Open Meeting Law:
Balancing Government Transparency with Government Efficiency
Who: The Commonwealth

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

How: Four Major Ways this Work is Executed

- Investigation
- Enforcement
- Prevention
- Policy
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
- Consumer Protection
- Fair Labor
- Insurance and Financial Services
- Civil Rights
- CARD/HomeCorps
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.

**Central Massachusetts**
10 Mechanic Street
Worcester

**Western Massachusetts**
1350 Main Street
Springfield

**Boston**
One Ashburton Place
and
100 Cambridge Street

**Southeastern Massachusetts**
105 William Street
New Bedford
Purpose of Open Meeting Law (OML)

Government Accountability
Ensures transparency by public bodies by requiring:
• Notice
• Open Deliberations
• Public Access

Government Efficiency
Allows government to efficiently manage operations by:
• Providing for certain deliberations in executive session
• Maintaining confidentiality of certain records of executive session
Attorney General’s Role

- Divisions of Open Government
  - Educate public officials and public bodies
  - Promulgate regulations
  - Provide guidance on OML requirements
  - Make findings and bring enforcement actions
  - Investigate OML complaints
Certification

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
Open Meeting Law Basics

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

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

State Legislature
Massachusetts House of Representatives

Judicial Branch
Massachusetts Supreme Judicial Court

Not-for-Profit Organizations
The Greater Worcester Land Trust

Focus Groups

No Public Purpose

Constitutional Officers
Massachusetts Governor Charlie Baker

©2018 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.
Examples: Public Bodies

State:
- University of Massachusetts Board of Trustees

Local:
- Martha’s Vineyard Airport Commission
- Town of Brookline, MA Board of Selectmen

Regional:
- [Image of a regional meeting]
Examples: **NOT** Public Bodies

State:  

Regional:  

Local:  

- Algonquin Regional High School Boosters Club

©2018 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.
Quorum and Deliberation

“An oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.”
Deliberation

Not deliberation:

- Agenda
- Scheduling
- Reports or documents
- Subquorum, but not subcommittee
- Recess a Town Meeting for emergency
Meeting

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

Excludes:

- On-site Inspections
- State Quasi-Judicial Boards
- Town Meetings (Tewksbury Town Meeting)
- Events
- Attendance at Meetings of other Public Bodies
Meeting Notices

Mendon-Upton Regional School District

SCHOOL COMMITTEE MEETING AGENDA
Superintendent’s Conference Room – Miscoe Hill Middle School
November 2, 2015
7:00 pm

Call to Order
Pledge of Allegiance

7:02 pm
Approval of Agenda/Minutes
• Approval of Agenda
• Approval of Open Session Minutes - October 19, 2015

7:05 pm
Community Comments

7:10 pm
Student Comments

7:15 pm
Superintendent Comments
• Nipmuc 21st Century Learning Conference
• Multihazard Emergency Planning Training of 10/21–22
• FY16 Home Instruction Report

7:25 pm
Subcommittee Updates
• Budget Subcommittee
• Policy Subcommittee: First Reading of Revised Policy TKAA: Physical Restrict of Students & Policy ERC: Emergency Plans

7:40 pm
Old Business
• School Committee Goals for 2015-16

7:45 pm
New Business
• Spring 2015 MCAS Results
• Approval of Miscoe Hill Middle School Improvement Plan – Principal Ann Meyer

8:40 pm
Correspondence

8:42 pm
Other matters not anticipated by the Committee within 48 hours of the posted meeting

8:45 pm
Future Agenda Items
• MetroWest Adolescent Health Survey Results - November 16
• Nipmuc AP & SAT Results - November 16

8:45 pm
Roll call to executive session pursuant to (1) M.G.L. c.30A, Section 25(a), exemption #3, to discuss strategy with regard to collective bargaining with the Mendon-Upton Regional Teachers Association because doing so in open meeting would have a detrimental effect on the bargaining position of the Committee. (The Committee will not be returning to open session.)

The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law. Also, the timeframe for each topic is a rough guideline and may not be strictly adhered to.

©2018 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.
Meeting Notices

Emergency Meeting

Unexpected

Requires immediate action
Meeting Notices:
Local Public Bodies

File with Municipal Clerk

Bulletin Board  Or  Municipal Website
Meeting Notices: County, District and Regional Public Bodies

Hampshire Council Of Government
Board Of Councilors

Plymouth Board of County Commissioners

Amherst-Pelham Regional School Committee

©2018 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.
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

Send a copy of the meeting notice to the Regulations Division of the Secretary of the Commonwealth’s Office
regs@sec.state.ma.us
Notice Posting: Common Concerns

What if a new topic arises after notice is posted?

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

Cancelling a meeting?
Meeting Notices: Websites

Finding notices

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

Webpage outages

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

<table>
<thead>
<tr>
<th>Local Public Bodies</th>
<th>County Public Bodies</th>
<th>State/Regional Public Bodies</th>
</tr>
</thead>
<tbody>
<tr>
<td>• Mayor or board of selectmen approval</td>
<td>• County commissioners must authorize</td>
<td>• Simple majority vote</td>
</tr>
</tbody>
</table>

©2018 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.
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
Remote Participation

Procedures for Remote Participation

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

©2018 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.
Public Participation

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

Procedural requirements for entering executive session

1. Convene open session
2. Take roll call
3. Remote participants
4. State purpose
5. All votes by roll call
6. Take roll call vote
7. Reconvene?

©2018 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.
Executive Session Purpose: 1

“To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual.”
Executive Session Purpose: 2

“To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel.”
Executive Session Purpose: 3

“To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.”
Executive Session Purpose: 4 & 5

4. Security personnel or devices

5. Criminal misconduct
Executive Session Purpose: 6

“To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body.”

Wellfleet, MA

©2018 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.
Executive Session Purpose: 7

“To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements.”
Executive Session Purpose: 8

“To consider or interview applicants for employment or appointment by preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening.”
Executive Session Purposes 9 & 10

9. Confer with mediator on litigation or decision

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

- 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

**BOARD OF HEALTH MONTHLY MEETING**

- Present members: Richard Trifilo, Donald Tourigny, and E. Jane Crocker
- Absentee: None
- Health Director: Phil Leger
- Administrative Assistant: Diana Morrison

Meeting called to order at 6:00 p.m. by Chairman Trifilo

Chairman’s Report - Mr. Trifilo stated he will not be running in the May election.

Member’s Report -

- Review minutes of October 3, 2013 - Mr. Tourigny made the motion to accept minutes of the November 7 meeting, with one abstention. Add “a” to the word appear in the Emergency Call Down Response List under new business. Mr. Crocker seconded the motion, passing unanimously.

Old Business:

1. Budget Update - Mr. Leger presented the BOH the budget for FY'15 for approval. Mr. Leger further stated that the salary line items do include a 1.5% increase as well as a step raise for eligible employees to take effect on their anniversary date. With the exception of Animal Inspector Stipends at $1500.00 and Animal Inspector Expense at $500.00, the rest of the budget request is for level funding. There was a brief discussion of funding the needed repairs to Well 6 at the Lunenburg spring. Mr. Toussaint informed Mr. Leger that there is a funding source available from the Landfill Closure Account. Mr. Leger will speak to Sewer Department to see if possible to use their camera to scope Well 6. Mr. Toussaint motioned to accept the budget as presented and Mr. Crocker seconded the motion, passing unanimously.

2. Office Update - Ms. Morrison informed the BOH that the 40 hour work week has begun and going well. Ms. Morrison further stated that the barn inspections have progressed, with only three barns left for inspection. Mr. Leger informed the BOH that Dunkin Donuts construction is moving rapidly. The Asian restaurant still working on a solution for the grease trap. Beacon’s Pizza an East Templeton will be using an active grease trap.

3. Region 2 EP Coalition Update - Mr. Leger stated that the region had a facilitated meeting today regarding RIMCC functions. The drive is to centralize informational and resource coordination. Region 2 has already implemented some of the necessary changes needed. This also could mean less grant funding for hard goods.

4. IAPPIN Update - Mr. Leger informed the BOH that all 11 towns have signed the IMA making the grant writing an easier task as 11 towns in one network is impressive.

5. Housing Update - Mr. Leger stated that there were 2 housing cases this month both have been resolved and will be followed up.

New Business:

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

Other Business:

- **Adjournment:** A motion was made by Mr. Tourigny to adjourn at 7:29 p.m., seconded by Mr. Crocker. The motion passed unanimously.

©2018 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.
Meeting Minutes

Approving Minutes

• Latest of 3 meetings or 30 days
  BUT whenever possible, approve at the next meeting

• Documents and exhibits used by public body must be retained by the public body but do not need to be physically stored with the meeting minutes

Upon Request

• Open session minutes provided within 10 days of request
  – Whether in draft or approved form

• For all other records – Consult Supervisor of Records in the Secretary of State’s Office

©2018 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.
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. |

©2018 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.
Documents used by a public body during an open meeting are public records!

But, the following materials are exempt from public disclosure:

Performance evaluations NOT created by members of the public body

Application materials, other than resumes
Complaint Process

Step 1: The Complainant

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

Please note that all fields are required unless otherwise noted.

Your Contact Information:
First Name: __________________ Last Name: __________________
Address: ________________________________
City: __________________ State: ______ Zip Code: ______
Phone Number: __________________ Ext.: ______
Email: ________________________________
Organization or Media Affiliation (if any): __________________

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

Public Body that is the subject of this complaint:
- City/Town
- County
- Regional/District
- State

Name of Public Body (including city/town, county or region, if applicable): __________________
Specific person(s), if any, you allege committed the violation: __________________
Date of alleged violation: __________

Description of alleged violation:
Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.
Note: This text field has a maximum of 5000 characters.

What action do you want the public body to take in response to your complaint?
Note: This text field has a maximum of 500 characters.

Review, sign, and submit your complaint

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

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

3. Submit Your Complaint to the Public Body.
The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2340 or by email to openmeeting.state.ma.us.

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

Signed: ___________________________ Date: __________
For Use By Public Body: ___________________________ For Use By AGO: ___________________________
Data Received of: _______ Public Body: _______ Date Received by AGO: _______
Complaint Process
Step 2: The Public Body

Chair disseminates the complaint for response within 14 business days

May delegate responsibility for responding after public body review

Public body may request an extension of time to respond for good cause
Complaint Process
Step 3: The Attorney General’s Office

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

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

- The AGO will not review allegations that were not raised in the initial complaint filed with the public body.
- Complaints filed with the Attorney General’s Office, and documents submitted with the complaint, are considered a public record.
Complaint Process
The Division of Open Government

1. Review complaint
2. Conduct investigation
3. Finding
4. Appeal
A public body found in violation of the OML must certify to the Attorney General its compliance with a remedial order.
Attorney General or 3 or more registered voters may initiate a civil action to enforce the Open Meeting Law
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
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
Contact Information

Office of Attorney General
Division of Open Government
One Ashburton Place
Boston, Massachusetts 02108
openmeeting@state.ma.us
(617) 963-2540
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
Resources
Have a Complaint or Question?

General Assistance
Consumer Hotline: (617) 727-8400
E-Complaint form: 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

©2018 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.
Attorney General

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