


# Attorney General's Open Meeting Law Presentation Handout

Slide 1.



**Open Meeting Law:**  
Balancing Government Transparency  
with Government Efficiency

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Slide 2.



**Who the AGO Serves & How**

Who: The Commonwealth	How: Four Major Ways this Work is Executed
Residents of the Commonwealth and their public interests	
State departments, officers, and commissions	
Groups of consumers	

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## The Attorney General's Office

The Attorney General represents:

- Residents of the Commonwealth and their public interest
- State departments, officers, and commissions
- Groups of consumers

Slide 3.



### Public Protection & Advocacy Bureau Description

Protecting students against predatory for-profit schools;  
 Ensuring that workers are paid the wages they are owed;  
 Combating discrimination by landlords and employers;  
 Keeping struggling homeowners in their homes through loan modifications; and  
 Fighting for consumers against scams and other deceptive business practices.

#### Divisions of the Public Protection & Advocacy Bureau

Civil Investigations	Insurance and Financial Services
Consumer Protection	Civil Rights
Fair Labor	CARD/HomeCorps

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Public Protection & Advocacy Bureau

- Protecting students against predatory for-profit schools;
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- Keeping struggling homeowners in their homes through loan modifications; and
- Fighting for consumers against scams and other deceptive business practices.

Slide 4.



### Where the AGO is located

Attorney General Maura Healey and her staff engage with every city and town of the Commonwealth. The Attorney General's Office also runs a statewide Consumer Advocacy and Response Division and supports over thirty regional local consumer and face to face mediation programs, which you may choose to contact.



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AGO Offices

- Boston  
 One Ashburton Place and  
 100 Cambridge St.
- Central Massachusetts  
 10 Mechanist St., Worcester
- Western Massachusetts  
 1350 Main Street, Springfield
- Southeastern Massachusetts  
 105 Williams St., New Bedford

Slide 5.



### Purpose of Open Meeting Law (OML)

Government  
Accountability

↔

Government  
Efficiency

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

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### Purpose of Open Meeting Law

- Recognizes the necessary balance between government accountability and government efficiency.
- Ensures transparency by public bodies by requiring:
  - Notice
  - Open Deliberations
  - Public Access
- Allows government to efficiently and effectively manage its operations by:
  - Providing for certain deliberations to take place in executive session
  - Maintaining confidentiality of certain records of executive session

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### Attorney General's Role



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### Attorney General's Role

- Educate / train public officials and members of public bodies
- Promulgate regulations
- Provide guidance on OML requirements
  - Hotline / Email
  - Website
- Address OML complaints
- Make findings and bring enforcement actions

Slide 7.



## Certification

CERTIFICATE OF RECEIPT OF OPEN MEETING LAW MATERIALS

I, \_\_\_\_\_, who qualified for the office of \_\_\_\_\_ (Official) on \_\_\_\_\_ (Date) have received copies of the following Open Meeting Law materials:

(1) The Open Meeting Law, G.S. 160A, §§ 18-21;  
 (2) Regulations promulgated by the Attorney General under G.S. 160A, §§ 18, and  
 (3) Educational materials promulgated by the Attorney General under G.S. 160A, § 18(b), including the Open Meeting Law and its application.

I have read and understood the requirements of the Open Meeting Law and the consequences of violating it. I further understand that this material has not been 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)

Presented by G.S. 160A, § 18(b), an essential part of this condition shall be deemed, according to the intent of this condition, to be the responsibility of the appointing authority, the appointee, or the individual director or other appropriate administrative or non-administrative, as well as the public.

Members must sign certification within two weeks of receipt:

- Read and understand requirements of the law and consequences for violating it
- Educational Materials:
  - OML Guide Book
  - Last 5 Years of OML Determinations

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### OML Certification


- OML materials must be distributed to all public body members upon taking oath of office or, if none is required, before entering performance of office

Local Public Bodies: Municipal clerk

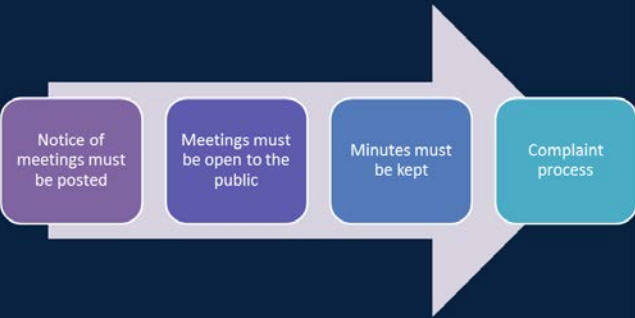
Regional, District, County or State Bodies: Appointing authority, executive director, or other administrator or designee

- Members must sign certification within two weeks of receipt
  - Read and understand requirements of law and consequences for violating OML
- Person distributing materials also keeps certifications

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## Open Meeting Law Basics



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### Open Meeting Law Basics

- 1) Notice must be posted for all meetings
- 2) Meetings must be open to the public, unless the public body enters into executive session
- 3) Minutes must be kept for open and executive sessions
- 4) Complaint process

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## Public Body

### Definition

A multi-member board, commission, committee or sub-committee ... 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)

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## Public Body

A multi-member board, commission, committee or sub-committee ... 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

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## 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

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## Excludes:


- Legislature and its committees
- Bodies of the Judicial branch
- Not-for-profit organizations
- Bodies created by a constitutional officer solely to advise that constitutional officer
- Bodies that do not serve a public purpose (such as a retirement party planning committee)
- Groups not established with the “jurisdiction” to make decisions or recommendations collectively (such as a focus group)

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**Examples: Public Bodies**

**State:**  University of Massachusetts Board of Trustees

**Local:**  Town of Brookline, MA Board of Selectmen

**Regional:**  Martha's Vineyard Airport Commission

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Examples: Public Bodies



- **State:** Open Meeting Law Advisory Commission; Massachusetts Gaming Commission; UMass Board of Trustees; Charter Schools
- **Local:** Board of Selectmen; School Committee; Planning Board
- **Regional:** Regional School Committee; Regional Water Commission; Regional Planning Commission
- **County:** Board of County Commissioners; County Retirement Board; County Charter Review Commission

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**Examples: NOT Public Bodies**

**State:**  

**Regional:**  Algonquin Regional High School Boosters Club

**Local:**  Hudson Democratic Town Committee  
 Hudson Republican Town Committee

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Examples: Not Public Bodies

- State:** State Senate; House of Representatives; Judicial Nominating Commission; Massachusetts Municipal Association
- Regional:** Regional high school boosters club
- Local:** Neighborhood watch association; PTO; Republican/Democratic Town Committees

Slide 13.

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Quorum and Deliberation

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

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

Slide 14.


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Deliberation

Excludes:


- Distribution of meeting agenda, scheduling or procedural information
- Distribution of reports or documents to be discussed, provided no opinion of a member of the public body is expressed
- Communications between a Subquorum, if not subcommittee, and no serial communication
- Discussion of the recess or continuance of a Town Meeting, in the event of a weather-related or public safety emergency


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 **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

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Meeting

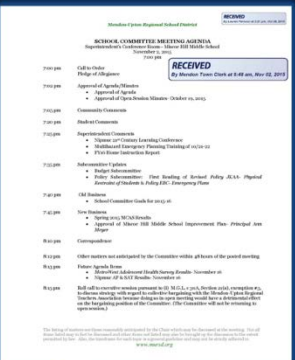
Deliberation by public body with respect to any matter within the body's jurisdiction.

Excludes:

- On-site inspection provided no deliberation
- Attendance by a quorum at an event provided no deliberation
- Attendance by a quorum at meeting of another public body provided no deliberation
- Meeting of a quasi-judicial board for sole purpose of making a decision in an adjudicatory proceeding
- Town Meeting

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 **Meeting Notices**



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Date of meeting

Time of meeting

Place of meeting

List of topics reasonably anticipated

Date and time of notice posting

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Meeting Notices

Except in an emergency, a public body must post notice of meeting at least 48 hours in advance, excluding Saturdays, Sundays, and legal holidays.

Notice must include:

- Date of meeting
- Time of meeting
- Place of meeting
- List of topics chair reasonably anticipates will be discussed at meeting.
  - Topics should give enough specificity so that the public will understand what will be discussed.
- Date and time notice was posted
- If the notice is revised, the revised notice must record the date and time the original notice was posted, as well as the date and time of the revision



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Meeting Notices

**Emergency Meeting**

Unexpected

Requires immediate action

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Meeting Notices

- “Emergency” is a sudden, generally unexpected occurrence or set of circumstances demanding immediate action
- In an emergency, a public body shall post notice as soon as reasonably possible prior to a meeting

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Meeting Notices: Local Public Bodies

File with Municipal Clerk

Or

Bulletin Board

Municipal Website

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Meeting Notices: Local Public Bodies

- Local public bodies must file notice with the municipal clerk.
- Notice must be posted in a manner conspicuously visible to the public, including persons with disabilities, at all hours in or on the municipal building where the clerk’s office is located
- Alternately, a municipality may adopt its website as the official location for notice posting
- Adoption of the website is made by the CEO of the municipality, usually the board of selectmen for a town or the mayor for a city
- Note that even if an alternative posting method has been adopted, meeting notices must still be available in or around the clerk’s office


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 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

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Meeting Notices: County, District and Regional Public Bodies

- Regional or district public bodies must post notice in each city or town within the region or district in the manner prescribed for local public bodies, or may post to a website
- For a regional school district, the secretary of the regional school district is the clerk of the school district and shall file the notice with the clerk of each city or town in the district, or may post to a website
- County public bodies must post notice with the office of the county commissioner and a copy of the notice posted in a manner conspicuously visible to the public at all hours in a place or places designated by the county commissioners, or may post to a website

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 Meeting Notices: State Public Bodies

Post to the public body's website or the website of its parent agency



William Francis Galvin  
Secretary of the Commonwealth of Massachusetts

Notify the Attorney General of the location of the website

Send a copy of the meeting notice to the Regulations Division of the Secretary of the Commonwealth's Office  
[regs@sec.state.ma.us](mailto:regs@sec.state.ma.us)

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Meeting Notices: State Public Bodies

- Post to the public body's website or the website of its parent agency
- Notify the Attorney General of the location of the website where meeting notices will be posted
- Send a copy of each meeting notice to the Regulations Division of the Secretary of State's Office
  - [regs@sec.state.ma.us](mailto:regs@sec.state.ma.us)


Slide 21.




### 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?

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### Notice Posting: Common Concerns

- What if a new topic arises after notice is posted?
  - Public bodies are encouraged to update the notice when made aware of new topic within the 48-hour period before the meeting.
  - Chairs should not post notices so far in advance that there is a high likelihood that new topics will arise
- What if the clerk can't post notice in time?
  - Chairs are encouraged to work with municipal clerks to enable sufficient time for posting
- Canceling a meeting
  - Meeting cancellations do not require 48 hours' notice
  - Meetings that are continued, or cancelled and rescheduled, must comply with all notice requirements of the Open Meeting Law
- Other laws may apply (such as notice for public hearings)

Slide 22.




### 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



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### Websites

- Notices should be easy to find of a website, located on a central page for all notices, or with the specific public body's page
- Avoid posting in multiple locations on a website unless all notices are the same or cross-linked
- If a website becomes unavailable, the website must be restored within 6 business hours of discovery of the outage; otherwise a meetings occurring within 48 hours of the outage must be cancelled and re-noticed

Slide 23.



## Accessibility

- 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 (617) 963-2939

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- ### Accessibility
- Reasonable efforts to accommodate crowds
  - Meetings must be accessible to the disabled
  - Americans with Disabilities Act, Federal Rehabilitation Act of 1973, state constitutional provisions
  - Civil Rights Division of the Attorney General's Office can assist
  - Contact the Civil Rights Division at (617) 963-2939
  - Security policies – Inform public if they need ID to enter building

Slide 24.



## Remote Participation Authorization

 <b>MAYOR</b>	 <small>Dukes County Commissioners</small>	
<b>Local Public Bodies</b> <ul style="list-style-type: none"> <li>• Mayor or board of selectmen approval</li> </ul>	<b>County Public Bodies</b> <ul style="list-style-type: none"> <li>• County commissioners must authorize</li> </ul>	<b>State/Regional Public Bodies</b> <ul style="list-style-type: none"> <li>• Simple majority vote</li> </ul>

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- ### Remote Participation Authorization
- Must be adopted before members can use
    - Local Public Bodies: Chief Executive Officer must authorize for all public bodies in municipality
    - County Public Bodies: County Commissioners must authorize for all county public bodies in county
    - State/Regional Public Bodies: Simple majority vote to authorize for all future meetings
  - Exception: Local Commissions on Disability

Slide 25.



### Remote Participation

Permissible reason for Remote Participation: physical attendance at the meeting must be unreasonably difficult.



Minimum Requirements:

- Clearly Audible
- Quorum Present
- Remote participants may vote

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### Remote Participation Minimum Requirements

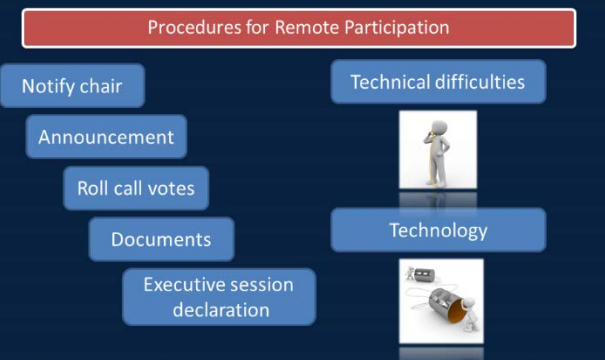
- Physical attendance at meeting must be unreasonably difficult
- Remote participants and all persons present at the meeting location must be clearly audible to each other
- A quorum of the body, including the chair or, in the chair’s absence, the person authorized to chair the meeting, must be physically present at the meeting location
- Members of public bodies who participate remotely may vote and shall not be deemed absent

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### Remote Participation

Procedures for Remote Participation



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### Remote Participation

#### Procedures for remote participation


- Notify chair
- Announcement by chair
- Roll call votes
- Executive sessions
- Distribution of documents

#### Acceptable methods

- Telephone, internet, or satellite enabled audio or video conferencing
- Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another
- Public body determines which method to use
- If video technology is used, remote participant must be clearly visible to all persons present at the meeting location

Chair decides how to address technical difficulties

Slide 27.



**Public Participation**

Public may attend open session

Addressing the public body

Recording/Informing

Removal

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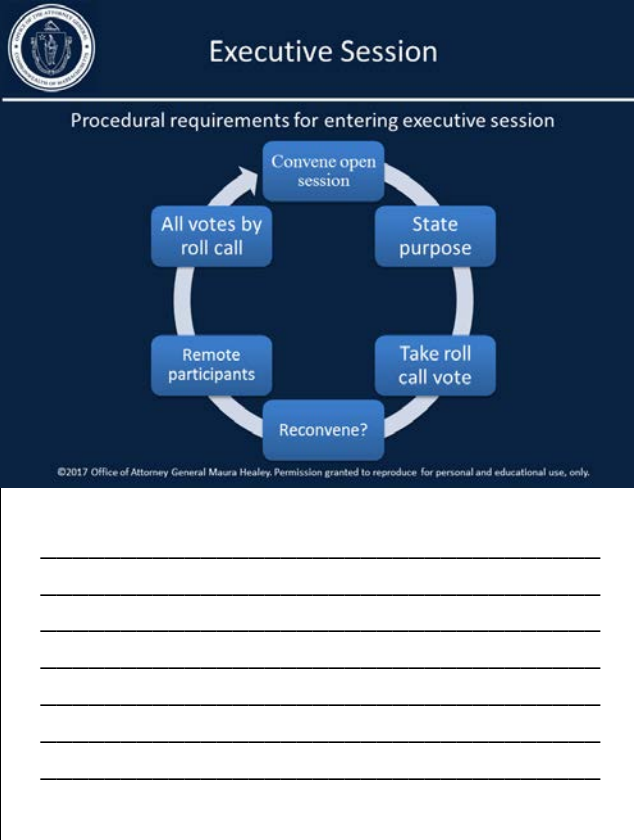
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- Public Participation
- Public may attend open session of meeting
  - Public may not address public body without permission of chair or otherwise disrupt meeting
  - Public may make audio or video recording of open session upon notification to chair and subject to reasonable requirements
  - Chair must inform other attendees of recording at beginning of meeting
  - If a person continues to disrupt a meeting after clear warning from the chair, 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 that person.

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**Executive Session**

Procedural requirements for entering executive session

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    graph TD
      A[Convene open session] --> B[State purpose]
      B --> C[Take roll call vote]
      C --> D[Reconvene?]
      D --> E[Remote participants]
      E --> F[All votes by roll call]
      F --> A
  
```

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- Executive Session Procedures
- Public bodies must follow OML requirements for executive session:
- Convene open session prior to going into executive session
  - State publicly the purpose(s) for the executive session
  - Conduct roll call vote to enter executive session and obtain a majority of members
  - Announce whether open session will reconvene after
  - Statement by remote participant(s) that no unauthorized person is present / able to hear discussion at remote location
  - Maintain minutes and documents
  - Discuss only matters for which executive session is lawfully called
  - Conduct roll call votes of all votes taken during executive session

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### 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.”



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### 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.”

If an executive session is held, such individual shall have the following rights:

- To be notified in writing at least 48 hours prior to the proposed executive session
- To request that the session be open
- To be present at such executive session during deliberations which involve that individual
- To have counsel or a representative present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session
- To speak on his or her own behalf
- To cause an independent record to be created by audio-recording or transcription, at the individual’s expense

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### 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.”



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### 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.”


- When discussing the contract of nonunion personnel, presumption that professional competence of the individual has already been discussed in open session
- When negotiating a non-union contract in executive session, if the public body reaches an agreement, it must still vote to execute the agreement in open session following executive session
- A public body should identify the specific nonunion personnel with whom it is negotiating before entering executive session, unless public disclosure of that information would compromise the purpose for secrecy
- While we generally defer to the judgment of public bodies on this issue, a body must be able to demonstrate a reasonable basis for this claim if challenged

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**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."



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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.”

- Chair must declare that deliberating during an open session would have a detrimental effect
- Litigation must be pending or be imminently threatened
- May approve final terms and execute a collective bargaining agreement in executive session; Should disclose in open session following execution
- A public body should identify the specific collective bargaining unit or litigation matter before entering executive session, unless public disclosure of that information would compromise the purpose for secrecy
  - While we generally defer to the judgment of public bodies on this issue, a body must be able to demonstrate a reasonable basis for this claim if challenged

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**Executive Session Purpose: 4 & 5**

4. Security personnel or devices



5. Criminal misconduct



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Executive Session Purposes 4 & 5

Purpose 4: Security personnel or devices  
Purpose 5: Criminal misconduct



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### 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."



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### 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.”

- Must be to consider purchase, sale, lease or value of real property
- Chair must declare that discussing during an open session would have a detrimental effect on negotiating position
- Generally, the body should identify the specific piece of property it plans to discuss before entering executive session, unless disclosure of this information would compromise the purpose for secrecy
  - While we generally defer to the judgment of public bodies on this issue, a body must be able to demonstrate a reasonable basis for this claim if challenged

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### Executive Session Purpose: 7

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



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### Executive Session Purpose 7

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

- Must cite a statute that requires confidentiality or closed session
- The body should disclose information unless public disclosure would compromise the purpose for secrecy
  - While we generally defer to the judgment of public bodies on this issue, a body must be able to demonstrate a reasonable basis for this claim if challenged

Slide 35.



### 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."



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### 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.”

- Preliminary screening committee cannot include a quorum of the public body; may include people who are not members of the public body
- May only interview/screen candidates during a preliminary screening in executive session; once there are finalists, all additional screening must be conducted in open session
- Chair must declare that an open meeting will have a detrimental effect in obtaining qualified applicants

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### 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



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### Executive Session Purposes 9 & 10

Purpose 9: To confer with a mediator on a litigation matter or other decision

Purpose 10: To protect trade secrets in the course of activities conducted by a public body as an energy supplier

Slide 37.



## Meeting Minutes

MEMORANDUM FOR THE BOARD OF SUPERVISORS  
 Municipal, Fiscal Year 1, 2017  
 1 Board of Supervisors, 2017

**Personnel:** Richard Tindley, Donald Thompson, and E. Sean Cronin

**Meeting Details:** Date: \_\_\_\_\_  
 Location: \_\_\_\_\_

**Agenda:**

1. Minutes of the meeting of 10/17/16 to be read and approved.
2. Chairman's Report: Mr. Tindley reported on his visit to the State House in the 10th district.
3. Executive Session: \_\_\_\_\_
4. Other Business: \_\_\_\_\_

**Minutes:**

The meeting was held at 7:00 PM in the Board Room of the Municipal Office. Mr. Tindley presided and Mr. Cronin acted as Secretary. The meeting was held in accordance with the provisions of the Massachusetts Open Meeting Law. The meeting was held in closed session for the purpose of discussing personnel matters.

**Decisions:**

1. Minutes of the meeting of 10/17/16 were read and approved. Mr. Tindley moved for the Board of Supervisors to approve the minutes of the meeting of 10/17/16. The motion was seconded and carried. Mr. Tindley announced that the minutes of the meeting of 10/17/16 would be made available to the public within 10 days of the meeting. Mr. Tindley announced that the minutes of the meeting of 10/17/16 would be made available to the public within 10 days of the meeting. Mr. Tindley announced that the minutes of the meeting of 10/17/16 would be made available to the public within 10 days of the meeting.

**Other Business:**

There was no other business brought forward for discussion. The meeting adjourned at 8:00 PM.

**Approved:** \_\_\_\_\_

Chair's signature: \_\_\_\_\_

Date approved: 11/13/16

- 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
  - List of documents and other exhibits used by the body at the meeting, including by remote participants

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### Meeting Minutes

- Minutes must state the date, time, place of the meeting, and list of members present or absent
- Minutes must also include:
  - A summary of discussion of each topic
  - Decisions made and actions taken, including a record of all votes - Secret ballots are explicitly prohibited
  - List of documents and other exhibits used by the body at the meeting, including by remote participants
  - Name(s) of any member who participated remotely

Slide 38.



## Meeting Minutes

Approving Minutes                      Upon Request

- 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
- 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

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### Meeting Minutes

- Meeting minutes shall be created and approved in a timely manner for both open and executive sessions
  - Approved within 3 meetings or 30 days, whichever is latest
  - 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
- Minutes of open session must be made available within 10 days of a request, whether in draft or final form
- Executive session records must be disclosed once publication will no longer defeat the purpose for having entered into executive session, unless exempt from disclosure
- Consult records retention schedules

Slide 39.

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.
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Executive Session Meeting Minutes

- Minutes must be reviewed periodically by the chair or public body to determine if the purpose for executive session remains; that determination must be announced during the next meeting and be included in the minutes
- Public body must respond within 10 days to a request for executive session minutes
- Provide minutes if no longer exempt from disclosure; or
- Undertake review at its next meeting or within 30 days, whichever comes first

Slide 40.

Document Used at a Meeting

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

But, the following materials are exempt from public disclosure:

**EVALUATION**

Outstanding

Excellent

Good

Average

Poor

Performance evaluations NOT created by members of the public body



Application materials, other than resumes

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Documents Used During an Open Meeting

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

However, exemption from disclosure are:

- Materials used in a performance evaluation of an individual bearing on his/her professional competence that were not created by members of the body for purposes of evaluation
- Materials used in deliberations about employment or appointment of individuals, including applications and supporting materials but excluding resumes, which must be disclosed

Slide 41.

OML Complaint Process: Step 1


- Complaint shall be filed in writing with the public body within 30 days of the alleged violation, or if it could not reasonably have been known at the time, then within 30 days of the date the complainant reasonably should have discovered the alleged violation
- Complaint Form, found at the Division of Open Government website, completed and sent to chair of public body
- For local public bodies, copy also filed with municipal clerk

Slide 42.

OML Complaint Process: Step 2

- Chair must disseminate the complaint to the members of the public body; the public body has 14 business days in which to meet to review the complaint and respond; must inform the complainant and the Division of Open Government of any remedial action taken
- May delegate responsibility for responding after public body review
  - Public body may request from the Director of the Division an extension of time to respond for good cause

Slide 43.



### 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

- 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

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OML Complaint Process: Step 3

- 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 of Open Government 30 days after the complaint is filed with the public body
- To be considered timely, complaints must be filed with the AGO within 90 days of the date of the original alleged violation
- The Attorney General's Office will not review allegations that were not raised in the initial complaint filed with the public body
- In most circumstances, complaints filed with the Attorney General's Office, and documents submitted with the complaint, are considered a public record

Slide 44.



### Complaint Process

The Division of Open Government



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graph TD
    A[Review complaint] --> B[Conduct investigation]
    B --> C[Finding]
    C --> D[Appeal]
  
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OML Complaint Process: AGO Review

- Step 4: Acknowledgment
- Step 5: Request for documents and interviews
- Step 6: Has there been a violation?
- Step 7: Was the violation intentional?
- Step 8: Was the action taken by the public body adequate?
- Step 9: Resolution
- Step 10: Public body appeal

Slide 45.



**Remedies**

Compel immediate and future compliance

Compel attendance at training

Public Records

Release minutes

Other appropriate relief

VOID

Nullify action

REINSTATE

Reinstate employee

\$1000 civil penalty

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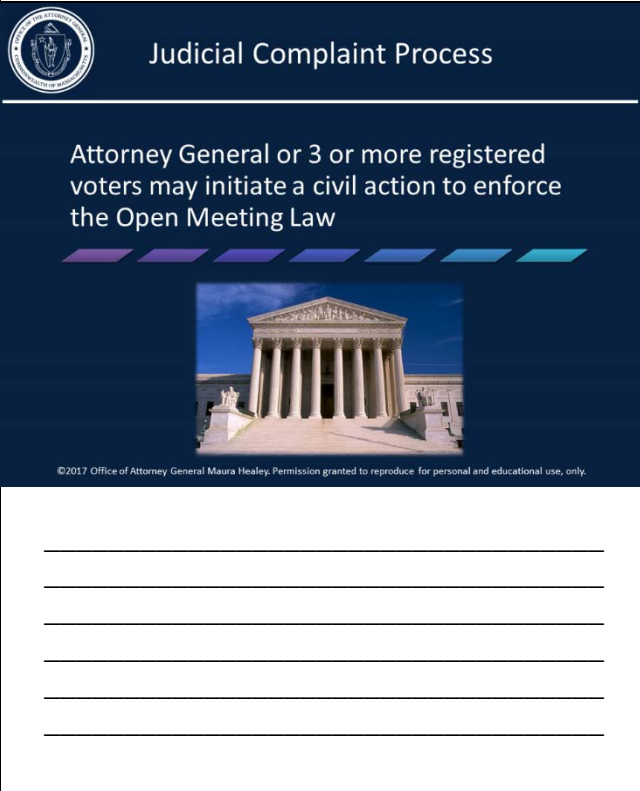
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Remedies


- Compel immediate and future compliance
- Compel attendance at training
- Compel public release of minutes or other materials
- Nullify any action taken in violation of the Open Meeting Law
- Reinstate an employee and make whole
- Impose a civil penalty of up to \$1,000 on a public body for each intentional violation
- Other appropriate relief

Slide 46.



**Judicial Complaint Process**

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



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Alternative Complaint Process

- Attorney General or 3 or more registered voters may initiate a civil action to enforce the Open Meeting Law
- Must file in Suffolk Superior Court for state public bodies
- For all other public bodies, must file in superior court in any county in which the public body acts or meets

Slide 47.

Review

- 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
- Public body member certification
- Complaint process

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Review

- 1) Notice must be posted for meetings
  - 48 hours in advance, except for emergency
  - Include date, time, place, and sufficiently detailed list of topics chair reasonably anticipates will be discussed
- 2) Meetings must be open to the public, unless public body enters executive session
  - Discussion must fit within one of 10 purposes for executive session
- 3) Minutes must be kept for open and executive sessions
  - Must include summary of discussion for each topic
  - Must contain a list of documents & exhibits used at the meeting
- 4) Public body member certification
- 5) Complaint process
  - Must be filed with public body first
  - Alternative complaint process in Superior Court

Slide 48.

Resources

Attorney General's Open Meeting Law Website  
<http://www.mass.gov/ago/openmeeting>

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

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Resources

- Attorney General's Open Meeting Law Website:
- <http://www.mass.gov/ago/openmeeting>
- Open Meeting Law: G.L. c. 30A, §§ 18-25
  - Regulations: 940 CMR 29.00
  - Guide
  - Checklists
  - FAQs
  - Determination Letters



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### Contact Information

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

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### Division Contact Info

Office of Attorney General  
Division of Open Government  
One Ashburton Place  
Boston, Massachusetts 02108

OML Email: [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us)

OML Hotline: (617) 963-2540

Slide  
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### Contact Us

www.mass.gov/ago  
617-727-2200



File a Complaint about an Unfair or Deceptive Trade Practice  
617-727-8400  
www.eform.ago.state.ma.us

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### Attorney General's Office Contact Info

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

Main Phone: 617-727-2200

Consumer hotline: 617-727-8400

File a consumer complaint:  
[www.eform.state.ma.us](http://www.eform.state.ma.us)

Slide 51.



## Resources

Have a Complaint or Question?

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**General Assistance**

Consumer Hotline: (617) 727-8400  
E-Complaint form: [www.eform.ago.state.ma.us](http://www.eform.ago.state.ma.us)

**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

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### AGO Resources

- Consumer Hotline: (617) 727-8400
- 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

Slide 52.



## Thank You from the Attorney General

**Attorney General**

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



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**Attorney General Maura Healey thanks you for attending today's presentation!**