




Open Meeting Law:
Balancing Government Transparency
with Government Efficiency

*Massachusetts Housing Partnership
December 18, 2024*

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**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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Certification

CERTIFICATION OF RECEIPT OF OPEN MEETING LAW MATERIALS

I, _____, who is qualified for the office of _____, hereby certify that I have received copies of the following Open Meeting Law materials:

1. The Open Meeting Law, G.L. c. 94A, §§ 1B-1D;
2. Regulations promulgated by the Attorney General under G.L. c. 94A, §§ 1B and 1D; and
3. Educational materials and guidance developed by the Attorney General under G.L. c. 94A, §§ 1B and 1D, including the Open Meeting Law and the Department of Public Safety's "Understand the Open Meeting Law" manual.

I have read and understood the requirements of the Open Meeting Law and the Department of Public Safety's "Understand the Open Meeting Law" manual, and I have a continuing obligation to implement and enforce the Open Meeting Law being by my office.

Attorney of Public Body

Date

Revised G.L. c. 94A, § 1B, § 1D, and related rules effective 12/18/2024. The Attorney General is not responsible for the content of any materials reproduced here. The Attorney General's Office is not responsible for the content of any materials reproduced here.

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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Open Meeting Law Basics

Notice of meetings must be posted

Meetings must be open to the public

Minutes must be kept

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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Is it a Public Body?

Within government, and not excluded from the Law's definition of "public body" AND A "body" empowered to act collectively AND Established to serve a public purpose


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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.”



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Meeting

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


Excludes:




Or-site Inspections




State Quasi-Judicial Boards



Town Meetings (Town Meeting)



Events



Attendance at Meetings of other Public Bodies

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Meetings That Aren't "Meetings"

There are many types of meetings that may not meet the definition of "meeting" for purposes of the Open Meeting Law.

- Abutters meetings with a developer
- Informational meetings facilitated by municipal staff
- Public presentations
- Community forums

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Meeting Notices

The image shows a sample meeting notice document with several callout boxes pointing to specific parts of the notice:

- Date of meeting**: Points to the date on the document.
- Time of meeting**: Points to the time listed in the notice.
- Place of meeting/Access information**: Points to the location and access details.
- List of topics reasonably anticipated**: Points to the agenda items.
- Date and time of notice posting**: Points to the date the notice was posted.

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Meeting Notices

Emergency Meeting

Unexpected

Requires immediate action

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Meeting Notices: Local Public Bodies

File with Municipal Clerk

Or


Bulletin Board

Municipal Website


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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: State Public Bodies



William Francis Galvin
Secretary of the Commonwealth of Massachusetts

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


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

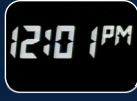
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Notice Posting: Common Concerns



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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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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Remote Access and Remote Participation


Temporary legislative provisions, in effect until March 31, 2025, suspend 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.



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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 individuals with disabilities


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

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Public Participation



- Public may attend open session
- Addressing the public body
- Recording/Informing
- Removal

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Remote Participation by the Public Body

Procedures for Remote Participation

- Notify chair
- Announcement
- Roll call votes
- Documents
- Executive session declaration
- Technology
- Technical difficulties

Until March 31, 2025:

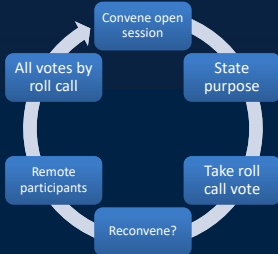
- No need to first "adopt" remote participation
- No requirement that a quorum or the chair be physically present

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Executive Session

Procedural requirements for entering executive session




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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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 Meeting Minutes



- 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

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 Meeting Minutes

<p><u>Approving Minutes</u></p> <ul style="list-style-type: none"> 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 <i>do not</i> need to be physically stored with the meeting minutes 	<p><u>Upon Request</u></p> <ul style="list-style-type: none"> 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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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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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


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Complaint Process


Step 1: The Complainant





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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

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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

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Complaint Process
The Division of Open Government

Review complaint

Conduct investigation

Finding & Remedies

Appeal

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Judicial Complaint Process

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

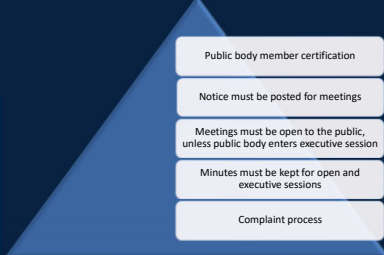



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Review



- 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

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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

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Contact Information

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

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Contact Us

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



File a Complaint with the Attorney General's Consumer Hotline
 617-727-8400

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