

# AGENDA

## FINANCE AND WARRANT COMMISSION SEPTEMBER MEETING

Thursday, September 8, 2022

COMMUNITY MEETING ROOM – WESTWOOD PUBLIC LIBRARY

**7:00 P.M.**

---

- I. Call to Order at 7:00 P.M.
- II. Grant permission to Westwood Media Center to live stream and videotape the meeting. Ask if anyone else wishes to record this meeting.
- III. Welcome all participants including members, presenters, and members of the public and press.
- IV. Pledge of Allegiance.
- V. **Member Roll-Call.**
- VI. Introduce new Administrator Victoria Wong.
- VII. 2022-23 Membership – Members Introductions.
- VIII. Presenter: Town Clerk Dottie Powers – Ethics and Open Meeting Laws.
- IX. Chair’s update –.
- X. New Business – Member Discussion: Topics of Interest/Concern/Priorities for future meetings.
- XI. Old Business –.
- XII. Public and Press –.
- XIII. Adjournment – **Roll-Call Vote.**

# State Ethics Commission

## Conflict of Interest Law Seminar

**Author:** David Giannotti, Chief  
Public Education and Communications Division  
State Ethics Commission  
617-371-9505  
[David.Giannotti@mass.gov](mailto:David.Giannotti@mass.gov)

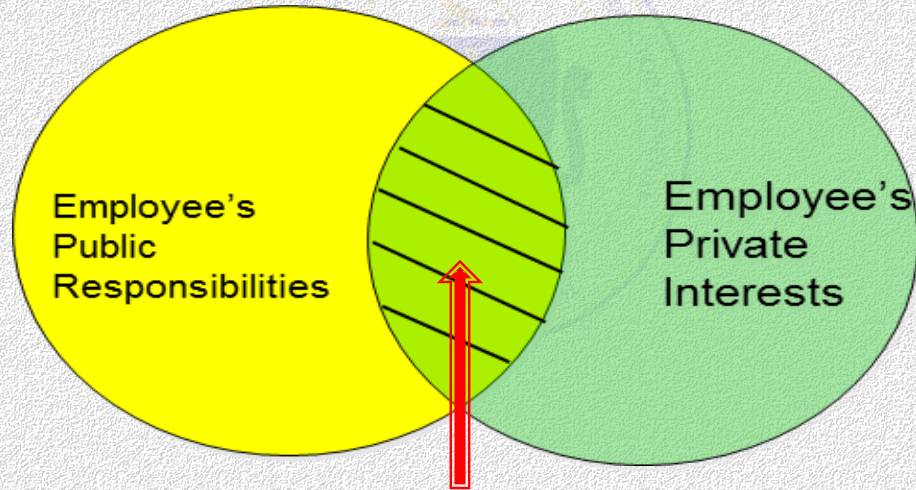
Presenter: Dottie Powers, Finance & Warrant Commission Meeting 9/8/2022



# State Ethics Commission

## Conflicts 101

Professional Life *vs.* Personal Life



Focus of the Conflict of Interest Law



# State Ethics Commission

## State Ethics Commission

- Is a five-member, independent, non-partisan state agency whose members are appointed by the Governor, the Attorney General and the Secretary of State
- Provides advice, education and enforcement of M.G.L. c. 268A and 268B
- Has jurisdiction over all state, county and municipal employees and volunteers, paid or unpaid, full-time, part-time or intermittent



# State Ethics Commission

## Services provided by the State Ethics Commission

- You can obtain legal advice on how to comply with the law. Ask for the Attorney of the Day.
- We can conduct an educational seminar for your employees.
- You can file a complaint if you believe someone has violated the law.
- Call 617-371-9500 or visit our website at [www.mass.gov/orgs/state-ethics-commission](http://www.mass.gov/orgs/state-ethics-commission).



# State Ethics Commission

## Obtaining Legal Advice

Speak to the Attorney of the Day

- Advice is confidential
- Advice can be given by telephone (617) 371-9500
- Online request for advice, [www.mass.gov/orgs/state-ethics-commission](http://www.mass.gov/orgs/state-ethics-commission)
- No third party or past conduct advice given
- Disclosure forms available on the website



# State Ethics Commission

## Website

[www.mass.gov/orgs/state-ethics-commission](http://www.mass.gov/orgs/state-ethics-commission)

- Educational materials
- Formal Legal Opinions
- Enforcement Decisions
- Disclosure Forms
- Links to the Online Training Program and Summary of the conflict of Interest Law for Municipal Employees



# State Ethics Commission

## Conflict of Interest Law Disclosures

- Must be in writing
- Must contain all relevant facts
- Must be submitted in advance
  - Town employees file with their Appointing Authority
  - Elected town officials file with the Town Clerk's office
- Disclosures are public records

DISCLOSURE OF APPEARANCE OF CONFLICT OF INTEREST  
AS REQUIRED BY G. L. c. 268A, § 23(b)(3)

PUBLIC EMPLOYEE INFORMATION	
Name of public employee:	
Title or Position:	
Agency/Department:	
Agency address:	
Office Phone:	
Office E-mail:	
	<p>In my capacity as a state, county or municipal employee, I am expected to take certain actions in the performance of my official duties. Under the circumstances, a reasonable person could conclude that a person or organization could unduly enjoy my favor or improperly influence me when I perform my official duties, or that I am likely to act or fail to act <u>§9.4 (99)(b)</u> of kinship, rank, position or undue influence of a party or person.</p> <p>I am filing this disclosure to disclose the facts about this relationship or affiliation and to dispel the appearance of a conflict of interest.</p>
APPEARANCE OF FAVORITISM OR INFLUENCE	
Describe the issue that is coming before you for action or decision.	
What responsibility do you have for taking action or making a decision?	
Explain your relationship or affiliation to the person or organization.	
How do your official actions or decision matter to the person or organization?	





# State Ethics Commission

## **Municipal Employees must complete conflict of interest law education requirements**

- Anyone performing services for or holding a municipal office, position or employment in a municipal agency
  - Whether by election, appointment, contract or engagement
  - Whether serving with or without compensation
  - On a full-time, part-time, intermittent, or consultant basis
  - Excludes town meeting members and charter commission members



# State Ethics Commission

## Are vendor employees required to complete the education requirements?

5-factor test used by the Ethics Commission to determine whether employees of a vendor company are public employees

- Are the employee's services required
- Type and size of the vendor company
- Degree of specialized knowledge or expertise required
- The extent the employee performs or directs services
- The extent the employee has provided similar past services

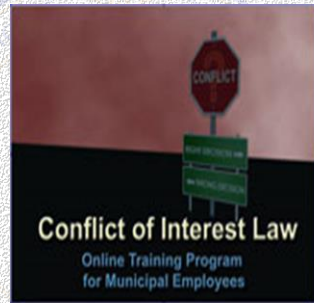
**Advisory 06-01:** Consultants Who Provide Services to Gov't Agencies May be Public Employees Subject to the Conflict Law



# State Ethics Commission

## Conflict of Interest Law Educational Requirements

- Online Training Program
- Summary of the Conflict of Interest Law



### Summary of the Conflict of Interest Law for Municipal Employees

This summary of the conflict of interest law, General Laws chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal counsel may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.



# State Ethics Commission

## Gift Restriction Rules

- Bribery: prohibits corrupt gifts, offers, and promises given to influence official acts (*Quid Pro Quo*).
- Gifts/Gratuities: prohibits gifts valued at \$50 or more and given because of official acts performed or to be performed.
- Gifts: prohibits gifts valued at \$50 or more and given because of official position.



GRATUITIES, AN ETHICAL  
DILEMMA



# State Ethics Commission

## Gift Restriction Rules

- [Section 23\(b\)\(3\)](#)- Standards of Conduct: gifts valued at less than \$50 are not prohibited, but if the receipt of a gift creates the appearance that the town employee could be improperly influenced in the performance of official duties, a written disclosure is required.



# State Ethics Commission

## Gifts That May Be Prohibited

- Meals
- Event Tickets ([Advisory 04-1](#))
- Free Travel or Expense Reimbursements
- Gift Certificates
- Floral Arrangements/Fruit Baskets
- Lottery Tickets
- Gifts offered through sales promotions



# State Ethics Commission

## Regulatory Exemptions related to Gift Restrictions

(Disclosure and Prior Approval Required in Certain Circumstances)

- Travel Expenses where the purpose of the travel serves a legitimate public purpose
- Incidental Hospitality that serves a public purpose
- Random Drawings
- Unsolicited Perishable Items



# State Ethics Commission

## Regulatory Exemptions related to Gift Restrictions

(Disclosure and Prior Approval Required in Certain Circumstances)

- Passes to School Events Provided by the School District
- Class Gifts to Teachers
- Public Employee Discounts and Waived Membership Fees
- Gifts Among Public Employees
- Retirement Gifts





# State Ethics Commission

## Nepotism/Self-Dealing

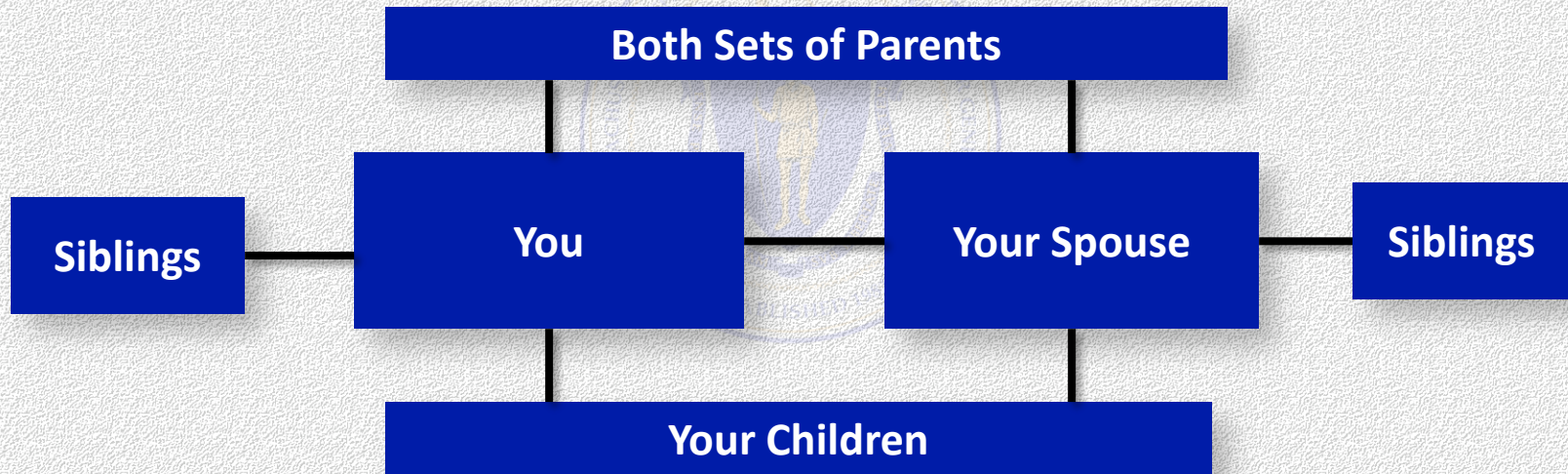
A town employee **may not participate** in matters in which he, his immediate family, a partner, a business organization with which he has certain affiliations or someone with whom he is negotiating for prospective employment **has a financial interest.**

- Disclosure filed with the appointing authority/Determination by the appointing authority
- No exemption available for elected town officials
- Financial interests of town employees who are abutters or competitors



# State Ethics Commission

## Nepotism: Definition of Immediate Family Members



# State Ethics Commission

## Regulation to allow Town Clerks to Perform Certain Election-related Functions

The purpose is to permit clerks to perform election-related functions that clerks are statutorily required to perform, and functions that are not likely to be outcome-determinative.

- During elections in which the town clerk, and/or an immediate family member is a candidate for any office or offices, and
- In towns in which the clerk is appointed, during elections in years in which the town clerk's term expires, and the person or persons who appoint the clerk are candidates for any office or offices.

The basis for this exemption is the unique role played by town clerks relating to elections, and the existing extensive regulation of their functions in state election law



# State Ethics Commission

## Regulation to allow Town Clerks to Perform Certain Election-related Functions

### Examples of what is permitted

- A clerk who is a candidate for an office or offices may: make determinations with respect to provisional voters; assist a voter who will be absent on the day of the election in completing a ballot; receive and enter election results; process absent voting ballots; and receive objections to certificates of nomination, nomination papers. An appointed clerk whose appointing authority is a candidate for an office or offices may act as stated in this example.
- A clerk, acting as a member of a board of registrars may: perform the duties with respect to absent voting ballot applications; perform the duties with respect to voter registration; and perform the duties with respect to nomination papers. An appointed clerk whose appointing authority is a candidate for an office or offices may act as stated in this example.



# State Ethics Commission

## Regulation to allow Town Clerks to Perform Certain Election-related Functions

### Example of What is Not Permitted

- A clerk who is a member of the board of registrars of voters, and who is a candidate for an office or offices, or whose appointing authority is a candidate for office and it is during the year in which the clerk's term expires, may not, acting by herself and without the participation of other members of the board of registrars of voters, check her own or her adversary's nomination papers or those of her appointing authority and their adversaries, or certify the number of names on her own nomination papers or her adversary's or those of her appointing authority or their adversaries, because state law requires participation by the full board.



# State Ethics Commission

## Regulation to allow Town Clerks to Perform Certain Election-related Functions

A clerk who is a candidate for an office or offices may perform election-related functions that are not required by statute, but that are typically assigned to or performed by the clerk, if such functions are not likely to be determinative of the outcome of the election.

- Example: A clerk may perform duties with respect to marking shelves and guard rails in a polling place, which are delegated to her by the Select Board, since such tasks are not likely to be determinative of the outcome of the election.



# State Ethics Commission

## Code of Conduct

A town employee shall not knowingly:

- Act in a manner such that a reasonable person would conclude that he or she might act with bias
  - One-step written disclosure to dispel appearance of conflict
- Use official position to secure unwarranted privileges for him or others.
- Use town resources for private or personal use or political activity.
- Disclose confidential information.



# State Ethics Commission

## Code of Conduct: Political Activity

- Soliciting campaign support from colleagues, subordinates or constituents
- Campaign activities in public buildings
- Cannot use town resources for political purposes



## Advisory 11-1: Public employee political activity





# State Ethics Commission

**Duty of Loyalty**

## Divided Loyalties

While a town employee, unless you are a special municipal employee:

- You may not represent 3<sup>rd</sup> party interests before any town board, even if you are not paid.
- You may not be paid by anyone to work on any matters in which any agency of the town is a party or has a direct and substantial interest.



# State Ethics Commission

**Duty of Loyalty**

## Divided Loyalties: Special Municipal Employees

Positions that have been expressly classified by the Board of Selectmen

- Are unpaid, or
- Compensated for less than 800 hours in a year, or
- By terms, classification or conditions of employment, permits personal or private employment during normal working hours

(Generally can include members of boards and committees)



# State Ethics Commission

## Divided Loyalties



### Exemptions:

- Disciplinary/Personnel issues if uncompensated
- Family members if appointing authority approves
- Testimony/sworn statements
- State and county employees can also be town employees
- Can obtain building, electrical, plumbing, gas and septic permits unless employed by the issuing department

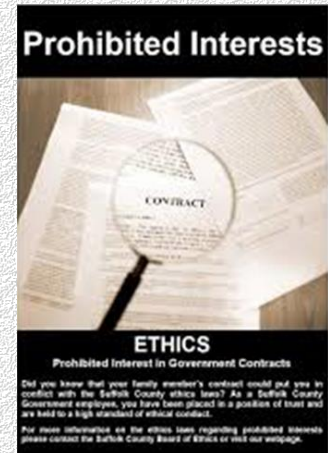


# State Ethics Commission

## Financial Interests in Contracts

A town employee may not have a financial interest in a contract in which the town is an interested party.

- Contracts to provide goods or services
- Multiple positions, one of which is paid
- “Inside Track” issues

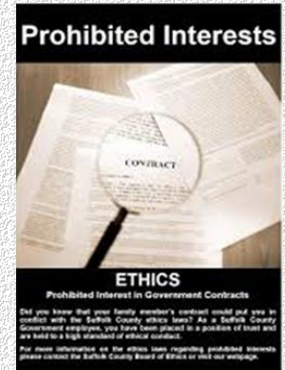


# State Ethics Commission

## Financial Interests in Contracts

A town employee may not have a financial interest in a contract in which the town is an interested party.

- Law applies less restrictively to designated “special” municipal employees
- Restriction does not apply to elected or unpaid positions
- Town employees can also serve on the Board of Selectmen
- Other exemptions are available



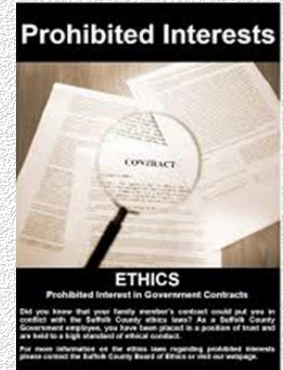
# State Ethics Commission

## Financial Interests in Contracts

If not a "special," a town employee may violate the conflict of interest law if they held another position with the town.

Special municipal employees are eligible for an exemption as long as:

- they file a disclosure with the town clerk making full disclosure of the other employment relationship, and, in certain instances,
- the board of selectmen may need to vote to approve an exemption to allow the special to hold the additional position.

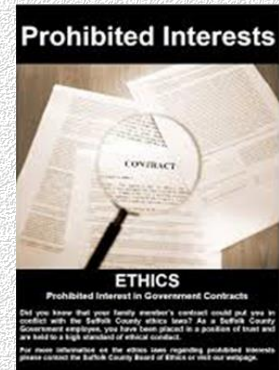


# State Ethics Commission

## Financial Interests in Contracts

Town employees who are not “special” municipal employees can take on additional paid or contracts as long as:

- They are not employed by the contracting town agency
- They do not participate in any of the activities of the contracting town agency
- The contract is made after public notice or through competitive bidding,
- The town employee files a disclosure with the town clerk,



# State Ethics Commission

## Regulatory Exemptions related to Prohibited Financial Interests in Contracts

- Exemption of Fee-based Contractual Relationships Readily Available to the Public (e.g. summer camps, municipal golf course memberships, town-issued permits)
- Exemption Related to Senior Tax Abatement Programs \*
- Exemption of Affordable Housing Programs and Community Development Programs \*
- Exemption to Permit Town Employees to Participate in Mitigation, Disaster Relief, and Renewable Energy Programs \*

\* The town employee can have no role in the program administration





# State Ethics Commission

## Restrictions on Appointment

- Board members are ineligible for appointment to positions supervised by their board until 30 days after they resign from the board.
- Town employees who also serve on the board of selectmen are ineligible for any other appointment to a town position while a selectman and for 6 months thereafter.
- Housing Authority employees who also serve as elected town officials are ineligible for appointment to any other town position until 6 months after they leave the elected position.



# State Ethics Commission

## Former Municipal Employees: Revolving Door Restrictions

### The forever ban

- A former town employee is prohibited from receiving compensation from or representing a third party in any particular matter **in which he participated as a town employee.**

### The one year cooling off period

- A former town employee is prohibited for one year from appearing personally on behalf of a third party if, within two years prior to his last day of town employment, **the matter was under his official responsibility.**



# State Ethics Commission

## Finally:

- When in doubt . . . 
- If a bell goes off or a flag goes up . . . **CALL**
  - **(617) 371-9500** 
  - **(800) 485-4766**
- Visit: [www.mass.gov/orgs/state-ethics-commission](http://www.mass.gov/orgs/state-ethics-commission)





# Open Meeting Law:

Balancing Government Transparency  
with Government Efficiency

*Finance & Warrant Commission Meeting  
September 8, 2022*



# Purpose of Open Meeting Law (OML)



Ensures transparency by public bodies by requiring:

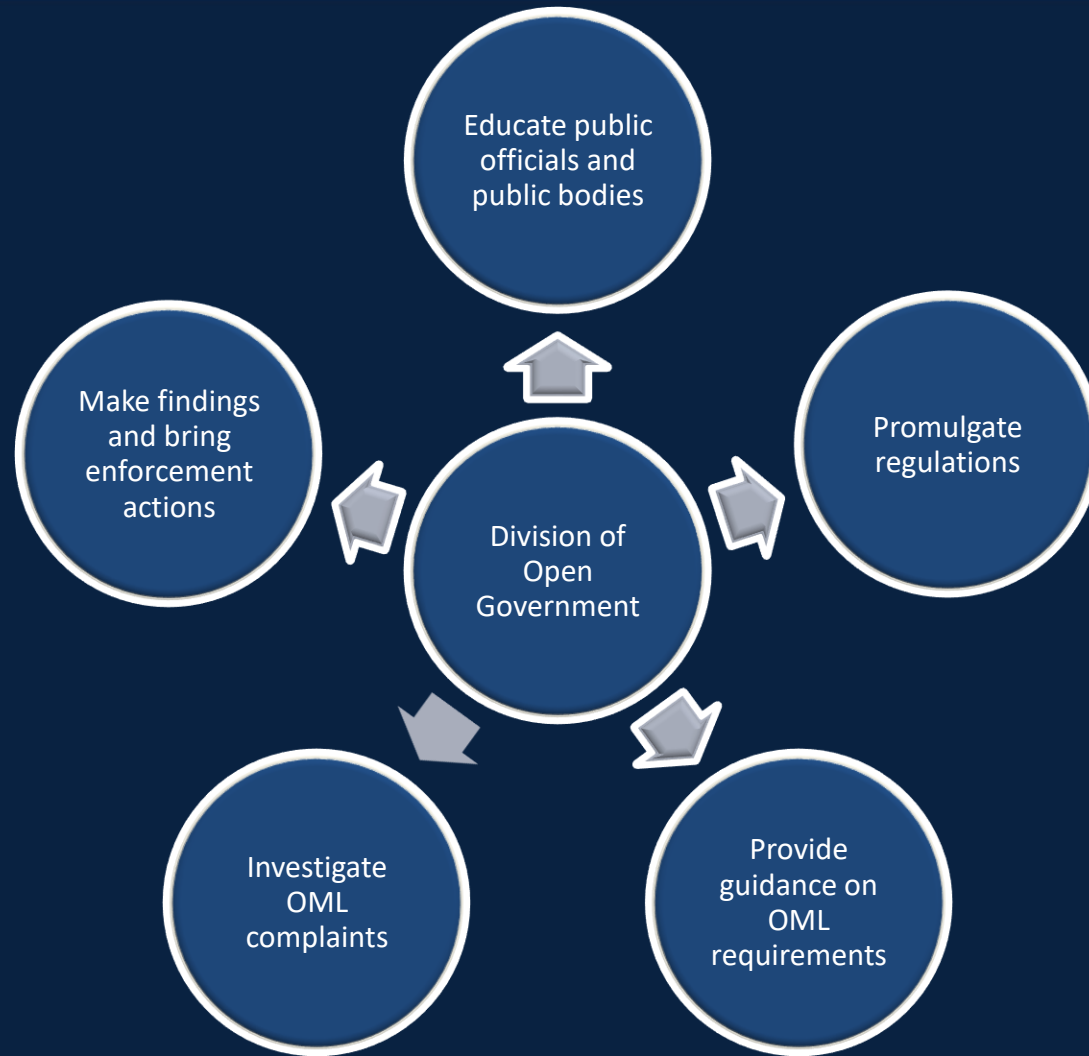
- Notice
- Open Deliberations
- Public Access

Allows government to efficiently manage operations by:

- Providing for certain deliberations in executive session
- Maintaining confidentiality of certain records of executive session



# Attorney General's Role





# Certification

**CERTIFICATE OF RECEIPT OF OPEN MEETING LAW MATERIALS**

I, \_\_\_\_\_, who qualified for the office of  
(Name)

\_\_\_\_\_, on \_\_\_\_\_, certify pursuant  
(Office) (Date)

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

- 1) the Open Meeting Law, G.L. c. 30A, §§ 18-25;
- 2) regulations promulgated by the Attorney General under G.L. c. 30A, § 25; and
- 3) educational materials promulgated by the Attorney General under G.L. c. 30A, § 19(b), explaining the Open Meeting Law and its application.

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 in 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.

- The municipal clerk 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:
  - OML Guide Book
  - Open Meeting Law and Regulations
  - Last 5 Years of OML Determinations
- Members must sign certification within two weeks of receipt
- Municipal clerk shall maintain signed certification for each public body member.



# Open Meeting Law Basics

Notice of meetings  
must be posted

Meetings must be  
open to the public

Minutes must be  
kept

Complaint process





# Public Body

## Definition

A multi-member board, commission, committee or subcommittee ... however created, elected, appointed or otherwise constituted, established to serve a public purpose ... subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

## Connelly exception

Where a public official creates a group to advise that public official on a decision that he or she has sole responsibility for, the group is not subject to the Open Meeting Law. See Connelly v. School Committee of Hanover, 409 Mass. 232 (1991)



# Exclusions

## State Legislature



Massachusetts House of Representatives

## Judicial Branch



Massachusetts Supreme Judicial Court

## Not-for-Profit Organizations



The Greater Worcester Land Trust

## Focus Groups



## No Public Purpose



## Constitutional Officers



Massachusetts Governor Charlie Baker



# Quorum and 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.”





# Deliberation

## Not deliberation:



- Agenda
- Scheduling



- Reports or documents



- Subquorum, but not subcommittee



- Recess a Town Meeting for emergency



# Social Media



- Communicator's intent in posting to a social media platform (Facebook, Twitter) is relevant; whether other members of the public body happen to see the communication is not determinative.
- Communication that is directed at members of the public, where no other member of the public body responds, and any viewing of posts by fellow members of the public body is incidental is generally not OML violation.
- Text messaging between a quorum of public body members, during or outside of a meeting, may constitute private deliberation.
- Public body member may subscribe to a listserv. However, where a quorum of the members of a public body subscribe to a listserv, the public body risks unlawful deliberation.
- Email discussion of a public body's operation, such as leadership of public body, is a matter of public business that should be reserved for an open meeting.
- Public body can share documents in online drop box, but limited to distribution of meeting agenda, scheduling information, and reports or documents to be discussed at meeting only if no opinion is expressed.



# Meeting

Definition: Deliberation by public body with respect to any matter within the body's jurisdiction

Excludes:



On-site Inspections



State Quasi-Judicial Boards



Town Meetings (Tewksbury  
Town Meeting)



Events



Attendance at Meetings of  
other Public Bodies



# Meeting Notices

**RECEIVED**  
By Lauren Ferrucci at 3:21 pm, Oct 29, 2015

*Mendon-Upton Regional School District*

**SCHOOL COMMITTEE MEETING AGENDA**  
Superintendent's Conference Room— Miscoc Hill Middle School  
November 2, 2015  
7:00 pm

**RECEIVED**  
By Mendon Town Clerk at 9:48 am, Nov 02, 2015

7:00 pm	Call to Order Pledge of Allegiance
7:02 pm	Approval of Agenda/Minutes <ul style="list-style-type: none"><li>• Approval of Agenda</li><li>• Approval of Open Session Minutes- October 19, 2015</li></ul>
7:05 pm	Community Comments
7:20 pm	Student Comments
7:25 pm	Superintendent Comments <ul style="list-style-type: none"><li>• Nipmuc 21<sup>st</sup> Century Learning Conference</li><li>• Multihazard Emergency Planning Training of 10/21-22</li><li>• FY16 Home Instruction Report</li></ul>
7:35 pm	Subcommittee Updates <ul style="list-style-type: none"><li>• Budget Subcommittee</li><li>• Policy Subcommittee: First Reading of Revised Policy JKAA- Physical Restraint of Students &amp; Policy EBC- Emergency Plans</li></ul>
7:40 pm	Old Business <ul style="list-style-type: none"><li>• School Committee Goals for 2015-16</li></ul>
7:45 pm	New Business <ul style="list-style-type: none"><li>• Spring 2015 MCAS Results</li><li>• Approval of Miscoc Hill Middle School Improvement Plan- <i>Principal Ann Meyer</i></li></ul>
8:10 pm	Correspondence
8:12 pm	Other matters not anticipated by the Committee within 48 hours of the posted meeting
8:13 pm	Future Agenda Items <ul style="list-style-type: none"><li>• MetroWest Adolescent Health Survey Results- November 16</li><li>• Nipmuc AP &amp; SAT Results- November 16</li></ul>
8:15 pm	Roll call to executive session pursuant to (i) M.G.L. c 30A, Section 21(a), exemption #3, to discuss strategy with regard to collective bargaining with the Mendon-Upton Regional Teachers Association because doing so in open meeting would have a detrimental effect on the bargaining position of the Committee. (The Committee will not be returning to open session.)

The listing of matters are those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. Also, the timeframe for each topic is a general guideline and may not be strictly adhered to.  
[www.mursd.org](http://www.mursd.org)





# Meeting Notices

## Emergency Meeting

Unexpected



Requires  
immediate  
action





# Meeting Notices: Local Public Bodies



File with Municipal Clerk



Bulletin Board

Or



Municipal Website



# Meeting Notices: County, District and Regional Public Bodies

Hampshire  
Council Of  
Government  
Board Of  
Councilors



Plymouth Board of County  
Commissioners



Amherst-Pelham  
Regional School  
Committee



# Notice Posting: Common Concerns



What if a new  
topic arises after  
notice is  
posted?



What if the clerk  
can't post notice  
in time?



Cancelling a  
meeting?



# Meeting Notices: Websites

## Finding notices

- Notices should be easy to find on the website; listed either in a central page or at each public body's page
- Avoid posting in multiple locations unless linked to same document/page

## Webpage outages

- 6 business hours to fix website, otherwise must cancel noticed meetings within 48 hours of outage

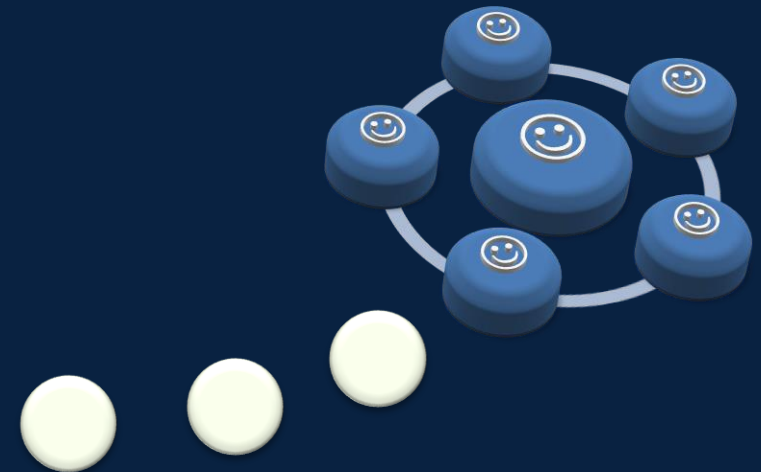




## Chapter 22 of the Acts of 2022 Remote Access and Remote Participation

The Act, signed into law on February 15, 2022, and in effect until July 15, 2022, suspends two key provisions of the Open Meeting Law.

- 1) Instead of providing physical access to a meeting location, public bodies may provide access through “adequate, alternative means.”
- 2) All public body members may participate in the meeting remotely.





# Accessibility

Adequate, alternative access: Ability to clearly follow the proceedings of the public body while they are occurring

Reasonable efforts to accommodate crowds

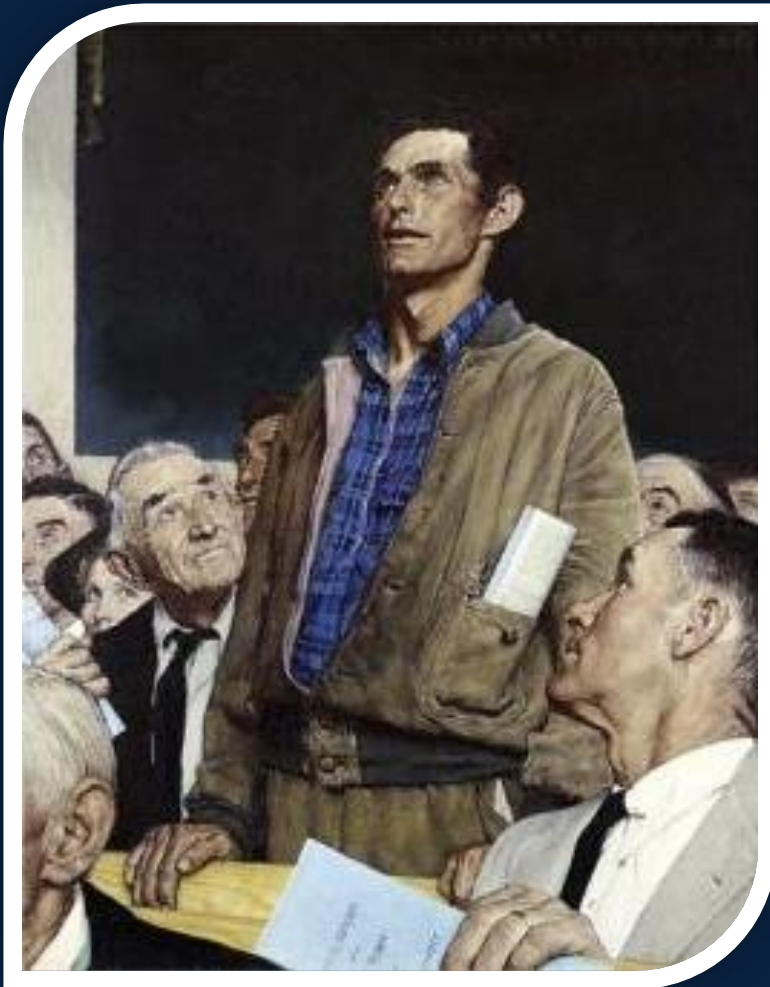
Accessible to the disabled

Americans with Disabilities Act, federal Rehabilitation Act of 1973, state constitutional provisions

The Attorney General's Civil Rights Division can assist -  
Contact the Civil Rights Division at (413)-523-7710



# Public Participation



Public may attend open session

Addressing the public body

Recording/Informing

Removal



# Remote Participation by the Public Body

## Procedures for Remote Participation

Notify chair

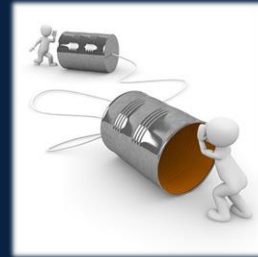
Announcement

Roll call votes

Documents

Executive session  
declaration

Technology



Technical difficulties



Until July 15, 2022:

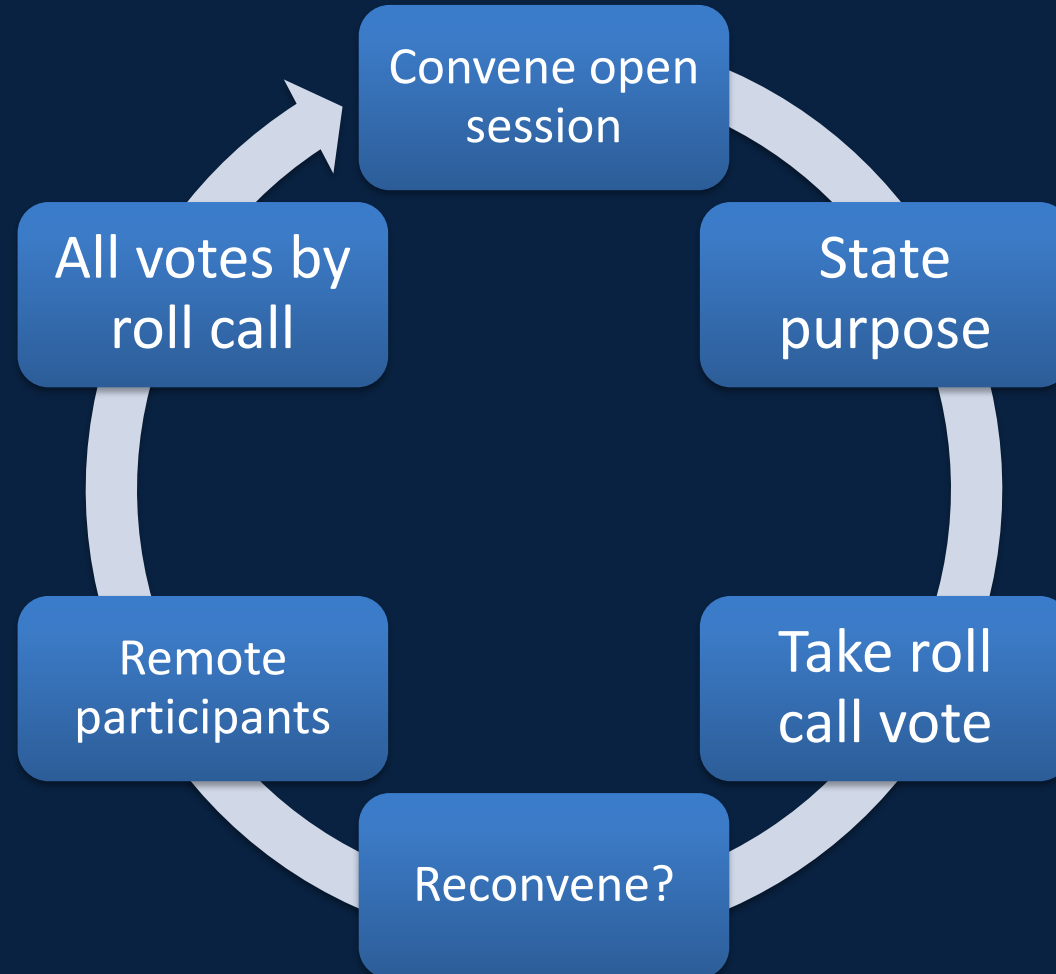
- No need to first “adopt” remote participation
- No requirement that a quorum or the chair be physically present





# Executive Session

Procedural requirements for entering executive session





# Executive Session Purpose: 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.”





## Executive Session Purpose: 2

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





# Executive Session Purpose: 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.”





# Executive Session Purpose: 4 & 5

4. Security personnel or devices



5. Criminal misconduct





# Executive Session Purpose: 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.”



Wellfleet, MA



# Executive Session Purpose: 7

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





# Executive Session Purpose: 8

“To consider or interview applicants for employment or appointment by 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.”







# Executive Session Purposes 9 & 10

9. Confer with mediator on litigation or decision



10. Trade secrets in the course of activities conducted by a public body as an energy supplier





# Meeting Minutes

**BOARD OF HEALTH MONTHLY MEETING**  
Monday, December 2, 2013  
2 School St, Baldwinville, MA

**Present members:** Richard Trifilo, Donald Tourigny, and E. Jane Crocker  
**Absentees:**  
**Health Director:** Phil Leger  
**Administrative Assistant:** Dianna Morrison

- Meeting called to order at 6:00 p.m. by Chairman Trifilo
- **Chairman's Report** – Mr. Trifilo stated he will not be running in the May election.
- **Member's Report** –
- **Review minutes of October 3, 2013** – Mr. Tourigny made the motion to accept minutes of the November 7 meeting, with one correction. Add "s" to the word appear in the Emergency Call Down Response List under new business. Ms. Crocker seconded the motion, passing unanimously.

**Old Business:**

1. **Budget Update** – Mr. Leger presented to the BOH the budget for FY'15 for approval. Mr. Leger further states that the salary line items do include a 1.5% increase as well as a step raise for eligible employees to take effect on their anniversary date. With the exception of Animal Inspector Stipend at \$1500.00 and Animal Inspector Expense at \$500.00, the rest of the budget request is for level funding. There was a brief discussion of funding the needed repair to Well 6 at the Landfill in the spring. Mr. Tourigny informed Mr. Leger that there is a funding source available from the Landfill Closure Account. Mr. Leger will speak to Sewer Department to see if possible to use their camera to scope Well 6. Mr. Tourigny motioned to accept the budget as presented and Ms. Crocker seconded the motion, motion passing unanimously.
2. **Office Update** – Ms. Morrison informed the BOH that the 40 hour work week has begun and going well. Ms. Morrison further stated that the barn inspections have progressed, with only three barns left for inspection. Mr. Leger informed the BOH that Dunkin Donuts construction is moving rapidly. The Asian restaurant still working on a solution for the grease trap. Reno's Pizza in East Templeton will be using an active grease trap.
3. **Region 2 EP Coalition Update** – Mr. Leger stated that the region had a facilitated meeting today regarding HMCC Functions. The drive is to centralize informational and resource coordination. Region 2 has already implemented some of the necessary changes needed. This also could mean less grant funding for hard goods.
4. **MPHN Update** – Mr. Leger informed the BOH that all 11 towns have signed the IMA making the grant writing an easier task as 11 towns in one network is impressive.
5. **Housing Update** – Mr. Leger stated that there were 2 housing cases this month both have been resolved and will be followed up.

**New Business:**

1. **Former Lily Chemical Response Outcome Update** – Mr. Leger informed the BOH that the site is still being monitored, with very low risk level of contamination. The site is now out of the Zone 2 delineation for the town wells.

**Other Business:**

**Adjournment:**

A motion was made by Mr. Tourigny to adjourn at 7:29 pm, seconded by Ms. Crocker. The motion passed unanimously.

Clerk's signature: \_\_\_\_\_

Date approved: \_\_\_\_\_ 01/13/2014 \_\_\_\_\_

- Minutes must state the date, time, place of the meeting, and list of members present or absent
- Minutes must include:
  - A summary of discussion of each topic
  - Decisions made and actions taken, including a record of all votes - Secret ballots prohibited; roll call votes recorded accordingly
  - List of documents and other exhibits used by the body at the meeting, including by remote participants



# Meeting Minutes

## Approving Minutes

- Latest of 3 meetings or 30 days  
BUT whenever possible, approve at the next meeting
- Documents and exhibits used by public body must be retained by the public body but do not need to be physically stored with the meeting minutes

## Upon Request

- Open session minutes provided within 10 days of request
  - Whether in draft or approved form
- For all other records – Consult Supervisor of Records in the Secretary of State's Office



# Executive Session Minutes

Minutes must be reviewed periodically by the chair or public body to determine if the purpose for executive session remains. The determination must be announced during the next meeting and be included in the minutes

Public body must respond within 10 days to request for executive session minutes

Provide minutes if no longer exempt from disclosure;  
or

Review at next meeting or within 30 days, whichever comes first.



# Document Used at a Meeting

Documents used by a public body during an open meeting are public records!

Document is considered “used” when it is physically present, verbally identified, and its contents are discussed by the public body during a meeting

*Two types of materials are exempt from public disclosure:*




- Performance evaluations NOT created by members of the public body
- Application materials, other than resumes



# Complaint Process

## Step 1: The Complainant

**OPEN MEETING LAW COMPLAINT FORM**  
Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

**Your Contact Information:**

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_  
Phone Number: \_\_\_\_\_ Ext. \_\_\_\_\_  
Email: \_\_\_\_\_  
Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?  
(For statistical purposes only)

Individual  Organization  Media

**Public Body that is the subject of this complaint:**

City/Town  County  Regional/District  State

Name of Public Body (including city/town, county or region, if applicable): \_\_\_\_\_

Specific person(s), if any, you allege committed the violation: \_\_\_\_\_

Date of alleged violation: \_\_\_\_\_

**Description of alleged violation:**  
Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

\_\_\_\_\_

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

\_\_\_\_\_

**Review, sign, and submit your complaint**

**I. Disclosure of Your Complaint.**  
**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, will be considered a public record and available to any member of the public upon request. In response to such a request, the AGO generally will not disclose your contact information.

**II. Consulting With a Private Attorney.**  
The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

**III. Submit Your Complaint to the Public Body.**  
The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: \_\_\_\_\_ Date: \_\_\_\_\_

For Use By Public Body For Use By AGO  
Date Received by Public Body Date Received by AGO



# Complaint Process

## Step 2: The Public Body

Chair disseminates the complaint for response within 14 business days

May delegate responsibility for responding after public body review

Public body may request an extension of time to respond for good cause



# Complaint Process

## Step 3: The Attorney General's Office

If the complainant is not satisfied with the resolution of the complaint by the public body, he/she may file the complaint with the Division 30 days after the complaint is filed with the public body

Complaints must be filed with the AGO within 90 days of the date of the original alleged violation or reasonable discovery of violation

- The AGO will not review allegations that were not raised in the initial complaint filed with the public body
- Complaints filed with the Attorney General's Office, and documents submitted with the complaint, are considered a public record





# Complaint Process

## The Division of Open Government

Review complaint

Conduct investigation

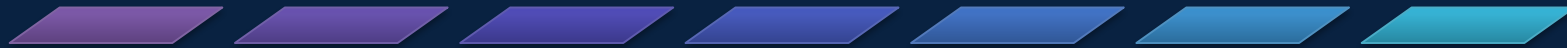
Finding & Remedies

Appeal



# Judicial Complaint Process

Attorney General or 3 or more registered voters may initiate a civil action to enforce the Open Meeting Law





# Review

Public body member certification

Notice must be posted for meetings

Meetings must be open to the public,  
unless public body enters executive session

Minutes must be kept for open and  
executive sessions

Complaint process



# Resources

## Attorney General's Open Meeting Law Website

<http://www.mass.gov/the-open-meeting-law>

- Open Meeting Law: G.L. c. 30A, §§ 18-25
- Regulations: 940 CMR 29.00
- Guide
- FAQs
- Checklists
- Determination Letters



# Contact Information

Office of Attorney General  
Division of Open Government  
One Ashburton Place  
Boston, Massachusetts 02108  
[openmeeting@state.ma.us](mailto:openmeeting@state.ma.us)  
(617) 963-2540



# Contact Us

[www.mass.gov/ago](http://www.mass.gov/ago)

617-727-2200



**File a Complaint with the Attorney General's Consumer Hotline**

617-727-8400



# Resources

## Have a Complaint or Question?

### General Assistance

Consumer Hotline: (617) 727-8400

<https://www.mass.gov/how-to/file-a-consumer-complaint>

### Specific Hotlines

HomeCorps (617) 573-5333

Elder Hotline (888) 243-5337

Fair Labor Division (617) 727-3465

Civil Rights Division (617) 727-2200

Medicaid Fraud Tipline (617) 963-2360

Insurance Fraud Tipline (617) 537- 5330

Insurance & Health Care Consumer Helpline (888) 830-6277



# Thank You from the Attorney General

Attorney General

Maura Healey is the chief lawyer and law enforcement officer of the Commonwealth of Massachusetts.





## **What other requirements apply to remote meetings?**

The Open Meeting Law regulations governing remote participation, 940 CMR 29.10, remain in effect, except where the Governor's executive order specifically suspends certain requirements. In particular, when any—or all—public body members participate in a meeting remotely, the following requirements apply:

1. At the start of the meeting, the chair must announce the name of the member or members who are participating remotely; such information must also be recorded in the meeting minutes.
2. All votes must be taken by roll call.
3. Members of the public body must be clearly audible to each other and to members of the public at all times.
4. When holding an executive session remotely, the public body must still take all required procedural steps for entering into executive session in open session. At the beginning of the executive session, each public body member participating remotely must state 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.

Should the public body encounter technical problems while meeting remotely, the person chairing the meeting may decide how to address the technical difficulties, 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. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred must be noted in the meeting minutes.

## **What other requirements apply to remote meetings?**

The Open Meeting Law regulations governing remote participation, 940 CMR 29.10, remain in effect, except where the Governor's executive order specifically suspends certain requirements. In particular, when any—or all—public body members participate in a meeting remotely, the following requirements apply:

1. At the start of the meeting, the chair must announce the name of the member or members who are participating remotely; such information must also be recorded in the meeting minutes.

2. All votes must be taken by roll call.
3. Members of the public body must be clearly audible to each other and to members of the public at all times.
4. When holding an executive session remotely, the public body must still take all required procedural steps for entering into executive session in open session. At the beginning of the executive session, each public body member participating remotely must state 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.

Should the public body encounter technical problems while meeting remotely, the person chairing the meeting may decide how to address the technical difficulties, 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. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred must be noted in the meeting minutes.