

Massachusetts Open Meeting Law

Q&A from Fostering Effective Public Engagement training – Spring 2024

1. What are the basics of the Open Meeting Law (OML)?

- a. Notice of meetings must be posted
- b. Meetings must be open to the public
- c. Minutes must be kept
- d. Complaint process

2. Do municipal board members need to understand the Open Meeting Law?

Members must sign certification within two weeks of receipt, indicating they have read and understand the requirements of the law and consequences for violating it, and have received and reviewed the Open Meeting Law Guidebook and last five years of OML determinations. All materials are on the Attorney General's Open Meeting Law website. If a member does not receive the materials from the municipal clerk upon appointment/election/qualification for office, they should nonetheless obtain the materials themselves and complete the certification.

3. What constitutes a “public body?”

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

4. Is the subcommittee rule applied regardless of the presence of a quorum from the “parent” public body?

Even a group that includes less than a quorum of the “parent” public body may be considered a subcommittee if it is a group created to advise or make recommendations to the parent body.

5. Does a meeting notice for a subcommittee need an agenda or only notice?

Subcommittees are public bodies and need to comply with every requirement of the Open Meeting Law that any other public body must comply with. So, Subcommittees do need to post full notice of their meetings, with a complete and sufficiently specific list of topics.

6. Do all meetings meet the definition of “meeting” for the purposes of the Open Meeting Law?

No, there are many types of meetings that may not be covered if they do not include deliberation by a quorum of the members of the public body, such as:

- a. Abutters meetings with a developer
- b. Informational meetings facilitated by municipal staff
- c. Public presentations
- d. Community forums



7. **Is OML violated if all committee members host an event to increase education, outreach and visibility with respect to matters within the board's jurisdiction?**

This type of public event is only considered a "meeting" under the Open Meeting Law if a quorum of the Committee members "deliberate." The fact that they host the event and are all present does not necessarily mean they are deliberating.

8. **What does "deliberate" mean under the Open Meeting Law?**

"Deliberate" means 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 the public body's jurisdiction.

9. **There is a resident advocacy group in our community that regularly discusses townwide policy. One town councilor is a leader in the group and two other town councilors often attend. Since there are potentially three town councilors at the meeting, is it subject to open meeting law?**

A quorum of town councilors should not engage in discussion on matters within the town council's jurisdiction outside of a posted town council meeting. In a situation like this it is hard to give a definitive answer because it depends on if/how the three are engaging in discussion among themselves and whether the three constitute a quorum.

10. **Do meetings have to be posted with the clerk, or can you simply post to the municipal website?**

Meeting notices for municipal public bodies need to be filed with the municipal clerk and available to the public in the municipal clerk's office during business hours. They also need to be posted on the municipal website (or bulletin board).

11. **Do technical difficulties that prevent the on-line portion of a meeting require a reschedule of the meeting?**

If a public body offers on the meeting notice multiple methods of meeting access, it should make every effort to ensure they all work. During the pandemic, when municipalities were adapting to new technologies and finding creative ways to expand access, the Attorney General's Office did not find violations of the Open Meeting Law when due to technical difficulties one of the posted access methods did not work but others did. The Attorney General's approach on this issue could change.

12. **What are the guidelines for conducting public meetings using Zoom? For instance, should the meeting be set up as a webinar where attendees can "raise their hand" to be given permission to speak?**

Because the Open Meeting Law requires that the public be able to access and follow the public body's meeting, but not necessarily actively participate, a webinar format is acceptable. Some public meetings may include hearings, governed by separate and additional laws and requirements, and may require an opportunity for active participation.