

The Official Website of the Attorney General of Massachusetts

Attorney General Martha Coakley



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Attorney General's Open Meeting Law Guide

The AGO is pleased to offer this Guide to the Open Meeting Law for use in understanding the application of the law and the regulations to your situation. Keep in mind, however, that the Guide is not the Law or the Regulations. In the event of any conflict, the language in the Law and Regulations is controlling.

This Guide is written for the ease of every-day users for whom the provisions of the Open Meeting Law are important. We welcome comment on how this Guide may be improved from time to time. Please make sure you are referring to the latest which will be posted on this website.

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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.

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AGO Authority

The Open Meeting Law was revised as part of the 2009 Ethics Reform Bill, and now centralizes responsibility for state-wide 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 revised 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 takes 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.

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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 for violating it. The certification must be retained where the body maintains its official records. All public body members should familiarize themselves with the Open Meeting Law, Attorney General's regulations, and this Guide.

Where no term of office for a member of a public body is specified, the member must complete the Certificate of Receipt on a biannual basis by January 14 of a calendar year, beginning on January 14, 2011. Where a member's term of office began prior to July 1, 2010, and will not expire until after July 1, 2011, the member should have completed the Certificate of Receipt by January 14, 2011. In the event a Certificate has not yet been completed by a 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.

Click to download and print a copy of the [Certification Document](#) .

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Open Meeting 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, advisory opinions and orders can be found on the

Attorney General's Open Meeting website, <http://www.mass.gov/ago/openmeeting>. Local and state government officials, members of public bodies and the public are encouraged to visit the website regularly for updates, as well as to view additional Open Meeting Law materials.

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What meetings are covered by the Open Meeting Law?

With certain exceptions, all meetings of a public body must be open to the public. 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 members of a **public body**;
- 2) does the communication constitute a **deliberation**;
- 3) does the communication involve a matter within the body's **jurisdiction**; and
- 4) does the communication fall within an **exception** listed in the law.

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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 branches ¹ 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 are certainly subject to the Open Meeting Law, as are subcommittees of public bodies, regardless of whether their role is decision-making or advisory. Neither individual government officials, such as a mayor or police chief, nor members of their staff, are "public bodies" 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. Bodies appointed by a public official solely for the purpose of advising on a decision that the individual could make himself or herself are not public bodies subject to the Open Meeting Law. For example, a school superintendent appoints a four 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

¹ Although the Legislature itself is not a public body subject to the Open Meeting Law, certain legislative commissions are required to follow the Law's requirements.

² See *Connelly v. School Committee of Hanover*, 409 Mass. 232, 565 N.E.2d 449 (1991).

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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 and will generally 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. E-mail exchanges between or among a quorum of the members of a public body discussing matters within that body's jurisdiction may constitute deliberation, even if the sender of the email does not ask for a response from the recipients.

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 fewer 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 manner that seeks to evade the application of the law. Thus, in some circumstances, communications between two members of a public body, when taken together with other communications, may be a deliberation.

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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." But 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.

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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 cannot deliberate at such gatherings;
2. Members of a public body may attend a conference, training program or event; however, they cannot 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 cannot 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 are not subject to the Open Meeting Law. See G.L. c. 39, §§ 9, 10 (establishing procedures for Town Meeting).

For "quasi-judicial boards or commissions," the AGO interprets this exemption 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.

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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.

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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 sufficiently in advance of a public meeting 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 or on the municipal building in which the clerk's office is located. In the event that the 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 follow one of the alternative posting methods approved by the Attorney General in 940 CMR 29.03(2)(b):

- Public bodies may post notice of meetings on the municipal website;
- Public bodies may post notice of meetings on cable television, **AND**, post notice or provide cable television access in an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;
- Public bodies may post notice of meetings in a newspaper of general circulation in the municipality, **AND**, post notice or a copy of the newspaper containing the meeting notice at an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;
- Public bodies may place a computer monitor or electronic or physical bulletin board displaying meeting notices on or in a door, window, or near the entrance of the municipal building in which the clerk's office is located in such a manner as to be visible to the public from outside the building, or;
- Public bodies may provide an audio recording of meeting notices, available to the public by telephone at all hours.

If one of these alternative posting methods is used, the clerk of the municipality must inform the Division of Open Government of its notice posting method, and update the Division of any future change. All public bodies shall consistently use the most current notice posting method on file with the Division.

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What are the requirements for posting meeting 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. A copy of the notice shall 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 a meeting on the county public body's website. 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 file meeting notices by posting the notice 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 website address where notices will be posted, and of any subsequent changes to that posting location. A copy of the notice must also be sent to the Secretary of State's Regulations Division and should be forwarded to the Executive Office of Administration and Finance, which maintains a listing of state public body meetings.

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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 utilizes technology that 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.² The Attorney General's Disability Rights Project is available to answer questions about accessibility and may be reached at (617) 727-2200.

²The 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.

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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; and list the topics that, as of the time the notice is filed, the chair reasonably anticipates 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. While not required under the Open Meeting Law, public bodies are encouraged to make a revised list of topics to be discussed available to the public in advance of the meeting if the body intends to discuss topics that come up after posting but before the meeting convenes.

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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:

- 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, he or she must state at the start of the executive session that no other person is present and/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 and must take a roll call vote of all votes taken

and may only discuss matters for which the executive session was called.

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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 purposes 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, it appears that 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 on the part of an individual who is the subject of the discussion. The individual's right to choose to have this discussion in an open meeting 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;

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

While a public body may negotiate with nonunion personnel or conduct a collective bargaining session with a union in executive session, and may even agree on final contract terms in executive session, the public body must vote to approve or ratify any contract or collective bargaining agreement in open session before it can take effect.

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;

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 or specify 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: 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. Also, unlike Purpose 5, 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. 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;

Under this Purpose, as with the collective bargaining and litigation Purpose, an executive session may only be held 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.

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, however it may include 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 fewer 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 that has been provided under the following circumstances:

- a. 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 G.L. c. 164 § 1F;
- b. in the course of activities conducted as a municipal aggregator under G.L. c. 164 § 134; or
- c. in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to G.L. c. 164 § 136; and
- d. 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.

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May a member of the public body participate remotely?

The Attorney General's Regulations, 940 CMR 29.10, permit remote participation in certain circumstances. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. 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 the Open Meeting Law, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

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How can the practice of remote participation be adopted?

Remote participation may be used during a meeting of a public body if it has first been adopted by the chief executive officer of the municipality for local public bodies, the county commissioners for county public bodies, or by a majority vote of the public body for retirement boards, district, regional and state public bodies. The chief executive officer may be the board of selectmen, the city council, or the mayor, depending on the municipality. See G.L. c. 4, § 7.

If the chief executive officer in a municipality authorizes remote participation, that authorization must apply to all public bodies in the municipality. 940 CMR 29.10(2)(a). However, the chief executive officer determines the amount and source of payment for any costs associated with remote participation, and may decide to fund the practice only for certain public bodies. See 940 CMR 29.10(6)(e). In addition, the chief executive officer can authorize public bodies in that municipality to "opt out" of the practice altogether. See 940 CMR 29.10(8).

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What are the permissible reasons for remote participation?

Once remote participation is adopted, any member of a public body may participate remotely if the chair or, in the chair's absence, the person chairing the meeting, determines that one of the following factors makes the member's physical attendance unreasonably difficult:

- Personal illness;
- Personal disability;
- Emergency;
- Military service; or
- Geographic distance.

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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. Accommodations must be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications. Text messaging, instant messaging, email and web chat without audio are *not* acceptable methods of remote participation.

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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:

- A quorum of the body, including the chair or, in the chair's absence, the person chairing the meeting, must be physically present at the meeting location;
- Members of a public body who participate remotely and all persons present at the meeting location must be clearly audible to each other; and
- All votes taken during a meeting in which a member participates remotely must be by roll call vote.

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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, the chair must announce the name of any member who is participating remotely and which of the five reasons listed above requires that member's remote participation. The chair's statement does not need to contain any detail about the reason for the member's remote participation other than the section of the regulation that justifies it. This information must also be recorded in the meeting minutes.

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 and/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.

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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. Any member of the public also has a right to 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.

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 is not permitted to 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, and if the person does not leave, the chair may authorize a constable or other officer to remove the person.

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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, which must be created and approved in a timely manner, must state the date, time and place of the meeting, a list of the members present or absent, and the decisions made and actions taken including a record of all votes. Minutes must also include the name of any member who participated in the meeting remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. While the minutes must include a summary of the discussions on each subject, a transcript is not required. 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. In addition, the minutes must include a list of the documents and other exhibits used at the meeting. While public bodies are required to retain these records in accordance with records retention laws, the documents and exhibits listed in the minutes need not be attached to or physically stored with the minutes.

The minutes, documents and exhibits 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 and must be retained in accordance with the Secretary of State's record retention schedule. The State and Municipal Record Retention Schedules are available through the Secretary of State's website at: <http://www.sec.state.ma.us/arc/arcmu/rmuidx.htm>.

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Open Session Meeting Records

The Open Meeting Law requires public bodies to create and approve minutes in a timely manner. The law requires that existing minutes be made available to the public within 10 days upon 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 also to be made available to the public within 10 days upon 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 resume submitted by an applicant which is always 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.

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Executive Session Meeting Records

Public bodies are not required to disclose the minutes, notes or other materials used in an executive session where 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, minutes and other records from that executive session must be disclosed unless they are within an exemption to the Public Records Law, G.L. c. 4, § 7, cl. 26, or the attorney-client privilege applies. The public body is also required to periodically review the executive session minutes to determine whether continued non-disclosure is warranted, and such determination must be included in the minutes of the body's next meeting. A public body must respond to a request to inspect or copy executive session minutes within 10 days of request and promptly release the records if they are subject to disclosure. If the body has not performed a review to determine whether they are subject to disclosure, it must do so prior to its next meeting or within 30 days, whichever is sooner.

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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 take and investigate complaints, bring enforcement actions, issue advisory opinions, and issue 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, and will provide online and in-person trainings on the Open Meeting Law. The Division of Open Government will also respond to information requests 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.

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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 AGO website. 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 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 AGO. The public body may request additional information from the complainant. 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 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 AGO 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 AGO 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 AGO after the 30-day local review period has elapsed but before 90 days have passed since the date of the violation. When filing the complaint with the AGO, 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 remedial action taken by the public body. Complaints filed with the AGO are public records.

The AGO will review the complaint and any remedial action taken by the public body. The AGO may request additional information from both the complainant and the public body. The AGO 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 AGO may decline to investigate a complaint where more than 90 days have passed since the date of the alleged violation.

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Will the Attorney General's Office provide training on the Open Meeting Law?

The Open Meeting Law directs the AGO to create educational materials and provide training to public bodies to foster awareness of and compliance with the Open Meeting Law. The AGO has established an Open Meeting Law website, www.mass.gov/ago/openmeeting, on which government officials and members of public bodies can find the statute, regulations, FAQs, training materials, the Attorney General's determination letters resolving complaints, and other resources. The AGO will provide regional training for members of public bodies and will hold periodic online webinars.

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Contacting the Attorney General

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

Division of Open Government

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