



Town of Concord

Effective Governance Workshop

for Board and Committee Volunteers

Saturday, October 20, 2018



Effective Governance: Session 1

- Oath of Office
- Committee Handbook
- Legal Summaries & Resources
 - Ethics/Conflict of Interest Laws
 - Open Meeting Law
 - Public Records Law
- Questions



Oath of Office

I (state your name) promise to
Faithfully and Impartially perform
the duties of the office to which I
have been appointed.



Oath of Office

- Certifications within 2 weeks of taking the oath
 - Open Meeting Law
 - Acknowledgment of Receipt
 - Conflict of Interest Law
 - Acknowledgment of Receipt (annual requirement)
 - Certificate of online training (biennial requirement)



Committee Handbook

- Quick Overview
 1. Town Government
 2. Legal Issues
 3. Committee Procedures
 4. Appointment Policies and Procedures
 5. Miscellaneous Items
 6. Committee List and Descriptions
 7. Appendices
 1. Administrative Policies & Procedures
 2. Checklists
 3. Guidelines
 8. Legal Summaries
 1. Acknowledgments are the last two pages of the Handbook



Legal Summaries

Conflict of Interest Law

- **State Ethics Commission**
 - ✓ MGL Ch. 268A
 - ✓ Integrity in Government
 - ✓ Public Confidence in Government

Open Meeting Law

- **Attorney General's Division of Open Government**
 - ✓ MGL Ch. 30A §18-25
 - ✓ Provide a framework for government accountability through a lens of transparency
 - ✓ Provides public access to committee activities



Educate yourself on Conflict of Interest Law

- Review the educational material in your committee handbook
- Complete the online training
 - repeat every 2 years
- Submit the certificate and acknowledgment to the Town Clerk
- Consult Advisories/Read Enforcement Cases online



Categories of Conflicts of Interests

- **Solicitation or Acceptance of Gifts**
 - Quid pro Quo: Never
 - \$50 Rule (one-time or cumulative w/in a year)
- **Nepotism/Self-dealing**
 - Financial interest: you, immediate family, business affiliate
 - Negotiating for employment
 - Confidential information
- **Divided Loyalty**
 - Representing private interests before Town
 - Personal financial interest in public contracts
 - Second and subsequent jobs



Conflict of Interest Law is Complex: Recognize potential conflicts & GET ADVICE!

1. Call the Ethics Commission
"Attorney-of-the-Day:" (617) 371-
9500/(888) 485-4766
2. Make a request on line:
www.mass.gov/ethics
3. Send a Letter Requesting an
Informal Written Advisory Opinion



Ethics Commission: Stay informed

What would you like to do?

Top actions & services

[Online Conflict of Interest Law Training →](#)

[Financial Disclosure Law: Information about Statements of Financial Interests \(SFI\) →](#)

[Request Conflict of Interest Law Advice from the State Ethics Commission →](#)

More actions & services

[File a complaint with the State Ethics Commission →](#)

[Disclosure Forms - obtain a conflict of interest law disclosure form →](#)

[State Ethics Commission Education Services →](#)

[Educational Materials- Learn more about the conflict of interest law →](#)

[State Ethics Commission Laws, Regulations, Legal Opinions and Enforcement Decisions →](#)

[State Ethics Commission Public Information, Press Releases and Meeting Notices →](#)

<https://www.mass.gov/orgs/state-ethics-commission>



Legal Summaries

- Open Meeting Law
 - Acknowledgment
 - Law
 - Regulations
 - Guide
- Determinations of violations for your committee in the last five years



Open Meeting Law: Stay informed

What would you like to do?

Top tasks

[Search Open Meeting Law determinations →](#)

[Find pending Open Meeting Law complaints →](#)

All other tasks

[File an Open Meeting Law complaint →](#)

[Attend a regional or online training →](#)

[Complete public body member certification →](#)

Feedback

What you need to know

[Open Meeting Law Regulations, 940 CMR 29.01-29.11 →](#)

[Text of the Open Meeting Law →](#)

[Educational materials and newsletter →](#)

[Frequently asked questions →](#)

[Training videos →](#)

[Official notice posting locations →](#)

Feedback

<https://www.mass.gov/the-open-meeting-law>



Open Meeting Law: Training Videos

- Video 1: Introduction and Definition
- Video 2: Notice
- Video 3: Accessibility / Remote Participation / Public Participation
- Video 4: Executive Session
- Video 5: Minutes
- Video 6: Certification / Complaint process/Review/Resources/Contact

<https://www.mass.gov/the-open-meeting-law>



Definitions

- Public Body
 - A multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose
- Quorum
 - A simple majority of the members of the public body, unless otherwise provided in a general or special law or other provision
- Sub-quorum
 - Less than a quorum discussing something committee – related can communicate without posting notice and holding a meeting.
- Sub Committee
 - A multiple member group created by a formal action of a public body to do committee work



Definitions

- 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.
 - A social gathering is not public business
 - This training session is not public business within your jurisdiction
 - Taking a position on a motion that is amended on the floor of town meeting is deliberation for legislative purposes and does not fall under the Open Meeting Law.
 - Committee meetings to prepare for town meeting must be properly posted.



Definitions

- Deliberation
 - Exclusions
 - 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 sub-quorum if not subcommittee, and no serial communication
 - Discussion of a recess or continuance of a Town Meeting in the event of a weather-related or public safety emergency
 - Recent case law
 - Boelter v. Board of Selectmen of Wayland



Open Meeting Law Checklists

- Notice
 - townclerk@concordma.gov
- Entering Executive Session
 - roll call vote in open session
- Preliminary Screening Committee:
 - limited purpose with strict constraints
- Minutes



Minutes and Records Management

- Detail
- List documents
- Keep documents listed in minutes for 6 months
- Approve minutes without delay
- Share approved minutes
- Records Management Policy



Open Meeting Law Complaints

- Formal process
- Within 30 days
- To the Board/Committee
- 14 business days to respond
- Let your committee staff person or Town Clerk's Office know



Examples of Complaints

- Subcommittees not posted
- Email deliberations
- Postings not within 48 hours
- Agendas with too little detail
- Minutes didn't include enough detail
- Executive session minutes not released
- Discussion of items not on the agenda
- Refusal to allow someone to audio or videotape the meeting.



Open Meeting Law Contact Information

- The Town Staff person for YOUR committee
- Town Clerk's Office
 - Phone: 978-318-3080
 - Email: townclerk@concordma.gov
- Division of Open Government
 - Phone: 617-963-2540
 - Email: openmeeting@state.ma.us
 - Mail: Division of Open Government, Office of the Attorney General, One Ashburton Place, Boston, MA 02108
 - Website: www.mass.gov/ago/openmeeting



Public Records Law

- **Freedom of Information Act vs. Public Records Law**
 - FOIA is for federal records only
 - Public Records Law applies to local and state document
- **What is considered a Public Record?**
 - Emails, texts, etc.
 - A document received for the committee is part of the committee's official records and should be acknowledged.



Public Records Law and YOU

- **Email**

- Committee-related email, even if it's sent from your private email: Get town email for committee-related correspondence

- **Meeting notes**

- Notes taken by the Clerk of the committee are considered the official record of the meeting until minutes are created.

- **Material discussed or referred to at a meeting**

- Must be kept for a year and then subject to regular records retention schedule

- **Exemptions**

- Certain records are exempt from the public records law. It is up to the Custodian to state the exemption.



Public Records Requests

- **Manner of Request**
 - Any form of communication
 - Only written communication is may be appealed to the Supervisor of Public Records
- **Response timing**
 - Ten calendar days to respond to request; 25 day final deadline
 - Cost is 5 cents per page if copied or printed
 - Electronic records are encouraged
- **Exemptions**
 - There are many, but the claim must be valid
- **Failure to respond in a timely manner can be costly for the Town**
 - Appeal to Supervisor of Public Records
 - Cannot charge for request if response is late
- **Contact**
 - Staff member for your committee or
 - Town Clerk's Office



Committee Work

- **Formal**
 - Remember that committee business is public business
 - Committee charge is your mission
 - Advisory or Regulatory
- **Historical**
 - Committee records: minutes and reports are historical documents that will inform future generations of government actions
 - When a committee dissolves, the records need to be turned over to the Town Clerk
- **Essential**
 - Provides the basis for decisions that shape the community
- **Cooperative**
 - Work with appointing authority and Town staff



Thank you!