do:

1. On the job;
2. After hours;
3. After leaving public service.

2.5.2 Provisions

The law prohibits a variety of actions, including bribery, extra pay, receipt of gifts or privileges because of a committee members' official actions, and acting as an agent or attorney for anyone in a claim against or doing business with the Town. The law prohibits all municipal employees from participating in a particular matter in which committee members or any of the following have a financial interest:

1. Immediate family, which includes the employee and his/her spouse, and their parents, children, brothers, and sisters. Cousins, nephews, aunts, uncles, etc. are not considered immediate family members. Also, under the definition of immediate family, some brothers-in-law and sisters-in-law are immediate family, others are not. For example, if your brother-in-law is your spouse's brother, then he is considered immediate family; however, if he is your sister's husband, then he is not considered immediate family for the purposes of the Conflict of Interest law.
2. Partner or business associates.
3. A business organization in which the committee member serves as an officer, director, trustee, partner, or employee (including a non-profit organization).
4. Any person or organization with whom the committee member is negotiating or has any arrangement concerning prospective employment.

If board, committee, or commission members have a conflict of interest or an appearance of a conflict in any matter before the board or committee, they should not participate in any pertinent discussion or votes concerning such matter(s). The law

provides for the legal determination of conflict of interest status for any employee submitting a request to the appointing authority or the Massachusetts State Ethics Commission. Disclosure of an Appearance of a Conflict of Interest forms may be obtained from and filed with the Office of the Town Clerk as well as the Massachusetts State Ethics Commission.

The law also provides for continued service in certain circumstances if full disclosure is made or a special exemption is granted by the Board of Selectmen. If committee members have any questions about their activities, they should contact the Massachusetts State Ethics Commission at their website (<https://www.mass.gov/orgs/state-ethics-commission>) or by calling the Attorney of the Day at (617) 371-9500. Advice is confidential and the attorney will call you back within 1 to 2 business days. A committee member may also request written advice. They will receive a written response within 30 days.

Note: “Municipal employee” refers to anyone holding any office, position, employment, or membership in any municipal agency. Unpaid members of local town boards, committees, and commissions are municipal employees as are private citizens serving on a special advisory committee.

2.6 Reappointment

Reappointments are based on an evaluation by the appointing authority of the citizen’s contribution to the committee, the desirability of widespread involvement, and the changing needs of the committee and the Town. The appointing authorities carefully review requests for reappointment and consider all sources of information as described in Section 2.3. There is no fixed limit on length of service, except as described in the General Town Bylaws. In cases where special training or expertise is required, longer periods of service may be appropriate.

Per Article XXVI of the General Town Bylaws, any committee member that attends less than 60% of that committee’s regular meetings shall be deemed to have vacated that office and may be replaced by the appointing authority. The following valid exclusions apply: valid medical, military, and personal circumstances subject to review by the appointing authority. A committee member is under no obligation to accept reappointment nor is the appointing authority obligated to offer appointment.

2.7 Resignation

A committee member who is no longer able to serve should resign promptly so that the vacancy may be filled. A written resignation letter shall be submitted to the Town Clerk with a copy submitted to the committee Chair as well as the appointing authority per M.G.L. Chapter 41, Section 109.

2.7.1 Data Preservation

Any pertinent information/data held by a committee member who is resigning shall be forwarded to that committee's Chair prior to their departure. If the committee Chair resigns, any pertinent information/data held by that individual should be given to the Board of Selectmen's Office.

2.8 Termination

In rare circumstances, such as continued, unexplained absences or conflict of interest, the appointing authority may ask for a member's resignation or, if necessary, revoke the appointment. Also, the appointment of a committee member who fails to attend 3 consecutive meetings may be terminated. Prompt, written notification to the committee member will be given by the appointing authority in the event of such action.

3.0 OFFICERS

3.1 Elections

Committees elect a Chair and a Clerk annually, typically at the first meeting after new terms begin in July unless otherwise provided by state statute or the General Town Bylaws. It is the responsibility of the Chair to notify the appointing authority, the Town Administrator, and the Town Clerk of changes in officers. Committees are not required to elect a Clerk if that committee has a paid, staff Administrative Assistant/Office Manager (e.g. the Zoning Board of Appeals and the Board of Health).

3.2. Chair

The Chair presides at all meetings, decides questions of order, calls special meetings, and signs official documents that require the Chair's signature. The Chair has the same rights as other members to offer resolutions, make or second motions, discuss questions, and vote thereon. The Chair sets the meeting agenda.

3.3 Clerk

The Clerk is responsible for the following duties of the committee:

1. Take and transcribe the committee's meeting minutes and post approved meeting minutes on the Town of Dighton website on the committee's respective webpage.
2. Prepare agendas and any other materials, in consultation with the Chair. The tentative agenda for the meeting should be emailed to committee members and posted on the Town of Dighton website.
3. Prepare and copy meeting materials for committee members using, if necessary, facilities and materials at Town Hall and/or Old Town Hall. The Town Administrator will provide staff assistance in training the Clerk in the use of town facilities.
4. Submit the meeting notice and agenda to the Office of the Town Clerk no later than 48 hours before a meeting. The Town Clerk or Assistant Town Clerk posts the meeting notice and agenda on the bulletin board(s) at Town Hall. The committee Clerk posts the agenda on the committee's webpage on the Town of Dighton website. The 48 hours does not include Saturday, Sunday or legal holidays

3.4 Staff Assistance

If a committee determines that its workload or meeting schedule is such that the Clerk's responsibilities will have an adverse impact on the committee's operation, the committee may request a budget for paid, part-time assistance by applying in writing to the Town Administrator.

3.5 Website Administration

Each committee's respective Clerk is responsible for posting the meeting dates, agendas, minutes, and information packets to their respective committee's webpage on the Town of Dighton website. The Website Administrator, currently the Administrative Assistant to the Board of Selectmen and the Town Administrator, should be contacted by the committee's Clerk after their appointment in order to receive website credentials and instructions on how to edit the committee's webpage. Agendas and minutes must be posted in a timely fashion as required by state law.

4.0 MEETINGS

4.1 Definition

A public meeting occurs at any time a quorum of the committee or subcommittee members get together to discuss or consider any public business or policy over which the committee has some jurisdiction or advisory power. No action of the committee or subcommittee is valid or binding unless ratified by affirmative vote of the majority of the full body.

4.2 Open Meeting Law

The Massachusetts Open Meeting Law (M.G.L. Chapter 30A, Sections 18-25) requires that all meetings of elected or appointed boards, committees, commissions, or subcommittees be open to the public except in eight specific situations when Executive Session is permissible and/or required. For more details, see Section 4.4 Executive Session. No votes taken in open session by a governmental body, other than Town Meeting, may be by secret ballot.

The law does not apply to chance meetings or social occasions; however, such meetings cannot be used to circumvent the requirement of discussing and deliberating at public meetings. The law does not apply to administrative meetings or to a group appointed by a single administrator to advise on administrative responsibilities.

The Open Meeting Law does not contravene other laws, such as the Privacy Act. If clarification is needed, particularly those concerning Executive Session and the rights of individuals, the committee Chair may request that the Town Administrator obtain advice on specific questions from Town Counsel.

Any person may record a meeting with a tape recorder or any other means of sonic reproduction and/or videotape equipment provided there is no active interference with the conduct of the meeting. The manner in which this right is to be exercised is subject to the discretion of the committee Chair, though any individual must advise the Chair that they are recording the meeting.

The information provided in this Handbook is only a summary of the requirements of the Open Meeting Law. For more detailed information, please review the [Open Meeting Law Guide and Educational Materials](#), published by the Office of the Attorney General and available at:

<https://www.mass.gov/doc/open-meeting-law-guide-and-educational-materials.0/download>

4.3 General Guidelines

While Town Meeting follows Cushing's Manual of Parliamentary Practice: Rules of Proceeding and Debate in Deliberative Assemblies, committee meetings follow Robert's Rules of Order. A committee may adopt formal rules of order, such as the Board of Selectmen's Rules of Order in the Town of Dighton Policies & Procedures Manual. Although most small committee discussions may seem too casual to be called debate, it is advisable for the committee to observe a minimum of generally accepted procedures. Attentive guidance by the Chair and adherence to adopted procedures can increase efficiency as well as maintain objectivity.

The Chair should limit all participants to concise, nonrepetitive statements. Although desirable, it is not necessary for the committee to continue discussion until complete consensus is achieved. Other actions, such as calling for a vote, postponing until more information is available (e.g. taking an issue under advisement), or referring an issue to a subcommittee may be required.

Careful preparation before meetings (e.g. organizing agenda items, distributing information in advance, and anticipating possible questions) can expedite discussion, facilitate action, and avoid long and exhausting meetings.

The Open Meeting Law does not require that visitors be allowed to participate. It may be advisable for the Chair to remind speakers of time and repetition limits. No one may speak at a committee meeting without the recognition of the Chair. Members of the public who wish to speak must state their name and address for the record. If a speaker refuses to be silent after warning from the Chair, then the Chair has the authority to order the speaker removed from the meeting by the police. Nevertheless, all committee members represent and serve the Town. They should treat all visitors and other committee members with courtesy and consideration. Whenever possible, it is advisable to permit public participation in some form, such as a short period at each meeting or occasional meetings for public hearings.

4.4 Executive Session

An Executive Session is closed to the public, but the committee must first convene in an Open Session for which notice has been posted. A majority of the members must vote, by roll call vote entered into the minutes, in favor of a motion to enter into Executive Session. Records of any Executive Session remain closed to the public only

as long as publication may defeat the purposes of the Executive Session and Town Counsel agrees. Topics discussed in Executive Session are confidential. Attendees do not discuss these matters with anyone until the purpose of the Executive Session no longer exists and the minutes can be released to the public. Executive Session minutes must first be approved in Executive Session and then released by majority vote of the appropriate committee in Open Session.

Executive Session may be held only for the following purposes (current as of February 2021):

1. To discuss the reputation, character, physical condition, or mental health rather than the professional competence of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against a public officer, employee, staff member, or individual.
2. To conduct strategy sessions in preparation for negotiations with non-union personnel or to conduct collective bargaining sessions or contract negotiations with non-union personnel.
3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the Chair so declares.
4. To discuss the deployment of security personnel or devices, or strategies with respect thereto.
5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints.
6. To consider the purchase, exchange, lease, or value of real property, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body
7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.
8. To consider or interview applicants for employment or appointment by a preliminary screening committee, if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening.
9. To meet or confer with a mediator as defined in M.G.L. Chapter 233, Section 23C, with respect to any litigation or decision or any public business within its jurisdiction involving another party, group, or entity.

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the Department of Public Utilities pursuant to M.G.L. Chapter 164, Section 1F, in the course of activities conducted as the municipal aggregator under M.G.L. Chapter 164, Section 134, when such governmental body, municipal aggregator, or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling, or distributing electric power and energy.

Note: Purpose #1 should be used with great caution and should not be undertaken without prior consultation with the Town Administrator and/or Town Counsel.

4.5 Meeting Schedule

Depending on a committee's workload, meetings may be held weekly, bi-weekly, monthly, or more or less frequently as needed. The Chair calls each meeting except for the first meeting, which is called by the appointing authority in order to organize the newly-formed committee. When possible, a regular meeting day, hour, and location should be established. Except in cases of emergency, Town committees do not meet on weekends or major religious or official holidays.

4.6 Meeting Location

Meetings must be held in a place which is open to the public. Ideally, the location should also be accessible to the disabled. Committees are urged to meet in a Town building because meetings held in private homes or restaurants may give the appearance of being secret and discourage the public from attending. A committee may reserve a room in a Town building by contacting the Administrative Assistant to the Board of Selectmen and Town Administrator.

4.7 Posting

It is the responsibility of the committee to give notice to the Town Clerk of the committee's meeting with time, date, and place by filling out a meeting notice form and comprising an agenda. Except for emergency meetings, meetings must be posted 48 hours in advance by the Town Clerk, excluding Saturdays, Sundays, and legal holidays. "Legal holiday" shall include January first, July fourth, November eleventh, and Christmas Day, or the day following when any of said days occurs on Sunday, and the

third Monday in January, the third Monday in February, the third Monday in April, the last Monday in May, the first Monday in September, the second Monday in October, and Thanksgiving Day. In the case of emergency meetings (e.g. sudden, unexpected occasions which require immediate action by the body) or adjourned meetings if scheduled for less than 48 hours from the adjournment, prior posting is not required; however, the Town Clerk is responsible for maintaining a current listing of all posted meetings on the bulletin board at Town Hall.

4.8 Recordkeeping

State law requires that a committee keep accurate records of its public meetings. Although most public bodies rely on their minutes clerks to prepare the minutes, the members of the public body are responsible to make sure that minutes are accepted or adopted in a timely manner. The records of each regular meeting are public information, and the Chair (or their designee) must maintain a copy of all approved minutes for public inspection. In addition, a copy of all approved minutes must be filed with the Office of the Town Clerk and posted on the committee's webpage on the Town of Dighton website.

Minutes must include:

1. The names of committee members present and absent at the meeting.
2. If Executive Session, then the names of others present.
3. Date, place, time convened by the Chair, and time adjourned.
4. All agreements reached by vote or consensus.

Minutes should include:

1. Assignments made to committee members.
2. Mention of topics discussed.
3. Exact wording of all motions made, including who made the motion and who seconded. Also, the vote of each member and those members who did not participate in the vote should also be recorded.
4. Names of additional participants (excluding press or observers).
5. A detailed listing of all documentation presented and/or discussed at the meeting.

Minutes may include:

1. Summaries of discussions.
2. Schedule of future meetings.

Once minutes are accepted by majority committee vote, they become the official record of the meeting. Any notes made by the Clerk or shorthand should be destroyed once the official minutes are accepted. Verbatim copies of proceedings, such as audio or video recordings, may be retained by the Cable Television Committee.

4.9 Public Records Law

The Massachusetts Public Records Law (M.G.L. Chapter 66, Section 10) provides right of access to public records, broadly defined to include all documentary materials except eleven (11) specific exemptions, such as personnel and medical files, proposals and bids, and appraisals of property. The minutes, informational data, memoranda, and circulating materials of any Town board, committee, or commission are mostly all public information. The committee should consult with the Town Administrator if questions arise concerning freedom of information.

5.0 BUDGETS

5.1 Committee Budgets

In general, an individual committee does not have a budget unless one is authorized by Town Meeting. If a committee anticipates a need to expend funds, it can request a budget for the next fiscal year through the Town Administrator; or, if funds are needed during a fiscal year, it can make a request to the Board of Selectmen for a transfer from the Reserve Fund. If such a request is made, a copy must be sent to the Office of the Town Administrator. Such a request is subject to a review and evaluation of need and the availability of funds.

5.2 Disbursements

As bills are incurred by the committee, whomever the committee has authorized to expend funds (typically the committee's Chair or Clerk) completes bill schedules, attaching all appropriate receipts, paperwork, etc. and submits the paperwork to the Office of the Town Accountant for approval. Upon approval, the invoices are processed and submitted to the Town Treasurer for payment.

5.3 Purchases

Purchase orders must be completed for all purchases over \$500, signed by the committee Chair and submitted to the Office of the Town Accountant, who completes their portion of the purchase order and the Town Administrator signs it.

Purchases must comply with the Town purchasing policy and the Uniform Procurement Act. Purchases in excess of \$10,000 must go through the bid process and comply with M.G.L. Chapter 30B, the Uniform Procurement Act. In addition, three (3) quotes must be obtained for purchases between \$5,000-10,000. Those quotes, and corresponding forms, must be completed and submitted to the Chief Procurement Officer (typically the Town Administrator) or directly to the Office of the Town Accountant for signature.

6.0 FUNDRAISING

6.1 Background Information

The provisions of M.G.L. Chapter 44, Section 53A enables a Town committee to raise and disburse funds according to specific procedures.

6.2 Procedures

6.2.1. Donations

All funds received by the committee go into the General Fund and may not be dispersed by the committee on its own without special arrangements. Sometimes donations are made to the Town for specific purposes. Donations or gifts of money must be accepted by the Board of Selectmen. The committee's designee completes a turnover form for contributions received and transmits this document and funds to both Town Treasurer. Revolving funds are available for some purposes, which allow a committee to retain control of its funds. This should be discussed with the Town Administrator.

6.2.2. Disbursements of Funds

Please see Section 5.2.

6.2.3. Purchases

Please see Section 5.3.

6.2.4. Alternative Fundraising

An individual or group may purchase and donate equipment, supplies, or manpower to a particular committee to help achieve the committee's charge and to avoid going through the channels listed above.

7.0 PLANNING

7.1 Charge and Plan of Action

The committee should review the charge prepared by the appointing authority (or in consultation with the appointing authority) at an early meeting and periodically thereafter in order to keep its work focused and moving toward its goals. When the committee is established because of Town Meeting action, the appointing authority usually incorporates the purpose of the article within the charge.

The committee, with advice from staff and the appointing authority, should develop a plan of action to accomplish the objectives. The plan should include reporting major milestones so that the committee and the appointing authority may assess committee progress.

Permanent committees are usually part of the Town of Dighton's annual goals and objectives process and typically submit an Annual Town Report.

8.0 REPORTING PROCEDURES

8.1 Appointing Authority

The Board of Selectmen recommends that the committee Chair report regularly to the appointing authority about the committee's actions and plans. If needed, the Chair may request a meeting with the appointing authority to resolve problems and report progress.

8.2. Liaison with Board of Selectmen

The Town Administrator may serve on a committee or act as a liaison between the committee and the Board of Selectmen. The Town Administrator (or the Chair of the Board of Selectmen) may chair the first meeting of a newly established committee, explain the charge, and preside over the election of a Chair who will then take over the meeting. In the absence of the Town Administrator on a newly formed committee, the first meeting must be chaired by the Chair of the Board of Selectmen until a committee Chair is elected by majority vote. Once a Chair is elected, the Town Administrator serves as a regular voting member of the committee subject to the same rules of conduct as all other members.

8.3 Public Information Meetings

The success of a committee's endeavors often depends on effective communication with the public. The committee should hold public meetings and hearings when needed both to inform citizens of work in progress and to gain public reaction and response. The committee should issue press releases periodically to keep the public informed.

8.4 Town Meeting

If a relevant article is on the Warrant or if the committee's charge specifies a report to Town Meeting, the committee should prepare information for Town Meeting. The committee should make these reports clear, concise, and brief, keeping in mind the large volume of articles Town Meeting concerns.

A committee may request inclusion of an article in the Town Meeting Warrant by a letter to the Board of Selectmen from the committee if a majority of the committee consents to the submission. The Executive Assistant to the Board of Selectmen/Town Administrator will issue a placeholder for that article for the Warrant until the Board of Selectmen makes a decision on whether or not to include the article. Articles may be reworded by the Board of Selectmen upon advice of Town Counsel. All articles should be submitted to the Board of Selectmen by the established deadlines. Committee members sometimes find that they wish to discuss and consider making recommendations on other articles at their meetings. In such cases, the committee should send written notice of the scheduled discussion to the sponsors of the article.

8.5 Annual Town Report

All appointed committees should file an annual report of committee activities for the Annual Town Report. The Chair or other designated member should detail committee membership, including changes, and a 1-3 paragraph explanation of major accomplishments within the past year and future plans. A request for committee reports is issued each year. Completed reports should be submitted to the Office of the Board of Selectmen by January 31st of each year for inclusion in the Annual Town Report.

9.0 RESOURCES

1. "Appointed Committee Handbook", Town of Foxborough, 2014.
2. "Board & Committee Handbook", Town of Scituate, 2018.
3. M.G.L. Chapter 4, Section 7 (26), Public Records Law.
4. M.G.L. Chapter 30A, Sections 18-25, Open Meeting Law.
5. M.G.L. Chapter 268A, Conflict of Interest Law.
6. "Massachusetts Conflict of Interest Law for Municipal Employees", Massachusetts State Ethics Commission.
7. "Cushing's Manual of Parliamentary Practice: Rules of Proceeding and Debate in Deliberative Assemblies", Luther S. Cushing, 1925.
8. "Robert's Rules of Order", Henry Robert III, 2004.



Town of Dighton

Board of Selectmen

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ACKNOWLEDGEMENT FORM

This acknowledges that I have received and read the Board & Committee Handbook of the Town of Dighton. By signing this form, I agree to abide by the policies, state statutes, state laws, bylaws, and guidelines promulgated thereunder, and I agree to review periodically any changes or modifications.

Print Name: _____

Signature: _____

Date: _____

To be kept on file with the Office of the Town Clerk and the Office of the Board of Selectmen/Town Administrator.

Open Meeting Law Guide and Educational Materials



COMMONWEALTH OF MASSACHUSETTS
OFFICE OF ATTORNEY GENERAL
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Dear Massachusetts Residents:

One of the most important functions of the Attorney General's Office is to facilitate openness and transparency for state and local government, through our Division of Open Government. For our democracy to work, the public must have access to and understand the reasoning behind government policy decisions. Without that access, government lacks the accountability that ensures true public representation.

The Open Meeting Law requires that most meetings of public bodies be held in public, and it establishes rules that public bodies must follow in the creation and maintenance of records relating to those meetings.

Our Division of Open Government works with our community partners to promote and provide educational materials about the Open Meeting Law, like this Guide. We provide outreach and training sessions to ensure that public bodies and residents understand their rights and responsibilities under the law.

Whether you are a town clerk or town manager, a member of a public body, or a concerned resident, you are taking part in a tradition that is a cornerstone of Massachusetts: an active and engaged public.

I want to thank you for taking the time to understand the Open Meeting Law.

For additional guidance on the law, I encourage you to contact my Division of Open Government at (617) 963-2540 or visit our website at www.mass.gov/ago/openmeeting for more information.

With Gratitude,



Attorney General Andrea Joy Campbell

Attorney General's Open Meeting Law Guide

Overview

[Purpose of the Law](#)

The purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. Because the democratic process depends on the public having knowledge about the considerations underlying governmental action, the Open Meeting Law requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently.

[Attorney General's Authority](#)

The Open Meeting Law was revised as part of the 2009 Ethics Reform Bill, and now centralizes responsibility for statewide enforcement of the law in the Attorney General's Office. G.L. c. 30A, § 19(a). To help public bodies understand and comply with the law, the Attorney General has created the Division of Open Government. The Division of Open Government provides training, responds to inquiries, investigates complaints, and when necessary, makes findings and orders remedial action to address violations of the law. The purpose of this Guide is to inform elected and appointed members of public bodies, as well as the interested public, of the basic requirements of the law.

[Certification](#)

Within two weeks of a member's election or appointment or the taking of the oath of office, whichever occurs later, all members of public bodies must complete the attached Certificate of Receipt of Open Meeting Law Materials certifying that they have received these materials, and that they understand the requirements of the Open Meeting Law and the consequences of violating it. The certification must be retained where the public body maintains its official records. All public body members should familiarize themselves with the Open Meeting Law, the Attorney General's regulations, this Guide, and Open Meeting Law determinations issued to the member's public body within the last five years in which the Attorney General found a violation of the law.

In the event a Certificate has not yet been completed by a presently serving member of a public body, the member should complete and submit the Certificate at the earliest opportunity to be considered in compliance with the law. A public body member must sign a new Certificate upon reelection or reappointment to the public body but need not sign a Certificate when joining a subcommittee.

[Open Meeting Law Website](#)

This Guide is intended to be a clear and concise explanation of the Open Meeting Law's requirements. The complete law, as well as the Attorney General's regulations, training materials, and determinations and declinations as to complaints can be found on the Attorney General's Open Meeting website, www.mass.gov/the-open-meeting-law. Members of public bodies, other local and state government officials, and the public are encouraged to visit the website regularly for updates on the law and the Attorney General's interpretations of it.

Meetings of Public Bodies

[What meetings are covered by the Open Meeting Law?](#)

With certain exceptions, all meetings of a public body must be open to the public. On June 16, 2021, Governor Charles Baker signed into law An Act Relative to Extending Certain COVID-19 Measures Adopted During the State of Emergency, Chapter 20 of the Acts of 2021 ("Chapter 20"). Relevant to the Open Meeting Law, Section 20 of Chapter 20 allows public bodies to provide the public with "adequate, alternative means" of public access to a meeting, rather than in-person access to a meeting. "Adequate, alternative means" of access includes access through telephone, internet or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body while those activities are occurring. The Attorney General encourages public bodies to provide multiple methods of access to a meeting when feasible to maximize access and transparency, but only one method of access—in-person or remote—is required by the law. The provisions in Section 20 of Chapter 20 of the Acts of 2021 allowing a public body to provide "adequate, alternative" means of public access rather than in-person access expire on June 30, 2027, unless further extended.

A meeting is generally defined as "a deliberation by a public body with respect to any matter within the body's jurisdiction." As explained more fully below, a deliberation is a communication between or among members of a public body.

These four questions will help determine whether a communication constitutes a meeting subject to the law:

- 1) is the communication between or among members of a **public body**;
- 2) if so, does the communication constitute a **deliberation**;

- 3) does the communication involve a matter within the body's **jurisdiction**; and
- 4) if so, does the communication fall within an **exception** listed in the law?

What constitutes a public body?

While there is no comprehensive list of public bodies, any multi-member board, commission, committee or subcommittee within the executive or legislative branches¹ of state government, or within any county, district, city, region or town, if established to serve a public purpose, is subject to the law. The law includes any multi-member body created to advise or make recommendations to a public body, and also includes the governing board of any local housing or redevelopment authority, and the governing board or body of any authority established by the Legislature to serve a public purpose. The law excludes the Legislature and its committees, bodies of the judicial branch, and bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer.

Boards of selectmen and school committees (including those of charter schools) are certainly subject to the Open Meeting Law, as are subcommittees of public bodies, regardless of whether their role is decision-making or advisory. Individual government officials, such as a town manager or police chief, and members of their staff are not subject to the law, and so they may meet with one another to discuss public business without needing to comply with Open Meeting Law requirements. This exception for individual officials to the general Open Meeting Law does not apply where such officials are serving as members of a multiple-member public body that is subject to the law.

Bodies appointed by a public official solely for the purpose of advising the official on a decision that individual could make alone are not public bodies subject to the Open Meeting Law. For example, a school superintendent appoints a five-member advisory body to assist her in nominating candidates for school principal, a task the superintendent could perform herself. That advisory body would not be subject to the Open Meeting Law.²

What constitutes a deliberation?

The Open Meeting Law defines deliberation as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction." Distribution of a meeting agenda, scheduling or procedural information, or reports or documents that may be discussed at a meeting is often helpful to public body members when preparing for upcoming meetings. These types of communications generally will not constitute deliberation, provided that, when these materials are distributed, no member of the public body expresses an opinion on matters within the body's jurisdiction. Additionally, certain communications that may otherwise be considered

Although the Legislature itself is not a public body subject to the Open Meeting Law, certain legislative commissions must follow the Law's requirements.

² See Connelly v. School Committee of Hanover, 409 Mass. 232 (1991).

deliberation are specifically exempt by statute from the definition of deliberation (for example, discussion of the recess and continuance of a Town Meeting pursuant to G.L. c. 39, § 10A(a) is not deliberation).

To be a deliberation, the communication must involve a quorum of the public body. A quorum is usually a simple majority of the members of a public body. Thus, a communication among less than a quorum of the members of a public body will not be a deliberation, unless there are multiple communications among the members of the public body that together constitute communication among a quorum of members. Courts have held that the Open Meeting Law applies when members of a public body communicate in a serial manner in order to evade the application of the law.

Note that the expression of an opinion on matters within the body's jurisdiction to a quorum of a public body is a deliberation, even if no other public body member responds. For example, if a member of a public body sends an email to a quorum of a public body expressing her opinion on a matter that could come before that body, this communication violates the law even if none of the recipients responds.

[What matters are within the jurisdiction of the public body?](#)

The Open Meeting Law applies only to the discussion of any "matter within the body's jurisdiction." The law does not specifically define "jurisdiction." As a general rule, any matter of public business on which a quorum of the public body may make a decision or recommendation is considered a matter within the jurisdiction of the public body. Certain discussions regarding procedural or administrative matters may also relate to public business within a body's jurisdiction, such as where the discussion involves the organization and leadership of the public body, committee assignments, or rules or bylaws for the body. Statements made for political purposes, such as where a public body's members characterize their own past achievements, generally are not considered communications on public business within the jurisdiction of the public body.

[What are the exceptions to the definition of a meeting?](#)

There are five exceptions to the definition of a meeting under the Open Meeting Law.

1. Members of a public body may conduct an on-site inspection of a project or program; however, they may not deliberate at such gatherings;
2. Members of a public body may attend a conference, training program or event; however, they may not deliberate at such gatherings;
3. Members of a public body may attend a meeting of another public body provided that they communicate only by open participation; however, they may not deliberate at such gatherings;
4. Meetings of quasi-judicial boards or commissions held solely to make decisions in an adjudicatory proceeding are not subject to the Open Meeting Law; and

5. Town Meetings, which are subject to other legal requirements, are not governed by the Open Meeting Law. See, e.g. G.L. c. 39, §§ 9, 10 (establishing procedures for Town Meeting).

The Attorney General interprets the exemption for “quasi-judicial boards or commissions” to apply only to certain state “quasi-judicial” bodies and a very limited number of public bodies at other levels of government whose proceedings are specifically defined as “agencies” for purposes of G.L. c. 30A.

We have received several inquiries about the exception for Town Meeting and whether it applies to meetings outside of a Town Meeting session by Town Meeting members or Town Meeting committees or to deliberation by members of a public body – such as a board of selectmen – during a session of Town Meeting. The Attorney General interprets this exemption to mean that the Open Meeting Law does not reach any aspect of Town Meeting. Therefore, the Attorney General will not investigate complaints alleging violations in these situations. Note, however, that this is a matter of interpretation and future Attorneys General may choose to apply the law in such situations.

Notice

[What are the requirements for posting notice of meetings?](#)

Except in cases of emergency, a public body must provide the public with notice of its meeting 48 hours in advance, excluding Saturdays, Sundays, and legal holidays. Notice of emergency meetings must be posted as soon as reasonably possible prior to the meeting. Also note that other laws, such as those governing procedures for public hearings, may require additional notice.

[What are the requirements for filing and posting meeting notices for local public bodies?](#)

For local public bodies, meeting notices must be filed with the municipal clerk with enough time to permit posting of the notice at least 48 hours in advance of the public meeting. Notices may be posted on a bulletin board, in a loose-leaf binder, or on an electronic display (e.g. television, computer monitor, or an electronic bulletin board), provided that the notice is conspicuously visible to the public at all hours in, on, or near the municipal building in which the clerk’s office is located. In the event that meeting notices posted in the municipal building are not visible to the public at all hours, then the municipality must either post notices on the outside of the building or adopt the municipal website as the official method of notice posting.

Prior to utilizing the municipal website, the Chief Executive Officer of the municipality must authorize or vote to adopt such website as the official method of posting notice. The clerk of the municipality must inform the Division of Open Government of its notice posting method and must inform the Division of any future changes to that posting method. Public

bodies must consistently use the most current notice posting method on file with the Division. A description of the website, including directions on how to locate notices on the website, must also be posted on or adjacent to the main and handicapped accessible entrances to the building where the clerk's office is located. Note that meeting notices must still be available in or around the clerk's office so that members of the public may view the notices during normal business hours.

[**What are the requirements for posting notices for regional, district, county and state public bodies?**](#)

For regional or district public bodies and regional school districts, meeting notices must be filed and posted in the same manner required of local public bodies in each of the communities within the region or district. As an alternative method of notice, a regional or district public body may post a meeting notice on the regional or district public body's website. The regional school district committee must file and post notice of the website address, as well as directions on how to locate notices on the website, in each city and town within the region or district. A copy of the notice must be filed and kept by the chair of the public body or the chair's designee.

County public bodies must file meeting notices in the office of the county commissioners and post notice of the meeting in a manner conspicuously visible to the public at all hours at a place or places designated by the county commissioners for notice postings. As an alternative method of notice, a county public body may post notice of meetings on the county public body's website. The county public body must file and post notice of the website address, as well as directions on how to locate notices on the website, in the office of the county commissioners. A copy of the notice shall be filed and kept by the chair of the county public body or the chair's designee.

State public bodies must post meeting notices on the website of the public body or its parent agency. The chair of a state public body must notify the Attorney General in writing of the specific webpage location where notices will be posted and of any subsequent changes to that posting location. A copy of each meeting notice must also be sent to the Secretary of State's Regulations Division at regs@sec.state.ma.us.

Where a public body adopts a website as the official method of posting notices, it must make every effort to ensure that the website is accessible at all hours. If a website becomes inaccessible within 48 hours of a meeting, not including Saturdays, Sundays or legal holidays, the website must be restored within six business hours of the discovery. If the website is not restored within six business hours, the public body must re-post notice of its meeting to another date and time, in accordance with the requirements of the Open Meeting Law.

[**A note about accessibility**](#)

Public bodies are subject to all applicable state and federal laws that govern accessibility for persons with disabilities. These laws include the Americans with Disabilities Act, the federal Rehabilitation Act of 1973, and state constitutional provisions. For instance, public bodies that adopt website posting as an alternative method of notice must ensure that the website is readily accessible to people with disabilities, including individuals who use screen readers. All open meetings of public bodies must be accessible to persons with disabilities. Meeting locations must be accessible by wheelchair, without the need for special assistance. Also sign language interpreters for deaf or hearing-impaired persons must be provided, subject to reasonable advance notice.³ The Attorney General's Civil Rights Division is available to answer questions about accessibility and may be reached at (413) 523-7710.

What information must meeting notices contain?

Meeting notices must be posted in a legible, easily understandable format; contain the date, time, and place of the meeting, including instructions for accessing the meeting if public access is by remote means; and list all topics that the chair reasonably anticipates, 48 hours in advance, will be discussed at the meeting. The list of topics must be sufficiently specific to reasonably inform the public of the issues to be discussed at the meeting. Where there are no anticipated topics for discussion in open session other than the procedural requirements for convening an executive session, the public body should list "open session" as a topic, in addition to the executive session, so the public is aware that it has the opportunity to attend and learn the basis for the executive session.

Meeting notices must also indicate the date and time that the notice was posted, either on the notice itself or in a document or website accompanying the notice. If a notice is revised, the revised notice must also conspicuously record both the date and time the original notice was posted as well as the date and time the last revision was posted. Recording the date and time enables the public to observe that public bodies are complying with the Open Meeting Law's notice requirements without requiring constant vigilance. Additionally, in the event of a complaint, it provides the Attorney General with evidence of compliance with those requirements.

If a discussion topic is proposed after a meeting notice is posted, and it was not reasonably anticipated by the chair more than 48 hours before the meeting, the public body should update its posting to provide the public with as much notice as possible of what subjects will be discussed during the meeting. Although a public body may consider a topic that was not listed in the meeting notice if it was not anticipated, the Attorney General strongly encourages public bodies to postpone discussion and action on topics that are controversial or may be of particular interest to the public if the topic was not listed in the meeting notice.

Executive Session

³ The Massachusetts Commission for the Deaf and Hard of Hearing will assist with arrangements for a sign language interpreter. The Commission may be reached at 617-740-1600 VOICE and 617-740-1700 TTY.

When can a public body meet in executive session?

While all meetings of public bodies must be open to the public, certain topics may be discussed in executive, or closed, session. Before going into an executive session, the chair of the public body must first:

- Convene in open session;
- State the reason for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
- State whether the public body will reconvene in open session at the end of the executive session; and
- Take a roll call vote of the body to enter executive session.

Where a public body member is participating in an executive session remotely, the member must state at the start of the executive session that no other person is present or able to hear the discussion at the remote location. The public body may authorize, by a simple majority vote, the presence and participation of other individuals at the remote participant's location.

While in executive session, the public body must keep accurate records, all votes taken must be recorded by roll call, and the public body may only discuss matters for which the executive session was called.

The Ten Purposes for Executive Session

The law states ten specific purposes for which an executive session may be held, and emphasizes that these are the only reasons for which a public body may enter executive session.

The ten purposes for which a public body may vote to hold an executive session are:

1. **To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties.**

This purpose is designed to protect the rights and reputation of individuals. Nevertheless, where a public body is discussing an employee evaluation, considering applicants for a position, or discussing the qualifications of any individual, these discussions should be held in open session to the extent that the discussion deals with issues other than the reputation, character, health, or any complaints or charges against

the individual. An executive session called for this purpose triggers certain rights for the individual who is the subject of the discussion. The individual has the right to be present, though he or she may choose not to attend. The individual who is the subject of the discussion may also choose to have the discussion in an open meeting, and that choice takes precedence over the right of the public body to go into executive session.

While the imposition of disciplinary sanctions by a public body on an individual fits within this purpose, this purpose does not apply if, for example, the public body is deciding whether to lay off a large number of employees because of budgetary constraints.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;

Generally, a public body must identify the specific non-union personnel or collective bargaining unit with which it is negotiating before entering into executive session under Purpose 2. A public body may withhold the identity of the non-union personnel or bargaining unit if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

While a public body may agree on terms with individual non-union personnel in executive session, the final vote to execute such agreements must be taken by the public body in open session. In contrast, a public body may approve final terms and execute a collective bargaining agreement in executive session, but should promptly disclose the agreement in open session following its execution.

Collective Bargaining Sessions: These include not only the bargaining sessions, but also include grievance hearings that are required by a collective bargaining agreement.

3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;

Generally, a public body must identify the collective bargaining unit with which it is negotiating or the litigation matter it is discussing before entering into executive session under Purpose 3. A public body may withhold the identity of the collective bargaining unit or name of the litigation matter if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details

would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

Collective Bargaining Strategy: Discussions with respect to collective bargaining strategy include discussion of proposals for wage and benefit packages or working conditions for union employees. The public body, if challenged, has the burden of proving that an open meeting might have a detrimental effect on its bargaining position. The showing that must be made is that an open discussion may have a detrimental effect on the collective bargaining process; the body is not required to demonstrate a definite harm that would have arisen. At the time the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's bargaining or litigating position.

Litigation Strategy: Discussions concerning strategy with respect to ongoing litigation obviously fit within this purpose but only if an open meeting may have a detrimental effect on the litigating position of the public body. Discussions relating to potential litigation are not covered by this exemption unless that litigation is clearly and imminently threatened or otherwise demonstrably likely. That a person is represented by counsel and supports a position adverse to the public body's does not by itself mean that litigation is imminently threatened or likely. Nor does the fact that a newspaper reports a party has threatened to sue necessarily mean imminent litigation.

Note: For the reasons discussed above, a public body's discussions with its counsel do not automatically fall under this or any other purpose for holding an executive session.

4. **To discuss the deployment of security personnel or devices, or strategies with respect thereto;**
5. **To investigate charges of criminal misconduct or to consider the filing of criminal complaints;**

This purpose permits an executive session to investigate charges of criminal misconduct and to consider the filing of criminal complaints. Thus, it primarily involves discussions that would precede the formal criminal process in court. Purpose 1 is related, in that it permits an executive session to discuss certain complaints or charges, which may include criminal complaints or charges, but only those that have already been brought. However, Purpose 1 confers certain rights of participation on the individual involved, as well as the right for the individual to insist that the discussion occur in open session. Purpose 5 does not require that the same rights be given to the person who is the subject of a criminal complaint. To the limited extent that there is overlap between Purposes 1 and 5, a public body has discretion to choose which purpose to invoke when going into executive session.

6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;

Generally, a public body must identify the specific piece of property it plans to discuss before entering into executive session under Purpose 6. A public body may withhold the identity of the property if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

Under this purpose, as with the collective bargaining and litigation purpose, an executive session may be held only where an open meeting may have a detrimental impact on the body's negotiating position with a third party. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's negotiating position.

7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;

There may be provisions in state statutes or federal grants that require or specifically allow a public body to consider a particular issue in a closed session. Before entering executive session under this purpose, the public body must cite the specific law or federal grant-in-aid requirement that necessitates confidentiality. A public body may withhold that information only if publicly disclosing it would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;

This purpose permits a hiring subcommittee of a public body or a preliminary screening committee to conduct the initial screening process in executive session. This purpose does not apply to any stage in the hiring process after the screening committee or subcommittee votes to recommend candidates to its parent body. It may, however, include a review of résumés and multiple rounds of interviews by the screening

committee aimed at narrowing the group of applicants down to finalists. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session will be detrimental to the public body's ability to attract qualified applicants for the position. If the public body opts to convene a preliminary screening committee, the committee must contain less than a quorum of the members of the parent public body. The committee may also contain members who are not members of the parent public body.

Note that a public body is not required to create a preliminary screening committee to consider or interview applicants. However, if the body chooses to conduct the review of applicants itself, it may not do so in executive session.

9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:

(i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and

(ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session.

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided:

- in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164;
- in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164; or
- in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164;
- when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

Remote Participation

May a member of a public body participate remotely?

Section 20 of Chapter 20 of the Acts of 2021, which provisions expire on June 30, 2027, unless further extended, suspended the requirements under the Open Meeting Law and the Attorney General's Open Meeting Law regulations that a quorum of a public body, including the

chair, be physically present at the meeting location. Instead, Section 20 of Chapter 20 allows some or all members of a public body to participate in a meeting remotely.

If a meeting is held in person at a location that is physically open and accessible to the public with a quorum of the public body physically present in person, the public body is not required to permit members of the public to access the meeting remotely, even if some members of the public body participate remotely.

[What are the acceptable means of remote participation?](#)

Acceptable means of remote participation include telephone, internet, or satellite enabled audio or video conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Text messaging, instant messaging, email and web chat without audio are not acceptable methods of remote participation. Note that accommodations must be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.

[What are the minimum requirements for remote participation?](#)

Any public body using remote participation during a meeting must ensure that the following minimum requirements are met:

1. Members of a public body who participate remotely and all persons present at the meeting location must be clearly audible to each other; and
2. All votes taken during a meeting in which a member participates remotely must be by roll call vote.

[What procedures must be followed if remote participation is used at a meeting?](#)

At the start of any meeting during which a member of a public body will participate remotely, including a meeting where all members participate remotely, the chair must announce the name of any member who is participating remotely; such information must also be recorded in the meeting minutes. The chair's statement does not need to contain any detail about the reason for the member's remote participation.

Members of public bodies who participate remotely may vote and shall not be deemed absent for purposes of G.L. c. 39, § 23D. In addition, members who participate remotely may participate in executive sessions but must state at the start of any such session that no other person is present or able to hear the discussion at the remote location, unless the public body has approved the presence of that individual.

If technical difficulties arise as a result of utilizing remote participation, the chair (or, in the chair's absence, person chairing the meeting) may decide how to address the situation. Public bodies are encouraged, whenever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If a remote participant

is disconnected from the meeting, the minutes must note that fact and the time at which the disconnection occurred.

Public Participation

What public participation in meetings must be allowed?

Under the Open Meeting Law, the public is permitted to attend meetings of public bodies but is excluded from an executive session that is called for a valid purpose listed in the law. While the public is permitted to attend an open meeting, an individual may not address the public body without permission of the chair. An individual may not disrupt a meeting of a public body, and at the request of the chair, all members of the public shall be silent. If, after clear warning, a person continues to be disruptive, the chair may order the person to leave the meeting. If the person does not leave, the chair may authorize a constable or other officer to remove the person. Although public participation is entirely within the chair's discretion (subject to constitutional protections outside the purview of the Open Meeting Law), the Attorney General encourages public bodies to allow as much public participation as time permits.

Any member of the public may make an audio or video recording of an open session of a public meeting. A member of the public who wishes to record a meeting must first notify the chair and must comply with reasonable requirements regarding audio or video equipment established by the chair so as not to interfere with the meeting. The chair is required to inform other attendees of any such recording at the beginning of the meeting. If someone arrives after the meeting has begun and wishes to record a meeting, that person should attempt to notify the chair prior to beginning recording, ideally in a manner that does not significantly disrupt the meeting in progress (such as passing a note for the chair to the board administrator or secretary). The chair should endeavor to acknowledge such attempts at notification and announce the fact of any recording to those in attendance.

Minutes

What records of public meetings must be kept?

Public bodies are required to create and maintain accurate minutes of all meetings, including executive sessions. The minutes must include:

- the date, time and place of the meeting;
- the members present or absent;
- the decisions made and actions taken, including a record of all votes;
- a summary of the discussions on each subject;
- a list of all documents and exhibits used at the meeting; and
- the name of any member who participated in the meeting remotely.

Notably, the minutes must include a summary of the discussions on each subject, not merely a statement that a discussion was held. Although a transcript of the discussions is not required, and the minutes need not include every remark or opinion presented, minutes must include a substantive summary of the discussion on each topic. Minutes should contain enough detail and accuracy so that a member of the public who did not attend the meeting could read the minutes and have a clear understanding of what occurred. No vote taken by a public body, either in an open or in an executive session, shall be by secret ballot. All votes taken in executive session must be by roll call and the results recorded in the minutes. While public bodies must identify in the minutes all documents and exhibits used at a meeting and must retain them in accordance with the Secretary of the Commonwealth's records retention schedule, these documents and exhibits needn't be attached to or physically stored with the minutes.

Minutes, and all documents and exhibits used, are public records and a part of the official record of the meeting. Records may be subject to disclosure under either the Open Meeting Law or Public Records Law. The State and Municipal Record Retention Schedules are available through the Secretary of the Commonwealth's website at:
<http://www.sec.state.ma.us/arc/arcimu/rmuidx.htm>.

Open Session Meeting Records

The Open Meeting Law requires public bodies to create and approve minutes in a timely manner. A "timely manner" is considered to be within the next three public body meetings or 30 days from the date of the meeting, whichever is later, unless the public body can show good cause for further delay. The Attorney General encourages minutes to be approved at a public body's next meeting whenever possible. The law requires that existing minutes be made available to the public within ten calendar days of a request, whether they have been approved or remain in draft form. Materials or other exhibits used by the public body in an open meeting are public records and must be provided in their entirety in response to a public records request.

There are two exemptions to the open session records disclosure requirement: 1) materials (other than those that were created by members of the public body for the purpose of the evaluation) used in a performance evaluation of an individual bearing on his professional competence, and 2) materials (other than any résumé submitted by an applicant, which is subject to disclosure) used in deliberations about employment or appointment of individuals, including applications and supporting materials. Documents created by members of the public body for the purpose of performing an evaluation are subject to disclosure. This applies to both individual evaluations and evaluation compilations, provided the documents were created by members of the public body for the purpose of the evaluation.

Executive Session Meeting Records

The Open Meeting Law requires public bodies to create and maintain minutes of executive sessions, and to review executive session minutes at reasonable intervals to determine whether continued nondisclosure of the executive session minutes is warranted. Public bodies are not required to disclose the minutes, notes, or other materials used in an executive session if the disclosure of these records may defeat the lawful purposes of the executive session. Once disclosure would no longer defeat the purposes of the executive session, however, minutes and other records from that executive session must be disclosed unless they fall within an exemption to the Public Records Law, G.L. c. 4, § 7, cl. 26, or the attorney-client privilege applies. Although the Open Meeting Law does not define the “reasonable interval” at which executive session minutes must be reviewed, the Attorney General’s Office has found a review every three to six months to be appropriate. The result of the review (whether each set of reviewed minutes will be disclosed or will continue to be withheld) must be announced at the public body’s next meeting following the review and recorded in the minutes of that meeting.

A public body must respond to a request to inspect or copy executive session minutes within ten days of the request. If the public body has determined, prior to the request, that the requested executive session minutes may be released, it must make those minutes available to the requestor at that time. If the body has recently determined that executive session minutes should remain confidential because publication would defeat the lawful purposes of the executive session, it should respond by stating that the minutes continue to be withheld. And if, at the time of a request, the public body has not recently conducted a review of the minutes to determine whether continued nondisclosure is warranted, the body must perform such a review and release the minutes, if appropriate, no later than its next meeting or within 30 days, whichever occurs first. In such circumstances, the body should still respond to the request within ten days, notifying the requestor that it is conducting this review.

Open Meeting Law Complaints

What is the Attorney General’s role in enforcing the Open Meeting Law?

The Attorney General’s Division of Open Government is responsible for enforcing the Open Meeting Law. The Attorney General has the authority to receive and investigate complaints, bring enforcement actions, issue advisory opinions, and promulgate regulations.

The Division of Open Government regularly seeks feedback from the public on ways in which it can better support public bodies to help them comply with the law’s requirements. The Division of Open Government offers periodic online and in-person training on the Open Meeting Law and will respond to requests for guidance and information from public bodies and the public.

The Division of Open Government will take complaints from members of the public and will work with public bodies to resolve problems. While any member of the public may file a complaint with a public body alleging a violation of the Open Meeting Law, a public body need not, and the Division of Open Government will not, investigate anonymous complaints.

[What is the Open Meeting Law complaint procedure?](#)

[Step 1. Filing a Complaint with the Public Body](#)

Individuals who allege a violation of the Open Meeting Law must first file a complaint **with the public body** alleged to have violated the OML. The complaint must be filed within 30 days of the date of the violation, or the date the complainant could reasonably have known of the violation. The complaint must be filed on a [Complaint Form](#) available on the Attorney General's website, www.mass.gov/the-open-meeting-law. When filing a complaint with a local public body, the complainant must also file a copy of the complaint with the municipal clerk.

[Step 2. The Public Body's Response](#)

Upon receipt, the chair of the public body should distribute copies of the complaint to the members of the public body for their review. The public body has 14 business days from the date of receipt to meet to review the complainant's allegations, take remedial action if appropriate, notify the complainant of the remedial action, and forward a copy of the complaint and description of the remedial action taken to the complainant. The public body must simultaneously notify the Attorney General that it has responded to the complainant and provide the Attorney General with a copy of the response and a description of any remedial action taken. While the public body may delegate responsibility for responding to the complaint to counsel or another individual, it must first meet to do so. A public body is not required to respond to unsigned complaints or complaints not made on the Attorney General's complaint form.

The public body may request additional information from the complainant within seven business days of receiving the complaint. The complainant then has ten business days to respond; the public body will then have an additional ten business days after receiving the complainant's response to review the complaint and take remedial action. The public body may also request an extension of time to respond to the complaint. A request for an extension should be made within 14 business days of receipt of the complaint by the public body. The request for an extension should be made in writing to the Division of Open Government and should include a copy of the complaint and state the reason for the requested extension.

[Step 3. Filing a Complaint with the Attorney General's Office](#)

A complaint is ripe for review by the Attorney General 30 days after the complaint is filed with the public body. This 30-day period is intended to provide a reasonable opportunity for the complainant and the public body to resolve the initial complaint. It is important to note

that complaints are **not** automatically treated as filed for review by the Attorney General upon filing with the public body. A complainant who has filed a complaint with a public body and seeks further review by the Division of Open Government must file the complaint with the Attorney General after the 30-day local review period has elapsed but before 90 days have passed since the date of the violation or the date that the violation was reasonably discoverable.

When filing the complaint with the Attorney General, the complainant must include a copy of the original complaint and may include any other materials the complainant feels are relevant, including an explanation of why the complainant is not satisfied with the response of the public body. Note, however, that the Attorney General will not review allegations that were not raised in the initial complaint filed with the public body. Under most circumstances, complaints filed with the Attorney General, and any documents submitted with the complaint, will be considered a public record and will be made available to anyone upon request.

The Attorney General will review the complaint and any remedial action taken by the public body. The Attorney General may request additional information from both the complainant and the public body. The Attorney General will seek to resolve complaints in a reasonable period of time, generally within 90 days of the complaint becoming ripe for review by our office. The Attorney General may decline to investigate a complaint that is filed with our office more than 90 days after the date of the alleged violation.

When is a violation of the law considered “intentional”?

Upon finding a violation of the Open Meeting Law, the Attorney General may impose a civil penalty upon a public body of not more than \$1,000 for each intentional violation. G.L. c. 30A, § 23(c)(4). An “intentional violation” is an act or omission by a public body or public body member in knowing violation of the Open Meeting Law. G.L. c. 30A, § 18. In determining whether a violation was intentional, the Attorney General will consider, among other things, whether the public body or public body member 1) acted with specific intent to violate the law; 2) acted with deliberate ignorance of the law’s requirements; or 3) had been previously informed by a court decision or advised by the Attorney General that the conduct at issue violated the Open Meeting Law. 940 CMR 29.02. If a public body or public body member made a good faith attempt at compliance with the law but was reasonably mistaken about its requirements, its conduct will not be considered an intentional violation of the Law. G.L. c. 30A, § 23(g); 940 CMR 29.02. A fine will not be imposed where a public body or public body member acted in good faith compliance with the advice of the public body’s legal counsel. G.L. 30A, § 23(g); 940 CMR 29.07.

Training on the Open Meeting Law

The Open Meeting Law directs the Attorney General to create educational materials and provide training to public bodies to foster awareness of and compliance with the Open Meeting Law. The Attorney General has established an Open Meeting Law website, <https://www.mass.gov/the-open-meeting-law>, on which government officials and members of public bodies can find the statute, regulations, FAQs, training materials, checklists, the Attorney General's determination letters resolving complaints, and other resources. The Attorney General offers frequent webinar trainings for members of the public and public bodies; dates of upcoming webinars are posted to the Open Meeting Law website.

Contacting the Attorney General

If you have any questions about the Open Meeting Law or anything contained in this guide, please contact the Attorney General's Division of Open Government. The Attorney General also welcomes any comments, feedback, or suggestions you may have about the Open Meeting Law or this guide.

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Boston, MA 02108
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Appendix

The Open Meeting Law, G.L. c. 30A, §§ 18-25⁴

Chapter 28 of the Acts of 2009, sections 17–20, repealed the existing state Open Meeting Law, G.L. c. 30A, §§ 11A, 11A-1/2, county Open Meeting Law, G.L. c. 34, §9F, 9G, and municipal Open Meeting Law, G.L. c. 39, §§ 23A, 23B, and 23C, and replaced them with a single Open Meeting Law covering all public bodies, G.L. c. 30A, §§ 18-25, enforced by the Attorney General.

Section 18: [DEFINITIONS]

As used in this section and sections 19 to 25, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Deliberation”, an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that “deliberation” shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

“Emergency”, a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

“Executive session”, any part of a meeting of a public body closed to the public for deliberation of certain matters.

“Intentional violation”, an act or omission by a public body or a member thereof, in knowing violation of the open meeting law.

“Meeting”, a deliberation by a public body with respect to any matter within the body’s jurisdiction; provided, however, “meeting” shall not include:

- (a) an on-site inspection of a project or program, so long as the members do not deliberate;
- (b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;
- (c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;
- (d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or
- (e) a session of a town meeting convened under section 9 of chapter 39 which would include the attendance by a quorum of a public body at any such session;

⁴ NOTICE: This is NOT the official version of the Massachusetts General Law (MGL). While reasonable efforts have been made to ensure the accuracy and currency of the data provided, do not rely on this information without first checking an official edition of the MGL.

“Minutes”, the written report of a meeting created by a public body required by subsection (a) of section 22 and section 5A of chapter 66.

“Open meeting law”, sections 18 to 25, inclusive.

“Post notice”, to display conspicuously the written announcement of a meeting either in hard copy or electronic format.

“Preliminary screening”, the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview.

“Public body”, a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that “public body” shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

“Quorum”, a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.

Section 19. Division of Open Government; Open Meeting Law Training; Open Meeting Law Advisory Commission; Annual Report

(a) There shall be in the department of the attorney general a division of open government under the direction of a director of open government. The attorney general shall designate an assistant attorney general as the director of the open government division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical and other assistants as the work of the division may require. The division shall perform the duties imposed upon the attorney general by the open meeting law, which may include participating, appearing and intervening in any administrative and judicial proceedings pertaining to the enforcement of the open meeting law. For the purpose of such participation, appearance, intervention and training authorized by this chapter the attorney general may expend such funds as may be appropriated therefor.

(b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law.

Open meeting law training may include, but shall not be limited to, instruction in:

1. the general background of the legal requirements for the open meeting law;
2. applicability of sections 18 to 25, inclusive, to governmental bodies;
3. the role of the attorney general in enforcing the open meeting law; and
4. penalties and other consequences for failure to comply with this chapter.

(c) There shall be an open meeting law advisory commission. The commission shall consist of 5 members, 2 of whom shall be the chairmen of the joint committee on state administration and regulatory oversight; 1 of whom shall be the president of the Massachusetts Municipal Association or his designee; 1 of whom shall be the president of the Massachusetts Newspaper Publishers Association or his designee; and 1 of whom shall be the attorney general or his designee. The commission shall review issues relative to the open meeting law and shall submit to the attorney general recommendations for changes to the regulations, trainings, and educational initiatives relative to the open meeting law as it deems necessary and appropriate.

(d) The attorney general shall, not later than January 31, file annually with the commission a report providing information on the enforcement of the open meeting law during the preceding calendar year. The report shall include, but not be limited to:

1. the number of open meeting law complaints received by the attorney general;
2. the number of hearings convened as the result of open meeting law complaints by the attorney general;
3. a summary of the determinations of violations made by the attorney general;
4. a summary of the orders issued as the result of the determination of an open meeting law violation by the attorney general;
5. an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions;
6. the number of actions filed in superior court seeking relief from an order of the attorney general; and
7. any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate.

Section 20. Meetings of a Public Body to be Open to the Public; Notice of Meeting; Remote Participation; Recording and Transmission of Meeting; Removal of Persons for Disruption of Proceedings

- (a) Except as provided in section 21, all meetings of a public body shall be open to the public.
- (b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.
- (c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies. For meetings of a regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or

town within such district and shall post the notice in the manner prescribed for local public bodies. For meetings of a county public body, notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose.

For meetings of a state public body, notice shall be filed with the attorney general by posting on a website in accordance with procedures established for this purpose and a duplicate copy of the notice shall be filed with the regulations division of the state secretary's office.

The attorney general may prescribe or approve alternative methods of notice where the attorney general determines the alternative methods will afford more effective notice to the public.

- (d) The attorney general may, by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. Such authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39.
- (e) A local commission on disability may by majority vote of the commissioners at a regular meeting authorize remote participation applicable to a specific meeting or generally to all of the commission's meetings. If a local commission on disability is authorized to utilize remote participation, a physical quorum of that commission's members shall not be required to be present at the meeting location; provided, however, that the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location. The commission shall comply with all other requirements of law.
- (f) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting, the chair shall inform other attendees of any recordings.
- (g) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.
- (h) Within 2 weeks of qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated pursuant to section 25 and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the

appointing authority, city or town clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain such certification from each person upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

Section 21. Executive Sessions

(a) A public body may meet in executive session only for the following purposes:

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:
 - i. to be present at such executive session during deliberations which involve that individual;
 - ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
 - iii. to speak on his own behalf; and
 - iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;
4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;
5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;

6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;
7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;
8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;
9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:
 - i. any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
 - ii. no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or
10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

(b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that:

1. the body has first convened in an open session pursuant to section 21;
2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes;
3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and
5. accurate records of the executive session shall be maintained pursuant to section 23.

Section 22. Meeting Minutes; Records

- (a) A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.
- (b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes.
- (c) Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days.
- (d) Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.
- (e) The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.
- (f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21.

When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of

said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

(g) (1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting.

2. Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

Section 23. Enforcement of Open Meeting Law; Complaints; Hearings; Civil Actions

(a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law.

(b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension.

(c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to:

1. compel immediate and future compliance with the open meeting law;
2. compel attendance at a training session authorized by the attorney general;
3. nullify in whole or in part any action taken at the meeting;
4. impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation;
5. reinstate an employee without loss of compensation, seniority, tenure or other benefits;
6. compel that minutes, records or other materials be made public; or
7. prescribe other appropriate action.

(d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review.

(e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance.

(f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law.

Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets.

In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (c).

In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law.

(g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel.

(h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.

Section 24. Investigation by Attorney General of Violations of Open Meeting Law

- (a) Whenever the attorney general has reasonable cause to believe that a person, including any public body and any other state, regional, county, municipal or other governmental official or entity, has violated the open meeting law, the attorney general may conduct an investigation to ascertain whether in fact such person has violated the open meeting law. Upon notification of an investigation, any person, public body or any other state, regional, county, municipal or other governmental official or entity who is the subject of an investigation, shall make all information necessary to conduct such investigation available to the attorney general. In the event that the person, public body or any other state, regional, county, municipal or other governmental official or entity being investigated does not voluntarily provide relevant information to the attorney general within 30 days of receiving notice of the investigation, the attorney general may: (1) take testimony under oath concerning such alleged violation of the open meeting law; (2) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violation of the open meeting law; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person is a nonresident or has no place of business within the commonwealth, in Suffolk county.
- (b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination.
- (c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business.
- (d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

- (e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth.
- (f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court.
- (g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

Section 25. Regulations; Letter Rulings; Advisory Opinions

- (a) The attorney general shall have the authority to promulgate rules and regulations to carry out enforcement of the open meeting law.
- (b) The attorney general shall have the authority to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.

The official regulations are published in the Massachusetts Register. For more information, contact the Secretary of the Commonwealth's State Publications and Regulations Division.

Section

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29.01: Purpose, Scope and Other General Provisions

(1) Purpose. The purpose of 940 CMR 29.00 is to interpret, enforce and effectuate the purposes of the Open Meeting Law, M.G.L. c. 30A, §§ 18 through 25.

(2) Severability. If any provision of 940 CMR 29.00 or the application of such provision to any person, public body, or circumstances shall be held invalid, the validity of the remainder of 940 CMR 29.00 and the applicability of such provision to other persons, public bodies, or circumstances shall not be affected thereby.

(3) Mailing. All complaints, notices (except meeting notices) and other materials that must be sent to another party shall be sent by one of the following means: first class mail, email, hand delivery, or by any other means at least as expeditious as first class mail.

29.02: Definitions

As used in 940 CMR 29.00, the following terms shall, unless the context clearly requires otherwise, have the following meanings:

County Public Body. A public body created by county government with jurisdiction that comprises a single county.

District Public Body. A public body with jurisdiction that extends to two or more municipalities.

Emergency. A sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

Intentional Violation. An act or omission by a public body or a member thereof, in knowing violation of M.G.L. c. 30A, §§ 18 through 25. Evidence of an intentional violation of M.G.L. c. 30A, §§ 18 through 25 shall include, but not be limited to, the public body or public body member that:

- (a) acted with specific intent to violate the law;
- (b) acted with deliberate ignorance of the law's requirements; or
- (c) was previously informed by receipt of a decision from a court of competent jurisdiction or advised by the Attorney General, pursuant to 940 CMR 29.07 or 940 CMR 29.08, that the conduct violates M.G.L. c. 30A, §§ 18 through 25. Where a public body or public body member has made a good faith attempt at compliance with the law, but was reasonably mistaken about its requirements, such conduct will not be considered an intentional violation of M.G.L. c. 30A, §§ 18 through 25.

Person. All individuals and entities, including governmental officials and employees. Person does not include public bodies.

Post Notice. To place a written announcement of a meeting on a bulletin board, electronic display, website, or in a loose-leaf binder in a manner conspicuously visible to the public, including persons with disabilities, at all hours, in accordance with 940 CMR 29.03.

Public Body. Has the identical meaning as set forth in M.G.L. c. 30A, § 18, that is, a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that Public Body shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

Qualification for Office. The election or appointment of a person to a public body and the taking of the oath of office, where required, and shall include qualification for a second or any subsequent term of office. Where no term of office for a member of a public body is specified, the member shall be deemed to be qualified for office on a biennial basis following appointment or election to office.

Regional Public Body. A public body with jurisdiction that extends to two or more municipalities.

Remote Participation. Participation by a member of a public body during a meeting of that public body where the member is not physically present at the meeting location.

29.03: Notice Posting Requirements

(1) Requirements Applicable to All Public Bodies.

- (a) Except in an emergency, public bodies shall file meeting notices sufficiently in advance of a public meeting to permit posting of the notice at least 48 hours in advance of the public meeting, excluding Saturdays, Sundays and legal holidays, in accordance with M.G.L. c. 30A, § 20. In an emergency, the notice shall be posted as soon as reasonably possible prior to such meeting.
- (b) Meeting notices shall be printed or displayed in a legible, easily understandable format and shall contain the date, time and place of such meeting, and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. The list of topics shall have sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting.
- (c) Notices posted under an alternative posting method authorized by 940 CMR 29.03(2) through (5) shall include the same content as required by 940 CMR 29.03(1)(b). If such an alternative posting method is adopted, the municipal clerk, in the case of a municipality, or the body, in all other cases, shall file with the Attorney General written notice of adoption of the alternative method, including the website address where applicable, and any change thereto, and the most current notice posting method on file with the Attorney General shall be consistently used.
- (d) The date and time that a meeting notice is posted shall be conspicuously recorded thereon or therewith. If an amendment occurs within 48 hours of a meeting, not including Saturdays, Sundays, and legal holidays, then the date and time that the meeting notice is amended shall also be conspicuously recorded thereon or therewith.

(2) Requirements Specific to Local Public Bodies.

- (a) The official method of posting notice shall be by filing with the municipal clerk, or other person designated by agreement with the municipal clerk, who shall post notice of the meeting in a manner conspicuously visible to the public at all hours in, on, or near the municipal building in which the clerk's office is located.
- (b) Alternatively, the municipality may adopt the municipal website as the official method of notice posting.
 1. The Chief Executive Officer of the municipality, as defined in M.G.L. c. 4, § 7, must authorize or, by a simple majority, vote to adopt the municipal website as the official method of posting notice. Any municipality that has adopted its website as the official method of posting notice by another method as of October 6, 2017 will have satisfied the adoption requirement.
 2. If adopted, a description of the website as the notice posting method, including directions on how to locate notices on the website, shall be posted in a manner conspicuously visible to the public at all hours on or adjacent to the main and handicapped accessible entrances to the municipal building in which the clerk's office is located.
 3. Once adopted as the official method of notice posting, the website shall host the official legal notice for meetings of all public bodies within the municipality.
 4. Notices must continue to be filed with the municipal clerk, or any other person designated by agreement with the municipal clerk.

- (c) A municipality may have only one official notice posting method for the purpose of M.G.L. c. 30A, §§ 18 through 25, either 940 CMR 29.03(2)(a) or (b). However, nothing precludes a municipality from choosing to post additional notices *via* other methods, including a newspaper. Such additional notice will not be the official notice for the purposes of M.G.L. c. 30A, §§ 18 through 25.
- (d) Copies of notices shall also be accessible to the public in the municipal clerk's office during the clerk's business hours.

(3) Requirements Specific to Regional or District Public Bodies.

- (a) Notice shall be filed and posted in each city and town within the region or district in the manner prescribed for local public bodies in that city or town.
- (b) As an alternative method of notice, a regional or district public body may, by majority vote, adopt the regional or district public body's website as its official notice posting method. A copy of each meeting notice shall be kept by the chair of the public body or the chair's designee in accordance with the applicable records retention schedules. The public body shall file and post notice of the website address, as well as directions on how to locate notices on the website, in each city and town within the region or district in the manner prescribed for local public bodies in that city or town.

(4) Requirements Specific to Regional School Districts.

- (a) The secretary of the regional school district committee shall be considered to be its clerk. The clerk of the regional school district committee shall file notice with the municipal clerk of each city and town within such district and each such municipal clerk shall post the notice in the manner prescribed for local public bodies in that city or town.
- (b) As an alternative method of notice, a regional school district committee may, by majority vote, adopt the regional school district's website as its official notice posting method. A copy of each meeting notice shall be kept by the secretary of the regional school district committee or the secretary's designee in accordance with the applicable records retention schedules. The regional school district committee shall file and post notice of the website address, as well as directions on how to locate notices on the website, in each city and town within the region or district in the manner prescribed for local public bodies in that city or town.

(5) Requirements Specific to County Public Bodies.

- (a) Notice shall be filed and posted in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for this purpose.
- (b) As an alternative method of notice, a county public body may, by majority vote, adopt the county public body's website as its official notice posting method. A copy of the notice shall be kept by the chair of the county public body or the chair's designee in accordance with the applicable records retention schedules. The county public body shall file and post notice of the website address, as well as directions on how to locate notices on the website, in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for this purpose.

(6) Requirements Specific to State Public Bodies. Notice shall be posted on a website. A copy of each notice shall also be sent by first class or electronic mail to the Secretary of the Commonwealth's Regulations Division. The chair of each state public body shall notify the Attorney General in writing of its webpage for listing meeting notices and any change to the webpage location. The public body shall consistently use the most current website location on file with the Attorney General. A copy of the notice shall be kept by the chair of the state public body or the chair's designee in accordance with the applicable records retention schedules.

(7) Websites. Where a public body adopts a website as its method of noticing meetings, it must make every effort to ensure that the website is accessible to the public at all hours. If a website becomes inaccessible to members of the public within 48 hours of a meeting, not including Saturdays, Sundays, and legal holidays, the municipal clerk or other individual responsible for posting notice to the website must restore the website to accessibility within six hours of the time, during regular business hours, when such individual discovers that the website has become inaccessible. In the event that the website is not restored to accessibility within six business hours of the website's deficiency being discovered, the public body must re-post notice of its meeting for another date and time in accordance with M.G.L. c. 30A, § 20(b).

29.04: Certification

(1) For local public bodies, the municipal clerk, and for all other public bodies, the appointing authority, executive director, or other appropriate administrator or their designees, shall, upon a public body member's qualification for office, either deliver to the public body member, or require the public body member to obtain from the Attorney General's website, the following educational materials:

- (a) The Attorney General's Open Meeting Law Guide, which will include an explanation of the requirements of the Open Meeting Law; the Open Meeting Law, M.G.L. c. 30A, §§ 18 through 25; and 940 CMR 29.00.
- (b) A copy of each Open Meeting Law determination issued to that public body by the Attorney General within the last five years in which the Attorney General found a violation of M.G.L. c. 30A, §§ 18 through 25. Open Meeting Law determinations are available at the Attorney General's website.

(2) Educational materials may be delivered to public body members by paper copy or in digital form.

(3) Within two weeks after receipt of the educational materials, the public body member shall certify, on the form prescribed by the Attorney General, receipt of the educational materials. The municipal clerk, appointing authority, executive director or other appropriate administrator, or their designees, shall maintain the signed certification for each such person, indicating the date the person received the materials.

(4) An individual serving on multiple public bodies must sign a certification for each public body on which he or she serves. A public body member does not need to sign a separate certification when joining a subcommittee of the public body.

(5) A public body member must sign a new certification upon reelection or reappointment to the public body.

29.05: Complaints

- (1) All complaints shall be in writing, using the form approved by the Attorney General and available on the Attorney General's website. A public body need not, and the Attorney General will not, investigate or address anonymous complaints. A public body need not address a complaint that is not signed by the complainant. A public body need not address a complaint that is not filed using the Attorney General's complaint form.
- (2) Public bodies, or the municipal clerk in the case of a local public body, should provide any person, on request, with an Open Meeting Law Complaint Form. If a paper copy is unavailable, then the public body should direct the requesting party to the Attorney General's website, where an electronic copy of the form will be available for downloading and printing.
- (3) For local public bodies, the complainant shall file the complaint with the chair of the public body, who shall disseminate copies of the complaint to the members of the public body. The complainant shall also file a copy of the complaint with the municipal clerk, who shall keep such filings in an orderly fashion for public review on request during regular business hours. For all other public bodies, the complainant shall file the complaint with the chair of the relevant public body, or if there is no chair, then with the public body.
- (4) The complaint shall be filed within 30 days of the alleged violation of M.G.L. c. 30A, §§ 18 through 25 or, if the alleged violation of M.G.L. c. 30A, §§ 18 through 25 could not reasonably have been known at the time it occurred, then within 30 days of the date it should reasonably have been discovered.
- (5) Within 14 business days after receiving the complaint, unless an extension has been granted by the Attorney General as provided in 940 CMR 29.05(5)(b), the public body shall meet to review the complaint's allegations; take remedial action, if appropriate; and send to the complainant a response and a description of any remedial action taken. The public body shall simultaneously notify the Attorney General that it has sent such materials to the complainant and shall provide the Attorney General with a copy of the complaint, the response, and a description of any remedial action taken.
 - (a) Any remedial action taken by the public body in response to a complaint under 940 CMR 29.05(5) shall not be admissible as evidence that a violation occurred in any later administrative or judicial proceeding against the public body relating to the alleged violation.
 - (b) If the public body requires additional time to resolve the complaint, it may obtain an extension from the Attorney General by submitting a written request within 14 business days after receiving the complaint. A request may be submitted by the chair, the public body's attorney, or any person designated by the public body or the chair. The Attorney General will grant an extension if the request demonstrates good cause. Good cause will generally be found if, for example, the public body cannot meet within the 14 business day period to consider proposed remedial action. The Attorney General shall notify the complainant of any extension and the reason for it.
- (6) If the public body needs additional information to resolve the complaint, then the chair may request it from the complainant within seven business days of receiving the complaint. The complainant shall respond within ten business days after receiving the request. The public body will then have an additional ten business days after receiving the complainant's response to review the complaint and take any remedial action pursuant to 940 CMR 29.05(5).

(7) If at least 30 days have passed after the complaint was filed with the public body, and if the complainant is unsatisfied with the public body's resolution of the complaint, the complainant may file a complaint with the Attorney General. When filing a complaint with the Attorney General, the complainant shall include a copy of the original complaint along with any other materials the complainant believes are relevant. The Attorney General shall decline to investigate complaints filed with the Attorney General more than 90 days after the alleged violation of M.G.L. c. 30A, §§ 18 through 25, or if the alleged violation of M.G.L. c. 30A, §§ 18 through 25, could not reasonably have been known at the time it occurred, then within 90 days of the date it should reasonably have been discovered. However, this time may be extended if the Attorney General grants an extension to the public body to respond to a complaint or if the complainant demonstrates good cause for the delay in filing with the Attorney General.

(8) The Attorney General shall acknowledge receipt of all complaints and will resolve them within a reasonable period of time, generally 90 days.

(9) Mediation to Resolve a Complaint.

- (a) If a complainant files five complaints alleging violations of M.G.L. c. 30A, §§ 18 through 25, with the same public body or within the same municipality within 12 months, upon the fifth or subsequent complaint to that public body or a public body within that municipality within the 12-month period, the public body may request mediation with the complainant, at the public body's expense, to resolve the complaint. A mediator is defined by M.G.L. c. 233, § 23C, and will be selected by the Attorney General.
- (b) A public body must request mediation prior to, or with, its response to the complaint. If the mediation does not produce an agreement, the public body will have ten business days from the last joint meeting with the mediator to respond to the complaint.
- (c) A public body may participate in mediation in open session, in executive session through M.G.L. c. 30A, § 21(a)(9), or by designating a representative to participate on behalf of the public body.
- (d) If the complainant declines to participate in mediation after a public body's request in accordance with 940 CMR 29.05(9)(a), the Attorney General may decline to review the complaint if it is thereafter filed with the Attorney General.
- (e) If the mediation does not resolve the complaint to the satisfaction of both parties, then the complainant may file a copy of his or her complaint with the Attorney General and request the Attorney General's review. The complaint must be filed with the Attorney General within 30 days of the last joint meeting with the mediator.
- (f) Any written agreement reached in mediation shall become a public record in its entirety and must be publicly disclosed at the next meeting of the public body following execution of the agreement.
- (g) Nothing in 940 CMR 29.05(9) shall prevent a complainant from filing subsequent complaints, however public bodies may continue to request mediation in an effort to resolve complaints in accordance with 940 CMR 29.05(9)(a).
- (h) Nothing in 940 CMR 29.05(9) shall prevent a public body or complainant from seeking mediation to resolve any complaint. However, only mediation requests that follow the requirements of 940 CMR 29.05(9)(a) will trigger the application of 940 CMR 29.05(9)(d).

29.06: Investigation

Following a timely complaint filed pursuant to 940 CMR 29.05, where the Attorney General has reasonable cause to believe that a violation of M.G.L. c. 30A, §§ 18 through 25 has occurred, then the Attorney General may conduct an investigation.

(1) The Attorney General shall notify the public body or person that is the subject of a complaint of the existence of the investigation within a reasonable period of time. The Attorney General shall also notify the public body or person of the nature of the alleged violation.

(2) Upon notice of the investigation, the subject of the investigation shall provide the Attorney General with all information relevant to the investigation. The subject may also submit a memorandum or other writing to the Attorney General addressing the allegations being investigated.

If the subject of the investigation fails to voluntarily provide the necessary or relevant information within 30 days of receiving notice of the investigation, the Attorney General may issue one or more civil investigative demands to obtain the information in accordance with M.G.L. c. 30A, § 24(a), to:

- (a) Take testimony under oath;
- (b) Examine or cause to be examined any documentary material; or
- (c) Require attendance during such examination of documentary material by any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material.

Any documentary material or other information produced by any person pursuant to 940 CMR 29.06 shall not, unless otherwise ordered by a court of the Commonwealth for good cause shown, be disclosed without that person's consent by the Attorney General to any person other than the Attorney General's authorized agent or representative. However, the Attorney General may disclose the material in court pleadings or other papers filed in court; or, to the extent necessary, in an administrative hearing or in a written determination to resolve the investigation pursuant to 940 CMR 29.07.

29.07: Resolution

(1) No Violation. If the Attorney General determines after investigation that M.G.L. c. 30A, §§ 18 through 25 has not been violated, the Attorney General shall issue a written determination to the subject of the complaint and copy any complainant.

(2) Violation Resolved Without Hearing. If the Attorney General determines after investigation that M.G.L. c. 30A, §§ 18 through 25 has been violated, the Attorney General may resolve the investigation without a hearing. The Attorney General shall determine whether the relevant public body, one or more of its members, or both, were responsible. The Attorney General will notify in writing any complainant of the investigation's resolution. Upon finding a violation of M.G.L. c. 30A, §§ 18 through 25, the Attorney General may take one of the following actions:

- (a) Informal Action. The Attorney General may resolve the investigation with a letter or other appropriate form of written communication that explains the violation and clarifies the subject's obligations under M.G.L. c. 30A, §§ 18 through 25, providing the subject with a reasonable period of time to comply with any outstanding obligations.
- (b) Formal Order. The Attorney General may resolve the investigation with a formal order. The order may require:
 1. immediate and future compliance with M.G.L. c. 30A, §§ 18 through 25;

2. attendance at a training session authorized by the Attorney General;
3. nullification of any action taken at the relevant meeting, in whole or in part;
4. that minutes, records or other materials be made public;
5. that an employee be reinstated without loss of compensation, seniority, tenure or other benefits; or
6. other appropriate action.

(c) Orders shall be available on the Attorney General's website.

(3) Violation Resolved After Hearing. The Attorney General may conduct a hearing where the Attorney General deems appropriate. The hearing shall be conducted pursuant to 801 CMR 1.00: *Formal Rules*, as modified by any regulations issued by the Attorney General. At the conclusion of the hearing, the Attorney General shall determine whether a violation of M.G.L. c. 30A, §§ 18 through 25 occurred, and whether the public body, one or more of its members, or both, were responsible. The Attorney General will notify in writing any complainant of the investigation's resolution. Upon a finding that a violation occurred, the Attorney General may order:

- (a) immediate and future compliance with M.G.L. c. 30A, §§ 18 through 25;
- (b) attendance at a training session authorized by the Attorney General;
- (c) nullification of any action taken at the relevant meeting, in whole or in part;
- (d) imposition of a fine upon the public body of not more than \$1,000 for each intentional violation; however, a fine will not be imposed where a public body or public body member acted in good faith compliance with the advice of the public body's legal counsel, in accordance with M.G.L. 30A, § 23(g);
- (e) that an employee be reinstated without loss of compensation, seniority, tenure or other benefits;
- (f) that minutes, records or other materials be made public; or
- (g) other appropriate action.

Orders issued following a hearing shall be available on the Attorney General's website.

(4) A public body, subject to an order of the Attorney General following a written determination issued pursuant to 940 CMR 29.07, shall notify the Attorney General in writing of its compliance with the order within 30 days of receipt of the order, unless otherwise indicated by the order itself. A public body need not notify the Attorney General of its compliance with an order requiring immediate and future compliance pursuant to 940 CMR 29.07(2)(b)1. or 940 CMR 29.07(3)(a).

(5) A public body or any member of a body aggrieved by any order issued by the Attorney General under 940 CMR 29.07 may obtain judicial review of the order through an action in Superior Court seeking relief in the nature of *certiorari*. Any such action must be commenced in Superior Court within 21 days of receipt of the order.

29.08: Advisory Opinions

The Attorney General will generally not issue advisory opinions. However, the Attorney General may issue written guidance to address common requests for interpretation. Such written guidance will appear on the Attorney General's website.

29.09: Other Enforcement Actions

Nothing in 940 CMR 29.06 or 29.07 shall limit the Attorney General's authority to file a civil action to enforce M.G.L. c. 30A, §§ 18 through 25 pursuant to M.G.L. c. 30A, § 23(f).

29.10: Remote Participation

(1) Preamble. Remote participation may be permitted subject to the following procedures and restrictions. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. By promulgating 940 CMR 29.10, the Attorney General hopes to promote greater participation in government. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of M.G.L. c. 30A, §§ 18 through 25, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

(2) Adoption of Remote Participation. Remote participation in meetings of public bodies is not permitted unless the practice has been adopted as follows:

- (a) Local Public Bodies. The Chief Executive Officer, as defined in M.G.L. c. 4, § 7, must authorize or, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that authorization or vote applying to all subsequent meetings of all local public bodies in that municipality.
- (b) Regional or District Public Bodies. The regional or district public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.
- (c) Regional School Districts. The regional school district committee must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.
- (d) County Public Bodies. The county commissioners must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of all county public bodies in that county.
- (e) State Public Bodies. The state public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.
- (f) Retirement Boards. A retirement board created pursuant to M.G.L. c. 32, § 20 or M.G.L. c. 34B, § 19 must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.
- (g) Local Commissions on Disability. In accordance with M.G.L. c. 30A, § 20(e), a local commission on disability may, by majority vote of the commissioners at a regular meeting, authorize remote participation applicable to a specific meeting or generally to all of the commission's meetings. If a local commission on disability is authorized to utilize remote participation, a physical quorum of that commission's members shall not be required to be present at the meeting location; provided, however, that the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location. The commission shall comply with all other requirements of law.

(3) Revocation of Remote Participation. Any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) may revoke that adoption in the same manner.

(4) Minimum Requirements for Remote Participation.

- (a) Members of a public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other as required by M.G.L. c. 30A, § 20(d);
- (b) A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location as required by M.G.L. c. 30A, § 20(d);
- (c) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of M.G.L. c. 39, § 23D.

(5) Permissible Reason for Remote Participation. If remote participation has been adopted in accordance with 940 CMR 29.10(2), a member of a public body shall be permitted to participate remotely in a meeting in accordance with the procedures described in 940 CMR 29.10(7) only if physical attendance would be unreasonably difficult.

(6) Technology.

- (a) The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted. Accommodations shall be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.
 1. telephone, internet, or satellite enabled audio or video conferencing;
 2. any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.
- (b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.
- (c) The public body shall determine which of the acceptable methods may be used by its members.
- (d) The chair or, in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged wherever possible to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.
- (e) The amount and source of payment for any costs associated with remote participation shall be determined by the applicable adopting entity identified in 940 CMR 29.10(2).

(7) Procedures for Remote Participation.

- (a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.
- (b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely. This information shall also be recorded in the meeting minutes.

- (c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.
- (d) A member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the public body.
- (e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, § 22.

(8) Further Restriction by Adopting Authority. 940 CMR 29.10 does not prohibit any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) from enacting policies, laws, rules or regulations that prohibit or further restrict the use of remote participation by public bodies within that person or entity's jurisdiction, provided those policies, laws, rules or regulations do not violate state or federal law.

(9) Remedy for Violation. If the Attorney General determines after investigation that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

29.11: Meeting Minutes

- (1) A public body shall create and maintain accurate minutes of all meetings including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes in accordance with M.G.L. c. 30A, § 22(a).
- (2) Minutes of all open and executive sessions shall be created and approved in a timely manner. A "timely manner" will generally be considered to be within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay. The Attorney General encourages public bodies to approve minutes at the next meeting whenever possible.

REGULATORY AUTHORITY

940 CMR 29.00: M.G.L. c. 30A, § 25(a) and (b).

Certificate of Receipt of Open Meeting Law Materials

I, _____, who qualified as a member of the
(Name)

_____, on _____, certify pursuant
(Public Body) (Date)

to G.L. c. 30A, § 20(h) and 940 CMR 29.04, that I have received and reviewed copies of the following
Open Meeting Law materials:

- 1) the Open Meeting Law, G.L. c. 30A, §§ 18-25;
- 2) the Attorney General's Regulations, 940 CMR 29.00–29.11;
- 3) the Attorney General's Open Meeting Law Guide, explaining the Open Meeting Law and its application; and
- 4) if applicable, a copy of each Open Meeting Law determination issued by the Attorney General within the last five (5) years to the public body of which I am a member and in which the Attorney General found a violation of the Open Meeting Law.

I have read and understand the requirements of the Open Meeting Law and the consequences of violating it. I further understand that the materials I have received may be revised or updated from time to time, and that I have a continuing obligation to implement any changes to the Open Meeting Law during my term of office.

_____ (Name)

_____ (Name of Public Body)

_____ (Date)

Pursuant to G.L. c. 30A, § 20(h), an executed copy of this certificate shall be retained, according to the relevant records retention schedule, by the appointing authority, city or town clerk, or the executive director or other appropriate administrator of a state or regional body, or their designee.

Public Body Checklist for Meeting Notices

Issued by the Massachusetts Office of the Attorney General's Division of Open Government
November 2024

Notice Contents

- The notice must contain the date, time, and location of the meeting. G.L. c. 30A, § 20(b). If the meeting will be held remotely, the notice must contain clear information necessary to access the meeting, such as a Zoom link or other instructions for access.
- If the meeting is a joint meeting of several public bodies, the notice must clearly indicate each public body, or each public body may post its own notice.
- The notice must contain a list of all of the topics that the chair reasonably anticipates will be discussed at the meeting. The topics must be sufficiently specific to reasonably advise the public of the issues to be discussed at the meeting, including for executive session topics. G.L. c. 30A § 20(b); 940 CMR 29.03(1)(b).
- The notice must be printed in a legible, easily understandable format. G.L. c. 30A, § 20(b).
- The date and time that the notice is posted must be conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d). If the notice is amended within 48 hours of a meeting, not including Saturdays, Sundays, and legal holidays, then the date and time that the meeting notice is amended, as well as the date and time the notice was originally posted, must be conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d).

Notice Posting

- The notice must be posted at least 48 hours before the meeting, not including Saturdays, Sundays and legal holidays. G.L. c. 30A, § 20(b).
- The notice must be posted at the official notice posting location applicable to the public body:
 - Local public bodies – Posted in a location conspicuously visible to the public at all hours in or on the municipal building where the clerk's office is located. Alternatively, if the chief executive of the municipality has adopted the municipal website as the official method of posting notices, then posted to the municipal website. G.L. c. 30A, § 20(c); 940 CMR 29.03.
 - Each municipality has one official location for posting meeting notices that must be used for all meetings of all public bodies within the municipality – either a physical notice posted at the municipal building or a posting on the municipal website. A current listing of the official posting location for each municipality is available on the [Attorney General's website](#).
 - State public bodies – Posted to a website, and a copy sent to the Secretary of State's Regulations Division. G.L. c. 30A, §20(c).
 - Regional public bodies – Posted in every municipality within the region, unless the public body has adopted a website as an alternative notice posting method. G.L. c. 30A, § 20(c); 940 CMR 29.03.
 - County public bodies – Filed with the office of the county commissioners and a copy of the notice is publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose, unless the county has adopted its website as the official method for posting notices. G.L. c. 30A, § 20(c); 940 CMR 29.03.

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with

the Open Meeting Law. Checklists are updated periodically, so please confirm that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at openmeeting@mass.gov. For more information on the Open Meeting Law, please visit www.mass.gov/ago/openmeeting.

Public Body Checklist for Creating and Approving Meeting Minutes

Issued by the Massachusetts Office of the Attorney General's Division of Open Government
November 2024

Accurate minutes must be created and maintained for all public body meetings, both open session and executive session. G.L. c. 30A, § 22(a).

- Minutes must accurately set forth the date, time, and place of the meeting, and list the public body members present or absent. G.L. c. 30A, § 22(a).
- Minutes must include an accurate summary of the discussion of each subject, including unanticipated subjects. See G.L. c. 30A, § 22(a). The summary does not need to be a transcript but must provide enough detail so that a member of the public who did not attend the meeting could read the minutes and understand what occurred and how the public body arrived at its decisions. In general, it is insufficient for meeting minutes to simply state that a discussion about a particular topic occurred; instead, the minutes must actually summarize the discussion.
- The minutes must include a record of all the decisions made and the actions taken at each meeting, including a record of all votes. G.L. c. 30A, § 22(a). If a vote is taken by roll call, the minutes must record the vote by roll call, even if the result was unanimous.
- The minutes must include a list of all of the documents and other exhibits used by the public body during the meeting. G.L. c. 30A, § 22(a). Documents and exhibits used at the meeting are part of the official record of the session, but do not need to be attached to the minutes. See G.L. c. 30A, §§ 22(d), (e).
- If one or more public body members participates remotely in the meeting, the minutes must include the name(s) of the individual(s) participating remotely. 940 CMR 29.10(7)(b).
- If one or more public body members participates remotely in the meeting, all votes must be taken by roll call and the minutes must record the votes by roll call, even if the results are unanimous. 940 CMR 29.10(7)(c).
- Executive session minutes must include the same level of detail as is required for open session minutes.
- When meeting in executive session, all votes must be taken by roll call and the minutes must record the votes by roll call, even if the results are unanimous. G.L. c. 30A, § 22(b).
- Open session minutes must be approved in a timely manner. G.L. c. 30A, § 22(c). A “timely manner” will generally be considered to be within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay. 940 CMR 29.11(2). Executive session minutes must be “create[d] and maintain[ed]” and “review[ed]” “at reasonable intervals” to determine whether continued nondisclosure is warranted. G.L. c. 30A, § 22(a), (g)(1); OML 2024-158; OML 2024-29.

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Special Responsibilities of the Public Body Chair

Issued by the Massachusetts Office of the Attorney General's Division of Open Government
November 2024

Several provisions of the Open Meeting Law and the Attorney General's Regulations impose responsibilities or authority specifically on the chair of a public body. The following is a non-exclusive list:

Notice: A public body must post notice of every meeting at least 48 hours in advance, excluding Saturdays, Sundays and legal holidays. The notice must include the date, time, and place of the meeting, as well as a **list of topics that the chair reasonably anticipates will be discussed**. General Laws chapter 30A, § 20(b); 940 CMR 29.03(1)(b). If the Chair delegates the task of drafting the meeting notice to another individual, the notice must include all topics that the Chair as well as the topics that the person drafting the notice reasonably anticipate will be discussed. See OML 2023-148; OML 2013-147.

Remote Participation: At the start of a meeting that includes any members of the public body participating remotely—including at a meeting that is held entirely remotely—**the chair or the person chairing the meeting shall announce the name of any member(s) participating remotely**. G.L. c. 30A, § 20(d); 940 CMR 29.10.

Announcement of Meeting Recording: At the beginning of the meeting, **the chair shall inform other attendees of any video or audio recordings of the meeting**. G.L. c. 30A, § 20(f)

Public Participation: Although all meetings, except for executive sessions, must be open to the public, **the chair has discretion whether to allow for public comment/public participation, and if public comment will be allowed, to set procedures or limitations on public comment**. Furthermore, if a person disrupts a meeting after a warning from the chair, the chair may order the person to leave the meeting and may authorize the person's removal. G.L. c. 30A, § 20(g).

Executive Session: The chair has several responsibilities with regard to executive sessions. First, in open session prior to convening in executive session, **the chair shall state the purpose for the executive session**, stating all subjects that may be revealed without compromising the purpose for which the executive session was called. G.L. c. 30A, § 21(b)3. If the public body will be meeting in executive session pursuant to Purposes 3, 6, or 8, **the chair must specifically declare that having the discussion in open session will have a detrimental effect** on the public body's bargaining or litigation position (Purpose 3), negotiating position (Purpose 6), or ability to obtain qualified applicants (Purpose 8). G.L. c. 30A, § 21(a)3., 6., and 8. Finally, **the chair must publicly announce whether the open session will reconvene** at the conclusion of the executive session. G.L. c. 30A, § 21(b)4.

Open Meeting Law Complaints: Open Meeting Law complaints shall be **filed with the chair of the public body**. 940 CMR 29.05(3). Within 14 business days of receipt of the complaint, **the chair shall disseminate the complaint** to the members of the public body and the public body shall meet to review the complaint's allegations; take remedial action, if appropriate; and send to the complainant, with a copy to the Attorney General, a response and a description of any

remedial actions taken. 940 CMR 29.05(3), (5).

** In general, where the Law requires a chair to take certain action or to make particular announcements, the Division of Open Government has stated that the chair may delegate these responsibilities to another individual, such as legal counsel or another member of the public body.

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Public Body Checklist for Entering Executive Session

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November 2024

- Executive session must be listed as a topic for discussion on the meeting notice, including as much information about the anticipated discussion as possible without compromising the purpose(s) for which the executive session is called. See G.L. c. 30A, § 21(b)(3).
- Public body must convene in open session first. G.L. c. 30A, § 21(b)(1).
- During the open session, prior to convening in executive session, Chair must state the purpose for executive session, identifying one or more of the 10 purposes found at G.L. c. 30A, § 21(a). G.L. c. 30A, § 21(b)(3).
- During the open session, prior to convening in executive session, Chair must state all subjects that may be revealed without compromising the purpose for which the executive session was called. G.L. c. 30A, § 21(b)(3). For example, under most circumstances Chair must identify the party with whom the public body will be negotiating (Purpose 2), the litigation the public body will discuss (Purpose 3), or the property being considered for purchase (Purpose 6). G.L. c. 30A, §§ 21(a)(2), (3), (6).
- Chair must publicly announce whether the public body will return to open session upon conclusion of the executive session. G.L. c. 30A, § 21(b)(4).
- Some of the 10 Purposes under G.L. c. 30A, § 21 are subject to requirements specific to that purpose. A non-exhaustive list includes the following:
 - Purpose 1: The individual to be discussed must be notified in writing at least 48 hours prior to executive session. That individual has certain rights including, but not limited to, the right to have the discussion occur in open session, and the right to be present. G.L. c. 30A, § 21(a)(1).
 - Purpose 3: When stating the purpose of the executive session, Chair must declare that an open meeting may have a detrimental effect on the public body's bargaining or litigating position. G.L. c. 30A, § 21(a)(3).
 - Purpose 6: When stating the purpose of the executive session, Chair must declare that an open meeting may have a detrimental effect on the public body's negotiating position relative to the purchase, exchange, or lease of real property. G.L. c. 30A, § 21(a)(6).
 - Purpose 8: When stating the purpose of the executive session, Chair must declare that an open meeting may have a detrimental effect in obtaining qualified applicants. G.L. c. 30A, § 21(a)(8).
- During the open session, prior to convening in executive session, a majority of members of the body must vote to enter executive session. The vote of each member must be recorded by roll call and entered into the minutes. G.L. c. 30A, § 21(b)(2).

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Public Body Checklist for Preliminary Screening Committees Meeting in Executive Session

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Executive session Purpose 8, G.L. c. 30A, § 21(a)(8), permits a preliminary screening committee, often called a search committee, to enter executive session to consider or interview applicants for employment or appointment. This is a slightly different executive session purpose than the other nine, as it anticipates that a public body will create a subcommittee—the preliminary screening committee—for this purpose.

- The preliminary screening committee need not contain any members of the parent public body, but, if it does, it must contain less than a quorum. Other individuals may also be members of the preliminary screening committee.
- Before entering executive session, the chair must declare that an open meeting will have a detrimental effect in obtaining qualified candidates, and this statement should then be reflected in the meeting minutes. G.L. c. 30A, § 21(a)(8).
- The preliminary screening committee may perform the initial work of **considering**, such as reviewing written applications or resumes, and **interviewing** applicants in executive session. See OML 2020-147; OML 2019-100.
- Once there are finalists—meaning at least two individuals to proceed onto the next level of consideration—any further consideration, review, or interviewing by the screening committee or the parent public body must take place in open session. See OML 2024-30; OML 2021-70; OML 2016-105.
- The screening committee may not narrow the pool of candidates to a single finalist in executive session.
- The preliminary screening committee may not enter executive session to prepare questions to ask candidates or to discuss the review process. See OML 2021-152; OML 2019-7; OML 2016-105. Such discussions must occur in open session.
- The preliminary screening committee must create and approve minutes of all meetings, including executive sessions. G.L. c. 30A, § 22(a).

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Public Body Checklist for Responding to an Open Meeting Law Complaint

Issued by the Massachusetts Office of the Attorney General's Division of Open Government
November 2024

A public body is required to respond to each Open Meeting Law complaint filed with it in accordance with the procedures set forth in General Laws Chapter 30A, section 23(b), and the Attorney General's Open Meeting Law Regulations, 940 CMR 20.05.

- Open Meeting Law complaints must be filed with the Chair of the public body. For local public bodies, complaints must also be filed with the municipal clerk.
- Upon receipt of an Open Meeting Law complaint, the Chair must disseminate the complaint to the members of the public body.
 - The complaint may be distributed by email outside of a meeting, but the public body must not discuss the merits of the complaint or share opinions about the complaint outside of a meeting.
- Within **14 business days** of receipt of an Open Meeting Law complaint, the public body must:
 - Review the complaint during a meeting.
 - ❖ The public body may review and discuss the complaint in executive session under Purpose 1, as an Open Meeting Law complaint is, by its nature, a complaint filed against a public official(s).
 - ❖ The public body may review the complaint at a meeting and then authorize an individual—such as the Chair, an administrator, or legal counsel—to draft and send a response.
 - ❖ An individual—such as the Chair, an administrator, or legal counsel—also may receive the complaint and draft a response in advance of the meeting for the public body to approve at a meeting.
 - ❖ The Open Meeting Law does not require a public body to engage in a substantive discussion of the merits of the complaint. The decision to refer the complaint for response, rather than discuss its substance, is the public body's prerogative.
 - ❖ Nonetheless, the public body may not remove itself entirely from the process. It must, at some point before responding, review the complaint during a meeting.
 - Respond to the complainant in writing.
 - Send to the Attorney General a copy of the complaint and a copy of the response (may be sent via email to openmeeting@mass.gov).
- A public body may request an extension of time to respond to an Open Meeting Law complaint.

- An extension must be requested before the response is otherwise due (typically, within 14 business days).
- An extension may be granted upon a showing of good cause.
- Requests for extension should be sent to openmeeting@mass.gov.

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