

TOWN OF CONCORD



Committee Handbook

Revised October 2018
Updated (Open Meeting Law Guide) October 2018

Committee Handbook

Introduction

This handbook has been designed to inform new and current committee members of the various laws, policies, and procedures that relate to committees in the Town of Concord. Included in this handbook are sections on organizing a meeting, financial matters, appointment procedures, legal issues, and committee descriptions.

Included in the appendix section is a listing of all of the Administrative Policies & Procedures (APPs). Copies of some of these APPs are also included in the appendix. Others are available in the Town Manager's Office and are available on the town's web site, both on the Town Manager's page and under the "Important Documents" section of the web site.

Legal Summaries that are required to be acknowledged by board and committee members within 2 weeks of taking the oath of office are included at the end of this manual.

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SECTION I

I. TOWN GOVERNMENT

- A. Legal Basis of Town Government
- B. History of the Charter of the Town of Concord
- C. The Concord Town Charter
- D. Notes on Charter Amendments

1. Legal Basis of Town Government

Town government's responsibility and authority in Massachusetts is based on the Constitution of the Commonwealth, enactments of the General Court, and interpretive decisions of the State courts. The powers and duties of many boards are outlined in enabling statutes (primarily Chapter 41 of the General Laws) and further defined in the Town's general bylaws.

The full text of the Massachusetts General Laws (referred to hereafter as MGL) can be found at the Concord Free Public Library. These volumes also contain abstracts of court decisions affecting the interpretation of the statutes. They are updated by quarterly pamphlets covering all volumes and cumulative annual "pocket parts" in the back cover of each volume. An electronic copy of the Massachusetts General Laws may also be found on the State's web site.

B. History of The Charter of The Town of Concord

On March 12, 1956, The Select Board-Manager form of government became effective in the Town of Concord. This was the result of a special act passed by the General Court in 1952*, which act was accepted by the Town of Concord at the annual Town election of 1955.

Although adopted in 1956, the Charter falls under the 1966 "Home Rule Amendment" (Article 89) of the Massachusetts State Constitution. This was made certain by a letter from the Commonwealth's Attorney General to the Concord Town Counsel, dated June 29, 1972. Amendments to the Charter may therefore be made according to the procedures defined by the Home Rule Amendment in its Section 9.

The Charter was amended by a special act passed by the General Court in 1973 ("An Act Providing for the Election of Persons to Fill Vacancies in the Membership of the Select Board of the Town of Concord") upon petition by the Town voted at the Town Meeting in October 1972.

It has also been amended by referendum vote. A list of these referenda is given at the end of Section II of this Charter, on page 14. They are referenced by number in the Charter text.

The contents of the special act of 1952, as amended, are set forth in this Section.

The document as a whole will be referred to as the "SELECT BOARD-MANAGER Charter," or simply as the "Charter."

*Passed by the General Court in 1952 (Acts 1952, Chapter 280);
Accepted by the Town of Concord at Town Election, March 7, 1955;
Effective 11:58 p.m., March 12, 1956.

See Also: Charter, Sec. 19

C. The Concord Town Charter

AN ACT ESTABLISHING A SELECT BOARD-MANAGER FORM OF GOVERNMENT FOR THE TOWN OF CONCORD

Be it enacted by the Senate and House of Representatives in General Court assembled, and by authority of the same, as follows:

SECTION 1. ELECTED OFFICIALS

At the town election following the acceptance of this act the registered voters of the town of Concord shall elect the following officials:

- A. A moderator for a term of one year;
- B. Two selectmen for terms of three years each, two selectmen for terms of two years each and one selectman for a term of one year;
- C. Two members of the school committee for terms of three years each, two members for terms of two years each, and one member for a term of one year. At each annual town election thereafter a moderator shall be elected for a term of one year and selectmen and members of the school committee for terms of three years to replace those whose terms expire. When a vacancy or vacancies occur in the membership of the Select Board, the Select Board shall call a special town election to fill the vacancy or vacancies for the unexpired term or terms, except that if such vacancy or vacancies occur less than one hundred days prior to the annual election and not less than three members of such board remain in office, the vacancy or vacancies shall remain unfilled until such annual election (See Note #1, Amendments). When a vacancy or vacancies occur in the membership of the school committee, the Select Board shall call a special town election to fill the vacancy or vacancies for the unexpired term or terms, except that if such vacancy or vacancies occur less than one hundred days prior to the annual election and not less than three members of such committee remain in office, the vacancy or vacancies shall remain unfilled until such annual election (See Note #2, Amendments). The powers, duties and responsibilities of elected officials shall be as now or hereafter provided by applicable statutes and bylaws and votes of the town, except as herein otherwise provided.

SECTION 2. APPOINTED OFFICIALS

- A. The Select Board shall appoint a town manager as provided in Section 5, who may thereafter be removed as provided in Section 7.
- B. The Select Board shall appoint a library committee, a planning board, a board of appeals, a town accountant, trustees of town donations, a personnel board, a public ceremonies and celebrations committee (see Note #3, Amendments), election officers, registrars of voters other than the town clerk and such other officers, boards and committees as they shall hereafter be directed to appoint by bylaw or vote of the town, and such temporary or ad hoc committees as in their judgment shall from time to time be necessary or desirable (see Note #3, Amendments). The Select Board may, by majority vote, undertake an investigation of the affairs of any committee, board or official appointed by them or by the town manager, and they shall have access to all records and other documents which they may deem necessary or desirable for this purpose. The Select Board may remove, after such hearing as The Select Board may deem

advisable, any of the officers, boards or committees appointed by them under the provisions of this paragraph B, or any member thereof, other than the town clerk.

The Select Board shall, at the respective times specified in clauses 1 and 2 herein and at intervals of not more than ten (10) years thereafter appoint the following special committees:

1. within one year after this paragraph takes effect, a committee for the purposes of reviewing and recodifying the existing zoning bylaw and revising the building code of the town; and
2. within one year after this paragraph takes effect, a committee for the purpose of reviewing and recodifying all other existing bylaws of the town.

(Clause 3 deleted. See Note #8, Amendments)

Within one year following its appointment, each such committee shall submit a report to The Select Board with specific recommendations for action to be taken to accomplish the purpose of such committee. (See Note #5, Amendments)

- C. The moderator shall appoint a finance committee and such other officers, boards and committees as he shall herein after be directed to appoint by bylaw or vote of the town.
- D. The town manager shall appoint, upon merit and fitness alone, and may remove for cause:
 1. a town clerk, a town treasurer, a town collector and a board of five assessors (see Note #7, Amendments), subject however, in each instance, to the approval of The Select Board;
 2. all other officers, boards, committees and employees of the town, with the exception of the elected officials specified in Section 1, officials, boards and committees appointed by the school committee and by The Select Board and moderator as herein before in this Section 2 provided and employees of the same.

SECTION 3. MEMBERSHIP; TERMS; POWERS, DUTIES, RESPONSIBILITIES; TERMINATION

The membership of boards and committees appointed as provided in Section 2, the length of the term of each member thereof and of officers so appointed, and the powers, duties and responsibilities of the same shall be as now or hereafter provided by applicable statutes and bylaws and votes of the town, except as herein otherwise provided. Upon appointment and qualification of the various officials as provided for in Section 2, the term of office and all powers and duties of each person theretofore holding each such office shall cease and be terminated.

SECTION 4. MULTIPLE OFFICERS

Neither the moderator nor any member of the Select Board, the school committee, or the finance committee may, during the term for which he was elected or appointed, be elected or appointed to any other town office, except as otherwise provided herein.

Any person appointed by the town manager to any town office under the provisions of this act or of any other statute of the Commonwealth shall be eligible during the term of said office to appointment to any other town office, except the town accountant shall not be eligible to hold the position of town treasurer or town collector. Subject to the approval of The Select Board, the town manager may assume the powers, duties, and responsibilities of any officer, board or committee which he is authorized to appoint, such assumption to be evidenced by and effective upon the filing with the town clerk of a written declaration of such assumption signed by the town manager, and thereupon each officer, board or committee whose powers, duties and responsibilities are so assumed by the town manager shall be discharged and shall have no further powers, duties or responsibilities as such.

SECTION 5. APPOINTMENT OF TOWN MANAGER

The Select Board elected as provided herein shall appoint, as soon as practicable, for a term of three years, a town manager who shall be a person especially fitted, in their opinion, by education, training and experience to perform the duties of the office. The town manager shall be appointed without regard to his political beliefs. No holder of elective office in the town shall within two years of holding of such office be eligible for appointment as town manager. The town manager may be appointed for successive terms of office. Before entering upon the duties of his office, he shall be sworn, in the presence of a majority of The Select Board, to the faithful and impartial performance thereof by the town clerk or by a justice of the peace or notary public. He shall execute a bond in favor of the town for the faithful performance of his duties in such sum and with such sureties as may be fixed or approved by The Select Board.

SECTION 6. APPOINTMENT OF A TEMPORARY TOWN MANAGER

In the event of the temporary absence or disability of the town manager, he may appoint, subject to the approval of The Select Board, a suitable person to perform the duties of the manager during such absence or disability. If the town manager fails to make such appointment or the person so appointed fails to serve, The Select Board may appoint a suitable person, who may be a selectman, to perform such duties. In the event of any vacancy in the office of town manager or the suspension of the town manager as hereinafter provided, The Select Board shall, within seven days, appoint the person to perform such duties.

SECTION 7. REMOVAL OF TOWN MANAGER

The Select Board may remove the town manager by the affirmative vote of at least three members of the board. At least thirty days before such proposed removal shall become effective, The Select Board shall file a preliminary written resolution with the town clerk setting forth the specific reasons for his proposed removal. The town clerk shall forthwith deliver a copy of such resolution to the town manager or mail the same to him by registered mail at his last known address. The manager may file with The Select Board, within seven days after receipt of such copy, a written request for a public hearing not earlier than ten days or later than twenty days after the filing of such request. After such public hearings, if any, otherwise at the expiration of thirty days following the filing of the preliminary resolution and after full consideration, The Select Board, by the affirmative vote of at least three members of the board may adopt a final resolution of removal. In the preliminary resolution, The Select Board may suspend the manager from duty, but shall in any case cause to be paid to him forthwith any unpaid balance of his salary for the then current month and, at the discretion of The Select Board, such additional amount not in excess of three months' salary, as The Select Board shall deem proper.

SECTION 8. COMPENSATION OF TOWN MANAGER

The town manager shall receive such compensation for all services performed by him as The Select Board shall determine, but it shall not exceed the amount appropriated therefor by the town.

SECTION 9. POWERS AND DUTIES OF TOWN MANAGER

In addition to specific powers and duties provided elsewhere in this act the town manager shall have the general powers and duties enumerated in this section:

- A. The town manager shall supervise and direct and shall be responsible for the efficient administration of all officers, boards and committees appointed by him and their respective departments.
- B. He may, with the approval of at least three of The Select Board, establish, combine, reorganize, or discontinue departments under his supervision; and, with the approval of both The Select Board and the finance committee, he may transfer all or part of the appropriation of a discontinued department to any other department, any balance not so transferred to be returned to the town treasury.
- C. With respect to the wage or salary and classification of employees appointed by the town manager, he shall be governed by the provisions of the "Wage and Salary Classification Plan - Town of Concord, Massachusetts", as the same may be amended from time to time and for so long as the same may remain in force.
- D. The town manager shall keep full and complete records of his office, and shall render as often as may be required by The Select Board a full report of all operations during the period reported on.
- E. With the exception of property under the jurisdiction of the school committee, the town manager shall have full and exclusive jurisdiction over the rental and use of all town property, and shall be responsible for the proper maintenance and repair thereof; and, upon request by the school committee, he shall be responsible for the maintenance and repair of property under its jurisdiction, but only to such extent and for such period as the school committee shall from time to time specify. He shall be responsible for the preparation of plans and the supervision of work on existing and on new buildings and grounds, unless a special committee of the town is created for such purpose.
- F. The town manager shall purchase all supplies and materials and equipment and award all contracts for all departments of the town, but he shall make purchases for departments not under his supervision only upon requisition duly authorized by the head of such department.
- G. The town manager shall administer either directly or through a person or persons appointed by him in accordance with this act all provisions of general and special laws applicable to the town and bylaws and votes of the town, within the scope of his duties, and all rules and regulations made by The Select Board.
- H. The town manager, subject to the approval of the Select Board, shall have authority to prosecute, defend and compromise all litigation to which the town is a party, and to employ counsel whenever in his judgment it may be necessary.

- I. The town manager shall perform such other duties consistent with his office as may be required by bylaw or vote of the town or by vote of The Select Board.

SECTION 10. INVESTIGATION BY TOWN MANAGER

The town manager may without notice cause the affairs of any committee, board, or official under his control or the conduct of any officer or employee thereof to be examined. The town manager shall have access to all town books and papers for information necessary for the performance of his duties.

SECTION 11. RELATIVE TO DUTIES OF BOARDS AND OFFICERS APPOINTED BY TOWN MANAGER

Except as otherwise herein provided, each committee, board and officer appointed by the town manager shall, in the performance of their duties, be subject to the general supervision and direction of the town manager. Such committees and boards shall promptly organize for the proper conduct of their respective offices. Each committee and board member and each officer appointed by the town manager shall hold office until his successor has been appointed and qualifies, unless his office shall have become vacant by reason of his resignation or removal.

SECTION 12. VACANCIES TO BE FILLED BY TOWN MANAGER

Any vacancy in an office or committee or board over which the town manager has power of appointment shall be filled by the town manager, as hereinbefore provided.

SECTION 13. OATH OF OFFICE OF TOWN OFFICIALS

All elected officials shall be sworn to the faithful performance of their respective duties by the town clerk or a justice of the peace or notary public, except that the town clerk shall be sworn to the faithful performance of his duties by the chairman of the Select Board or by a justice of the peace or notary public.

SECTION 14. WARRANTS

A copy of each warrant for the payment of town funds prepared by the town accountant shall be submitted to the town manager who shall make recommendation to The Select Board with respect to the approval or disapproval by them of each such warrant or of any item or items in any such warrant.

SECTION 15. RECEIPTS PAID TO TREASURY

Every official shall pay into the treasury of the town all amounts received by him on behalf of the town and all fees received by him in accordance with the provisions of any general or special law and shall make a full and true return thereof to the town accountant.

SECTION 16. ESTIMATES OF EXPENDITURES

Not less than 90 days before the annual town meeting each year (See Note #4, Amendments), the town manager shall submit to The Select Board a careful detailed estimate in writing of the probable expenditures of the town government for the ensuing fiscal year, stating the amount required to meet the interest and maturing bonds and notes or other outstanding indebtedness of the town, and showing specifically the amount necessary to be provided for each fund and department, together with a statement of the expenditures of the town for the same purposes in the two preceding

years and an estimate of the expenditures for the current year. He shall also submit a statement showing all revenues received by the town in the two preceding fiscal years together with an estimate of the receipts of the current year and an estimate of the amount of income from all sources of revenue exclusive of taxes upon property in the ensuing year. He shall report the probable amount required to be levied and raised by taxation to defray all expenses and liabilities of the town together with an estimate of the tax rate necessary to raise said amount. For the purpose of enabling the town manager to make up the annual estimates of expenditures, all boards, officers, and committees of the town shall, upon his written request, furnish all information in their possession and submit to him in writing a detailed estimate of the appropriations required for the efficient and proper conduct of their respective departments during the next fiscal year.

SECTION 17. ANNUAL BUDGET

The Select Board shall consider the tentative budget submitted by the town manager and make such recommendations relative thereto as they may deem expedient and proper in the interests of the town. Not less than 60 days before the annual town meeting each year The Select Board shall transmit a copy of the budget together with their recommendations relative thereto to each member of the finance committee. (See Note #6, Amendments)

SECTION 18. DUTIES OF CERTAIN TOWN OFFICIALS RELATIVE TO ELECTION

It shall be the duty of The Select Board and the town clerk in office and any other town official upon whom by reason of his office a duty devolves under the provisions of their act, when this act is accepted by the registered voters as herein provided, to comply with all the requirements of law relating to elections, to the end that all things may be done necessary for the nomination and election of the officers first to be elected under this act.

SECTION 19. SUBMISSION OF ACT AND TIME OF TAKING EFFECT

This act shall be submitted to the qualified voters of the town of Concord for acceptance at the first annual town election occurring not less than thirty days after the passage of this act. The vote shall be taken by ballot in answer to the question which shall be printed on the official ballot: "Shall an act passed by the General Court in the year nineteen hundred and fifty-two entitled 'AN ACT ESTABLISHING A SELECT BOARD-MANAGER FORM OF GOVERNMENT FOR THE TOWN OF CONCORD' be accepted?" If this act shall be so accepted by a majority of the qualified voters voting thereon it shall become and be in full force and effect immediately after the final adjournment of the annual town meeting held in the year following the year in which this act is so accepted, provided, however, that said annual town meeting shall be held in conformance with the provisions of this act. If this act is rejected by the qualified voters of the town of Concord when first submitted to said voters under this section, it shall be submitted for acceptance in like manner to such voters at the next following annual town election in said town, and if it is not accepted at said annual election, it shall again be submitted for acceptance in like manner to such voters at the next following annual election and, if accepted by a majority of such voters voting thereon at either of said elections, shall take effect as hereinbefore provided.

SECTION 20. BYLAWS, RULES, ETC.

All laws, bylaws, votes, rules and regulations in force in the town of Concord when this act takes effect, not inconsistent with its provisions, whether enacted by authority of the town or any other authority, shall continue in full force and effect until otherwise

provided by law, bylaw, or vote; all other laws, bylaws, votes, rules and regulations, so far as they refer to the town of Concord, are hereby repealed and annulled, but such repeal shall not revive any pre-existing enactment.

SECTION 21. REVOCATION OF ACCEPTANCE

At any time after the expiration of three years from the date on which this act is accepted, and not less than sixty days before the date of an annual meeting, a petition, signed by not less than twenty percent of the registered voters of the town, may be filed with The Select Board, requesting that the question of revoking the acceptance of this act be submitted to the voters at the next annual town meeting. At said election the question shall be printed on the official ballot: "Shall the acceptance by the town of Concord of an act passed by the General Court in the year nineteen hundred and fifty-two entitled 'AN ACT ESTABLISHING A SELECT BOARD-MANAGER FORM OF GOVERNMENT FOR THE TOWN OF CONCORD' be revoked?" If such revocation is favored by a majority of the qualified voters voting thereon, the acceptance of this act shall be revoked and this act shall become null and void beginning with the annual town meeting next following such vote, provided that all town officers holding office under this act shall continue to hold office until their successors have been duly qualified. At the first annual town election following such vote of revocation the registered voters of the town shall elect by ballot all elective officers, boards, and committees whose election to office was required immediately prior to the acceptance of this act, provided however, that the town does not vote to accept other plans which provide for a different arrangement from that existing immediately prior to the acceptance of this act. It shall be the duty of The Select Board and the town clerk in office and any other town official upon whom by reason of his office a duty devolves when this act is revoked, to comply with all of the requirements of this section relating to elections to the end that all things may be done necessary for the nomination and election of the officers required to be elected following the revocation of this act. The said revocation shall not affect any contract then existing or any action at law or any suit in equity or any other proceedings then pending, with the exception of any contract made by the town with the town manager then in office, whose contract shall be terminated immediately upon such vote, but who shall receive three months' compensation from the date following such vote. The Select Board shall be charged with all the powers and duties of the town manager which duties and responsibilities may be discharged by themselves or by a temporary town manager appointed by them. Any special laws relative to said town which are repealed by this act shall be revived by such revocation. All laws, bylaws, votes, and rules and regulations repealed and annulled, as provided in Section 20, shall be revived by such revocation. Bylaws, votes and rules and regulations in force when said revocation takes effect, so far as consistent with the general laws respecting town government and town officers and with special laws, shall not be affected thereby.

Approved in its original form May 5, 1952

D. Notes on Charter Amendments

1. Article 2, Town Meeting, October 10, 1972; passed by the General Court, Acts 1973, Chapter 179, (Section 1C amended – filling of vacancies on Select Board)
2. Article 3, Town Meeting, October 10, 1972; accepted by the Town of Concord at Town Election 1973, (Section 1C amended – filling of vacancy on School Committee)
3. Article 4, Town Meeting, October 10, 1972; accepted by the Town of Concord at Town Election 1973, (Section 2B amended – adding Public Ceremonies & Celebrations Committee and Ad Hoc Committees to those appointed by Selectmen)
4. Article 5, Town Meeting, October 10, 1972; accepted by the Town of Concord at Town Election 1973, (Section 16 amended – changed deadline for Town Manager’s budget submittal to Selectmen from December 1st to 90 days prior to Annual Town Meeting)
5. Article 18, Town Meeting, March 6, 1973; accepted by the Town of Concord at Town Election 1974, (Section 2B amended – added provision for Selectmen to appoint at intervals of not more than 10 years the following committees: Zoning Bylaw Recodification Committee, Town Bylaw Recodification Committee, and an advisory committee to Board of Assessors for revaluation of taxable properties)
6. Article 8, Town Meeting, May 6, 1974; accepted by the Town of Concord at Town Election 1975, (Section 17 amended – changed deadline for Selectmen’s transmittal of Town Manager’s budget to Finance Committee, with recommendations, from December 20th to 60 days prior to Annual Town Meeting)
7. Article 39, Town Meeting, April 4, 1978; accepted by the Town of Concord at Town Election 1979, (Section 2D amended – changed size of Board of Assessors from three to five)
8. Article 48, Town Meeting, April 9, 1984; accepted by the Town of Concord at Town Election 1985, (Section 2B amended – deleted provision for appointment of an advisory committee to Board of Assessors for revaluation of taxable properties)
9. Article 69, Town Meeting, May 8, 2003; passed by the General Court, Acts 2004, Chapter 347, September 16, 2004 (Section 5 amended – removed the requirement that the Town Manager be a resident of Concord)
10. Article 6, Town Meeting, April 12, 2015 (adding immediately before Section 1, “Preamble: The legislative body of the Town is an open town meeting, open to all registered voters of the Town.”); pending approval of the Legislature
11. Article 7, Town Meeting, April 12, 2015 (gender neutral language: changing words Board of Selectmen and Selectmen to Select Board); pending approval of the Legislature
12. Article 8, Town Meeting, April 12, 2015 (eliminate periodic review and revision of the Town Building Code and increase the number of days prior to town meeting within which to submit a petition to revoke acceptance of the charter); pending approval of the Legislature
13. Article 9, Town Meeting, April 12, 2015 (adding a provision for Deputy Moderator); pending approval of the Legislature

SECTION II

II. LEGAL ISSUES

- A. Utilization of Town Counsel
- B. Legal Review of Contract Documents
- C. Liability
- D. Open Meeting Law
- E. Conflict of Interest (Ethics) Law
- F. Acceptance of Gifts
- G. Application for and Acceptance of State and Federal Grants
- H. Public Records Law
- I. Use of Electronic Mail

II. LEGAL ISSUES

A. Utilization of Town Counsel

1. Town Counsel provides legal services to all Town departments and agencies. A committee/board must take a formal vote to request utilization of Town Counsel. After voting, the committee chair or assigned staff person to the committee must contact the Town Manager to receive authorization. The request must include the subject and probable duration of Counsel review.
2. Copies of correspondence to and from Town Counsel are to be provided to the Town Manager.
3. From time to time, the services of special legal counsel other than Town Counsel are called for. The utilization of such legal counsel, must be expressly authorized by the Town Manager in advance when the Town is, or may be responsible for associated expenses. When an employee utilizes private legal counsel in an action arising in the course of the employee's official duties with the Town (either as defendant or plaintiff), the Town Manager must be advised immediately in order to determine any necessary coordination with Town Counsel.

B. Legal Review of Contract Documents

All contract documents must be reviewed by the Finance Department. From the time that contracts are received by the Finance Department, applicants should be prepared to wait a minimum of seven days for review. In most instances, the contracts will be reviewed as soon as possible. Additional time may be required in order to allow sufficient time for a decision to be made on whether to refer the contract to Town Counsel and to allow Town Counsel sufficient time for review.

C. Liability

Prior to 1978, towns and town officers (including appointed members of town bodies) were protected by the doctrine of sovereign immunity from lawsuits based on actions taken within the scope of official duties. Part of that immunity was removed by a statute (Chapter 258, Section 1-13) that holds a town liable up to \$100,000 for certain negligent or wrongful acts or omissions by its officers or employees. In many cases there is no immunity for town officials or town employees but the law allows a municipality to indemnify its officials and employees from personal financial loss, including legal costs, resulting from a claim. The Town of Concord annually purchases various liability insurance policies to provide said coverage as allowed by law.

D. Open Meeting Law

The Open Meeting Law (MGL ch. 30A, sec. 18-25) ensures transparency by requiring public bodies to post notice of their meetings, conduct deliberations in public view, and provide public access to meetings and certain documents.

1. Meeting agendas must be posted with the Town Clerk's Office at least 48 hours in advance of the meeting (not including weekends or holidays). Agendas need to a list of particular items to be discuss, rather than general topics of discussion. Agendas may be emailed to townclerk@concordma.gov. See *Public Body Checklist for Posting a Meeting Notice*.
2. All meetings must be open and accessible to the public, unless the public body properly enters into an executive session. An executive session may be held for certain reasons and must first convene in open session with a roll call vote to enter executive session.
 - a. In order to convene a meeting a quorum (more than half of the number able to be appointed to the committee) must be present.
 - b. Remote participation is allowed, but not to create a quorum. (adopted by Select Board January 7, 2013)
3. Public bodies must maintain accurate minutes for all meetings, including both open and executive sessions. See *Public Body Checklist for Creating and Approving Meeting Minutes* and *Appendix A, Records Management Procedure*.
4. All members of public bodies must sign the Attorney General's certification form stating that they've received and read the Open Meeting Law, the Attorney General's regulations, and the Attorney General's Open Meeting Law Guide. All three of these documents are provided in the back of this Handbook.
5. Open Meeting Law complaints against a public body must first be filed with that public body who must respond. The complainant may then appeal to the Attorney General's Office, who will then investigate the complaint.
6. Definitions:
 - a. **Public Body:** "A multiple-member board, commission, committee or subcommittee, however elected, appointed or otherwise constituted, established to serve a public purpose ... and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body."
 - b. **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."
 - c. **Meeting:** "A deliberation by a public body with respect to any matter within the body's jurisdiction..."
 - i. "Meeting" does not include:
 1. An on-site inspection, so long as the members do not deliberate.
 2. Attendance at a social event, so long as the members do not deliberate.
 3. Attendance of a quorum at a meeting of another public body, communicating only by open participation on matters there under discussion and not privately among themselves.

The Division of Open Government provides guidance on the Open Meeting Law's requirements through a hotline that the public can call with questions: 617-963-2540 or email the Division at openmeeting@state.ma.us.

E. Conflict of Interest (Ethics) Law

The Conflict of Interest Law (MGL Ch. 268A) seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service.

On the job restrictions include: acceptance of bribes, gifts and gratuities in exchange for influence or because of your official position, misuse of position, self-dealing and nepotism, false claims, appearance of conflict, and improperly disclosing or personally using confidential information.

After hour restrictions include: taking a second paid job that conflicts with the duties of your municipal job; divided loyalties; and inside track opportunities.

After you leave your public office, you may never work for anyone other than the town on a matter that you worked on as a municipal employee; for one year after you leave your public office you may not participate in any matter over which you had official responsibility during your last two years of public service; Your partners will be subject to restrictions while you serve as a municipal employee and after your public service ends.

Definition: A "Municipal Employee" is anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full-and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law.

Annual requirement: Acknowledge receipt of the Summary of the Conflict of Interest Law

Biennial requirement: Complete online conflict of interest training. Certificate must be printed and forwarded to the Town Clerk's Office.

For questions and advice about how the conflict of interest law applies to you, please call the main number at (617) 371-9500 and ask for the Attorney of the Day, or you may electronically [request an Informal Written Opinion](#)

<http://www.mass.gov/ethics/about-the-commission/organization/the-legal-division/request-268a-advice.html>

Additional references: App #13: Standards of Conduct

F. Acceptance of Gifts

See the Appendix for a copy of Administrative Policy & Procedure #19 on this topic.

G. Applications for and Acceptance of State and Federal Grants

See the Appendix for a copy of Administrative Policy & Procedure #18 on this topic

H. Public Records Law

The Secretary of the Commonwealth has determined that all email messages and attached content sent in relation to your duties as a public official are public records (even if you are using personal email) unless qualified as an exemption under the Massachusetts Public Records Law.

The Massachusetts Public Records Law and its Regulations provide that each person has a right of access to public information. This right of access includes the right to inspect, copy or have copies of records provided upon the payment of a reasonable fee.

Definition: "Public Records" are broadly defined as all books, papers, maps, photographs, recorded tapes, financial statements, etc., made or received by any officer or employee of any government entity, to serve a public purpose.

For instance the (board/committee) clerk's meeting notes are considered public record until meeting minutes are drafted. Draft minutes are public record until final minutes are approved. Executive Session minutes are exempt from the public records law until they are approved for release.

There are 21 strictly and narrowly construed exemptions and common law privileges to the broad definition of "public records. These are listed in MGL ch. 4, sec. 7, clause 26.

Access to Public Records

See Appendix for Public Records Access Guidelines.

Fees

Pursuant to Commonwealth of Massachusetts State Regulation 950 CMF 32.06 the following fee schedule for copies of public records is in effect in the Town of Concord:

1. Photocopies and computer printouts - 5 cents per page (single or double-sided)
2. Computer printouts - 5 cents per page
3. The actual cost incurred may be charged for records not susceptible to ordinary means of reproduction, such as oversized documents.
4. If a search must be made to locate, pull from the files and re-file a requested record, a prorated fee based on the hourly rate of the lowest paid employee capable of performing the task may be assessed in addition to the copying fee.

Additional Resources

- "A Guide to the Mass. Public Records Law" published by the Secretary of the Commonwealth, updated January 2017 (available online: <https://www.sec.state.ma.us/pre/prepdf/guide.pdf>)
- 950 CMR 32.00 Public Records Access regulations
- Mass. General Laws Ch. 66, Sect.1
- MGL ch. 4, sec. 7, clause 26 - Exemptions

Access to Miscellaneous Documents and Records

The Select Board's/Town Manager's Office contains many files which can be viewed by committee members upon request. A variety of "Important Documents" are also maintained on the Town's web site.

Other documents, such as past minutes and reports of boards and committees are accessible through the Town Clerk's Office.

I. Use of Electronic Mail

See the Appendix for a copy of Administrative Policy & Procedure # 50 on this topic.

SECTION III

III. COMMITTEE PROCEDURES

- A. Powers and Duties
- B. Participation in Government
- C. Officers of Committees
- D. Minutes
- E. Deadlines
- F. Committee Meetings
- G. Notice of Meetings
- H. Meeting Notice and Agenda Posting
- I. Charge
- J. Goals
- K. References

III. COMMITTEE PROCEDURES

A. Powers and Duties

While all boards and committees appointed by the Moderator, The Select Board or Town Manager are an essential part of our Town government, the responsibility and authority of some are governed by statute, in addition to the committee charge. These include the Board of Appeals, Election Officers, Historic Districts Commission, Planning Board, Board of Registrars, Board of Assessors, Historical Commission, Natural Resources Commission, Council on Aging, Board of Health, Municipal Light Board, Public Works Commission, Recreation Commission, and Cemetery Committee. It is in the overall best interest of the Town for each such board or committee to function in a manner which is consistent with general policies coordinated or promulgated by the Select Board and/or Town Manager.

Other committees serve as advisors to the Town in the performance of their duties to the public, and have powers and duties as delegated to them in their individual charges. Such committees shall represent the Town in dealing with regional and State planning agencies to the extent requested by the appointing authority. When doing so, they should take positions which have been endorsed by the Town and they should keep Town officials fully informed concerning all such liaison activities.

B. Participation in Town Government

Effective Town government requires strong and informed citizen participation. The work of every board or committee is intertwined with that of others. To foster informed decision making, the Select Board believes it appropriate that every committee have as full representation as possible of its membership at the following regular governmental functions:

- Coordination meetings
- Finance Committee hearings on budgets
- Planning Board hearings on warrant articles
- Selectmen's hearings on warrant articles
- Town Meeting

The objective is not to enforce uniformity or adherence to a majority view, but to assure understanding of all issues relating to the work of the committee on which an individual serves, and of Town government in general. Broad participation is essential to maintenance of an open town meeting, which otherwise could be dominated by those having only a limited range of special interests.

C. Officers of Committees

Each committee should annually elect from among its members a chair and a clerk. Certain committees may also find it desirable to elect a Vice-Chair who can act in the absence of the Chair. In the case of new committees, or committees that have become inactive, The Select Board or Town Manager may appoint a Chair pro-tem to serve until the committee itself elects the Chair for the balance of the current year. Except in unusual circumstances, the Chair and the Clerk positions should rotate yearly among the committee membership. Annually, when the new Chairperson has been elected, a committee member should notify the Town Manager's Office of the new Chairperson.

The committee Chair or a designee should plan on attending the monthly chair breakfast. This meeting is held to update the chairs of other committees on the activities of their committee.

D. Minutes

All boards and committees must keep minutes of their proceedings, including sub-committees and task force committees. Minutes should be handled as described in Appendix A, Records Management Procedure. The minutes, including executive sessions, must contain detailed information. In addition to date, time, place and members present or absent, they must also include a summary of the discussion on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes. Documents and other exhibits, such as photographs, records or maps used by the body at an open or executive session are, along with the minutes, part of the official record of the session. For more guidance, please refer to the Public Body Checklist for Creating and Approving Meeting Minutes issued by the Division of Open Government: March 12, 2013.

Each board or committee must establish its own procedures for the approval and submission of its minutes to the Town Manager's Office on a timely basis. For committees which meet monthly or more frequently, the minutes shall be reviewed and approved not later than the next regular meeting following the one being reported. Committees which meet less frequently shall adopt a procedure which will ensure approval within one month of the original meeting date.

In most instances, committee minutes should be reviewed and approved within six weeks of the original meeting date. All committees with permanent staff assigned should submit a copy of approved minutes to the Select Board immediately upon approval. All other committees should submit a copy of approved minutes to the Town Clerk and Select Board.

Upon the dissolution of any committee, either by action of the appointing authority or pursuant to an expiration date provided in the committee charge, all records, documents, correspondence and files concerning the committee's work will be promptly turned over to the Town Clerk for transfer to the Library archives.

E. Deadlines

All committees should be cognizant of the following deadlines:

1. Budgets are prepared by department heads with committee review and input on matters relating to policy. The department head submits a proposed budget to the Town Manager.

2. All committees are required to write an annual report for use in the Annual Town Report. These are due in early January.
3. At least one Coordination Meeting is held in the fall. Representatives from all committees meet with the Town Manager and The Select Board to discuss items to be placed on the Warrant for Town Meeting, and to discuss other significant policies and projects. Although usually the Warrant does not technically close until early January, **committees that plan to submit a Warrant Article for Town Meeting should be prepared to discuss it at the Coordination Meeting in December. Draft Warrant Articles are due soon after the Coordination Meeting during the time the Warrant is open as established by The Select Board.**

F. Committee Meetings

A meeting of a committee occurs any time a quorum of 51% of the members of committee (or a subcommittee) get together to discuss or consider any public business or policy over which the committee has some jurisdiction or advisory authority. Meetings must be held in a handicapped accessible place which is open to the public. The Select Board urges committees to meet in a Town building.

A regular meeting time and location should be established. While the frequency of the meetings will depend on the nature and workload of the committee, most committees will meet at least once a month.

With the exception of executive sessions, all committee meetings, by law, are open to the public, including the press. Committees are expected to operate within both the letter and spirit of the law in this regard (e.g., public discussions should be audible and handouts made available whenever possible and feasible if they are integral to the discussion). The conditions under which a committee can go into executive session are explained in the Open Meeting Law.

G. Notice of Meetings

Notice of Meetings to Committee Members – All committee members should be notified in writing or by telephone of the date, time, and place scheduled for each meeting if the committee is meeting on an irregular basis or whenever a special meeting is called. Written notice of regularly scheduled or emergency meetings is not necessary.

H. Meeting Notice and Agenda Posting

Meeting notices and agendas must be accessible to the public at all hours, and the Attorney General's Office has determined that availability on the Town's website is sufficient for compliance. In Concord, meetings and agendas are posted by the Town Clerk on the Town House lobby bulletin board and on the Town's website.

Meeting notices must be posted 48 hours in advance of the meeting, with Saturdays, Sundays and Holidays EXCLUDED from the 48-hour count. So a Monday evening meeting needs to be posted (including an agenda) no later than Thursday. All meeting postings should be sent to the Town Clerk's Office electronically no later than **Noon on the required day** (so a Monday evening meeting should be posted by Noon on the previous Thursday; a Wednesday

evening meeting should be posted no later than Noon on the preceding Monday, etc.)

The Chair of every committee must prepare and **post electronically with the Town Clerk at least 48 hours in advance an meeting notice and agenda** which must include a listing of all topics which the chair or convener reasonably anticipates will be discussed. The list of items to be discussed should be in sufficient detail so that the subject can be identified (cannot just be “old business” and “new business”). Meeting agendas should be sent to the following e-mail address: townclerk@concordma.gov.

The notice that is forwarded to the Town Clerk’s Office must contain

- A. Name of the committee
- B. Date, day of the week, time and location of meeting, including name of Town building and room (if possible)
- C. List of all topics that the chair reasonably anticipates will be discussed at the meeting.

For more information, see Public Body Checklist for Posting a Meeting Notice in the Appendix.

I. Charge

All committee members will receive a copy of his/her committee's charge at the time of his/her appointment which explains the specific authority and responsibilities of that committee.

J. Goals

It is recommended that in May or June, committees should develop a plan of action which maps out how the committee is to meet its deadlines and to accomplish its goals as stated in its committee charge.

K. References

The Concord Free Public Library contains two books that describe parliamentary and committee procedures in detail: Sturgis Standard Code of Parliamentary Procedure by Alice Sturgis, and Roberts Rules of Order by Sarah Roberts. Committees are encouraged to consult these books if they have any procedural problems that cannot be resolved by other means.

SECTION IV

IV. APPOINTMENT POLICY & PROCEDURES

IV. APPOINTMENT POLICY AND PROCEDURES

This policy has been jointly adopted by the Select Board and Town Manager, and is intended to cover all committees, boards, commissions and task forces (each, a "Committee") appointed by the Town Manager and Selectmen (each, an "Appointing Authority"). This policy does not apply to Town employees.

A. General

It is also the policy of The Select Board and Town Manager to seek the best qualified persons to serve on each Committee. The Select Board and Town Manager will endeavor to develop a pool of persons interested in serving on each such Committee from at least the following sources:

1. Green cards on file
2. Personal knowledge
3. Recommendations from Town organizations or individuals
4. Suggestions from the Committee having a vacancy
5. Suggestion by prospective appointee(s)
6. Research of skills available in Town
7. Individual responses to publicity regarding vacancies (new green cards)

It is also the policy of the Select Board and Town Manager to enlarge the general pool of applicants through active solicitation of Town organizations and through publicity in the press and on community access television. The timing and extent of specific active solicitations shall be determined by the Appointing Authority based on its judgment as to appropriateness and need.

In accordance with the vote on Article 47 of the 1978 Annual Town Meeting, the Select Board and Town Manager shall make a special effort to seek out roughly equal numbers of women and men as candidates for appointments over which they have authority, and will make appointments in accordance with the Massachusetts Equal Rights Amendment which states, in part, that "Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin" and will not exclude candidates from appointment based on their sexual orientation.

See Appendix for APP #10: Committee Appointment Policy for additional information on Town Board, Committee, and Task Force Appointment Policies.

SECTION V

V. MISCELLANEOUS ITEMS

A. Committee Paperwork and Finance

1. Use of Clerical Staff
2. Management/Professional Staff
3. Stationery
4. Mailings
5. Photocopying
6. Use of Green Cards
7. Request for Services from Other Departments
8. Committee Finances

B. Telephone Procedures

1. Use of Town Telephones
2. Phone Messages
3. Emergencies
4. Telephone Directory Town & School

V. MISCELLANEOUS ITEMS

A. **Committee Paperwork and Finance**

1. Use of Clerical Staff

Each committee is responsible for its own clerical work. In some cases, arrangements can be made between a committee and the Town Manager for Town staff to undertake committee clerical work.

2. Management/Professional Staff

Several committees have responsibilities that are complex and of significant volume, and require support from management/professional staff. The department or division head liaison assists the committee with general meeting coordination, analysis of issues through research and written reports, and coordination of communications with other committees, town departments, and the Town Manager. The staff member may be responsible for compiling a budget, to be reviewed by the committee prior to submission to the Town Manager. The Town Manager provides general management, direction, and supervision to the staff member and his/her daily operations.

3. Stationery

Committee members may acquire stationery from the Town Manager's Office or from the clerical staff of the committee's staff liaison. Paper and envelopes with the Town logo are also available.

4. Mailings

Committees with no other staff support may bring envelopes to the Town Manager's Office so that they can be run through the postal meter machine. Committees are responsible for addressing these envelopes. For large mailings (those in excess of 300), arrangements may be made with the Town Manager to have labels printed by computer.

5. Photocopying

A photocopying machine is located on the second floor outside of the Town Manager's Office and is available for official committee use during business hours 8:30 AM - 4:30 PM Monday - Friday, to be scheduled with the Town Manager's or The Select Board's administrative staff.

6. Use of Green Cards

The Town maintains a file of over 200 green cards of information filled out by Concord residents who have expressed an interest in serving on a committee. The file is kept in The Select Board's/Town Manager's Office, and is available for use during business hours (8:30 AM – 4:30 PM Monday - Friday). Arrangements can be made for its use at other times.

The file is divided into two sections: "active" and "inactive." Committee members are encouraged to "recruit" Concord residents who may have special skills or interests that may be of use to the particular board or committee. Such people are encouraged to come to The Select Board's/Town Manager's Office and fill out a green card.

7. Request for Services from other Departments

Requests for services from other Town departments such as police, fire, public works, and finance should be made through the committee's staff liaison.

8. Committee Finances

A few committees have their own budget, but most committees do not. Instead, they use the budget of the department with which the committee is associated. All purchases are made for committees by the committee's staff liaison, with prior approval by the department head. The Town Manager's Office can make exceptions to this general practice, when necessary.

B. Telephone Procedures

1. Use of Town Telephones

The Select Board's Meeting Room and the Hearing Room at the Town House have telephones that may be used to make local calls or may be used during a committee meeting for a conference call. Long distance calls may only be made for committee business, and require the permission from the Town Manager's Office. In order to place an outside call it is necessary to press an available line key, dial "9" and then the number you are calling.

2. Phone Messages

People who call The Select Board's/Town Manager's Office requesting to get in touch with a committee member will be given the committee member's home phone number (as it appears on their green card). Business phone numbers will not be given out. Any committee member who prefers not to allow his/her phone number to be given out at all, or who would rather his/her office phone number to be given out should make such a notation on his/her green card.

3. Emergencies

In case of an emergency at a Town building, please notify the police/fire dispatch at 911. Personnel from the Water & Sewer Division of the Public Works Department are on call, as are Concord Municipal Light Plant staff, each through the Police Department.

Town of Concord

Telephone Numbers

AMBULANCE, FIRE AND POLICE EMERGENCY – 911

Call this Department:	For questions on:	Phone:
Assessing	Assessments, Abatements	318-3070
Board of Appeals	Zoning Appeals, Special Permits & Variances	318-3295
Board of Health	Health, Sanitation, Septic Permits/Title V	318-3275
Select Board	Committee Appointments; Alcoholic Beverage Licensing	318-3001
Building Inspector	Building Permits, Electric Permits, Plumbing & Gas Permits, Plot Plans, Home Occupation Permits, Zoning Enforcement	318-3280
CCTV	Local Public Access Television	369-5038
Comcast Cable (Westford)	Cable Television office - 4 Lyberty Way, Westford, MA	692-6500
Community Service Coordinator	Free service for residents providing information, referral or assistance for the following services: financial assistance, counseling, legal services, domestic violence resources, after school and camp support, employment, fuel assistance, parenting support groups	318-3034
Council on Aging	Senior Activities, Information & Transportation	318-3020
Fire Department	Routine Fire & Ambulance Business, Burning Permits	318-3488
Historic Districts Commission	Historic Districts	318-3299
Concord Housing Authority	Affordable, Subsidized & Elderly Housing	369-8435
Human Resources	Town Personnel Information & Job Openings	318-3025
Information Technology	Software, Hardware and Internet Technology	318-3171
Library	Main Library	318-3300
	Circulation Desk	318-3301
	Fowler Branch Library	318-3350
	Children's Services	318-3358
	Reference Services	318-3347
Light Plant	After Hours Emergencies	318-3400
	Electric Service & Operations	318-3101
	Electric, Water & Sewer Final Readings; Electric New Accounts	318-3154
Natural Resources	Conservation Land/Environment, Wetlands	318-3285
Planning & Land Management	Planning, Land Use, Zoning, Affordable Housing Lotteries	318-3290
Police	Routine Police Business	318-3400

Call this Department:	For questions on:	Phone:
Public Works	After Hours Emergencies	318-3400
	Administration	318-3206
	Cemeteries	318-3230
	Engineering/Road Permits	318-3210
	Highways/Snow & Ice Removal	318-3220
	Parks & Trees	318-3230
	Trash, Recycling & Yard Waste Information	318-3240
	Water & Sewer Operations (see Town Accountant for Billing)	318-3250
Recreation Department	Recreation Programs, After/Before School, Carousel, Terrific Tuesday, Hunt Gym	369-6460
	Beede Swim and Fitness Center	287-1000
Retirement Board	Town Retirement System Information/Benefits	318-3068
School Department	Ripley Administrative Offices/Superintendent's office	318-1500
	Alcott Elementary School	318-9544
	Thoreau Elementary School	318-1300
	Willard Elementary School	318-1340
	Peabody Middle School	318-1360
	Sanborn Middle School	318-1380
	Concord-Carlisle Regional High School	318-1400
	Concord-Carlisle Adult and Community Education Week days Week nights	318-1540 318-1432
Town Accountant	Accounting	318-3060
	Utility Billing (Light, Water, Sewer)	318-3062
	Water & Sewer New Accounts	318-3062
Town Clerk	Births, Deaths, Marriages; Dog Licenses; Business Certificates; Elections; Voter Registration	318-3080
Town Manager's Office	General Administration	318-3000
Treasurer/Collector	Ambulance Bills; Parking Tickets; Property & Excise Tax Bills; Trash Collection & Recycling Subscriptions; Electric, Water & Sewer Bill Payments	318-3050
Youth Services Coordinator	Assists with programs and services for youth and families	318-3043
Veterans Agent	Veterans' Information/Referrals/Benefits	318-3038

To find out if a public meeting has been cancelled visit the Town's web site at www.concordma.gov. Also visit the web site for a calendar of municipal events and meetings, and for general information about the Town.

SECTION VI

VI. COMMITTEE LIST

Below is a list of long-standing committees. Other short-term committees exist and are not listed online.

1. Agricultural Committee
2. Board of Appeals
3. Board of Assessors
4. Cemetery Committee
5. Community Preservation Committee
6. Comprehensive Sustainable Energy Committee
7. Concord Cable Television Advisory Committee
8. Concord Local Cultural Council
9. Conservation Restriction Stewardship Committee
10. Council on Aging Board
11. Disability Commission
12. Finance Committee
13. Financial Audit Advisory Committee
14. Hanscom Field Advisory Commission
15. HATS Hanscom Area Towns Committee
16. Board of Health
17. Historical Commission
18. Historic Districts Commission
19. Housing Authority
20. Hugh Cargill Trust Committee
21. Library Committee
22. Light Board
23. Local Option Local Income Tax Committee
24. MAGIC
25. MAPC
26. MBTA
27. Minuteman Regional High School Committee
28. Natural Resources Commission
29. Personnel Board
30. Planning Board
31. Public Ceremonies and Celebrations Committee
32. Public Works Commission
33. Records and Archives Committee
34. Recreation Commission
35. Board of Registrars
36. Retirement Board
37. School Committee
38. Select Board
39. Tax Fairness Committee
40. Tax Relief Committee
41. Trustees of Town Donations
42. West Concord Advisory Committee
43. White Pond Advisory Committee
44. Youth Coordinator Advisory Board

VI. COMMITTEE DESCRIPTIONS

The following is a brief description about each standing committee of the Town. A full copy of the Committee Charge/Administrative Code is available upon request from the Town Manager's Office.

1. Agricultural Committee – Consists of five residents of the Town appointed by the Select Board each for staggered five-year terms. The membership shall be as follows:
 - Three members who are engaged in farming representing farmer interests;
 - Two citizens at-large interested in promoting farmingThe purpose of the Committee is to provide a forum for the discussion of issues of interest and concern to farmers in Concord and to advise the Select Board concerning how the town can help to support farming in Concord.
2. Board of Appeals - Consists of three members appointed by The Select Board. There are also three associate members who serve on the Board when regular members cannot serve. The Board decides, upon appeal, the application of the zoning, subdivision, sign and building bylaws.
3. Board of Assessors - Consists of five members appointed by the Town Manager with Selectmen approval. The Assessors recommend an annual tax rate for the Select Board to vote and set, establish the valuation of all taxable real and personal property, observe and value all new construction and alterations of taxable real property.
4. Cemetery Committee - Consists of five members appointed by the Town Manager. The Committee is responsible for the operation of all town cemeteries and burial grounds and establishing policies and regulations for such.
5. Community Preservation Committee – Consists of nine voting members pursuant to MGL Chapter 44B. The Committee shall study the needs, possibilities and resources of the Town regarding disposition of community preservation funds.
6. Comprehensive Sustainable Energy Committee – Consists of up to nine members appointed by the Town Manager with the approval of the Select Board. The Committee will assist the Town to identify, design, and implement programs and projects fostering energy conservation, energy efficiency, and renewable energy generation, and to track and report on the financial and environmental impacts of such programs.
7. Concord Cable Television Advisory Committee - Consists of five members appointed by the Select Board. The Committee is charged with providing advice and assistance to the Select Board in monitoring compliance with the Cable Television License Agreement and other aspects of cable television service in Concord including the local access channels.
8. Concord Local Cultural Council - Consists of at least five and not more than twenty-two members appointed by The Select Board. The Council receives funds from the Massachusetts state lottery that have been earmarked for the Arts and distributes it along with other funds that the Council has raised to support the various Arts organizations in Concord. The Council also helps coordinate activities among these various Arts groups.

9. Conservation Restriction Stewardship Committee – Consists of seven members appointed by the Select Board. The Committee shall provide stewardship of the over 110 Conservation Restrictions that have been granted to the Town.
10. Council on Aging Board - Consists of nine members appointed by the Town Manager plus one member each from the Board of Health, School Committee, and the Recreation Commission. The Council on Aging Board provides guidance regarding policies, programs, and long range planning.
11. Disability Commission - The Town of Concord's Disability Commission was formed to promote the inclusion and integration of persons with all types of disabilities in the community. This includes but is not limited to social and recreational activities, services, employment, and enjoyment of the arts
12. Finance Committee - Consists of fifteen members appointed by the Moderator. The Finance Committee: 1) reviews all Articles for Town Meeting and coordinates Public Hearings that pertain to appropriations or expenditures of money or disposition of Town property, 2) reviews and approves or disapproves all transfers of money from the reserve fund, 3) establishes guidelines for budget increases to be considered in fiscal year planning, and 4) submits the budget with its recommendations to the Town as part of its annual report to Town Meeting.
13. Financial Audit Advisory Committee – Consists of six members appointed by the Chair of the Select Board: a current member of the Select Board, A current member of the Concord Public School Committee, a current member of the Concord Light Board, and three qualified citizens. Assists the Select Board and town and Concord Public School financial management officials in the organization, implementation and review of the annual examination of the town's financial reporting and control procedures and in the continuous review and improvement of fiscal accountability matters.
14. Hanscom Field Advisory Commission - One representative is chosen by The Select Board to be Concord's representative to the Hanscom Field Advisory Commission. The Commission consists of representatives from each of the Towns near Hanscom Field for the purpose of assuring that the interests of the Towns are articulated by evaluating plans of current and future operations at Hanscom Field.
15. HATS - (Hanscom Area Town Committee) - The membership of HATS consists of a selectmen from each member town, a Planning Board member and up to two members-at-large. HATS shall facilitate cooperation between the towns and all entities in the L.G. Hanscom Field area by addressing issues related to growth and development management policies as set forth in M.G.L. Chapter 40, Section 4(l).
16. Board of Health - Consists of five members appointed by the Town Manager. The Board is responsible for the overall stewardship of the public health of the Town. The responsibilities of the board are defined both by local bylaws and state law.
17. Historical Commission - Consists of five members plus two associate members appointed by the Town Manager with Selectmen approval. The Commission compiles and maintains inventories of historic areas, buildings, and other objects of historic significance to the Town.

18. Historic Districts Commission - Consists of five members plus five associate members all appointed by The Select Board. It is responsible for the preservation and protection of buildings, places, and districts of historic or literary significance in the Town.
19. Housing Authority - Consists of four members who are elected and a fifth member appointed by the Governor. The purpose of this committee is to foster the development and administration of an adequate supply of low and moderate income housing for Town residents.
20. Hugh Cargill Trust Committee - Consists of five members appointed by The Select Board. This Committee is established to actively assist the Select Board in receiving, investigating, and allocating merit to various applications for funds by Concord residents with temporary, emergency, financial needs. The source of these funds is the income from the Hugh Cargill Trust and various public and private donations.
21. Library Committee - Consists of seven members appointed by The Select Board for the purpose of: providing policy guidance to the Library Director, recommending policy and organizational methods to the Town Manager, and serving as liaison between the Library and governmental units, and private groups that relate to Library services.
22. Light Board - Consists of five members appointed by the Town Manager. The Town Manager, acting in the role of General Manager of the Light Plant, relies on the assistance of the Light Board to make recommendations concerning the general operations and maintenance of the Light Plant, and to formulate policy for ongoing operation and future development of electrical supply and the distribution system.
23. Local Option Local Income Tax Committee – Consists of up to nine members appointed by the Select Board. The purpose of the Committee is to secure enabling legislation to permit Massachusetts cities and towns to enact a local income tax to replace (entirely or) in part the residential property tax by working to amend the Articles in the Massachusetts Constitution that have been interpreted as preventing such a local tax. When enabling legislation is in place, the committee will secure a Town Meeting vote to enact the enabling legislation.
24. MAGIC - Minuteman Advisory Group on Interlocal Coordination is a regional planning agency. A member of the Select Board represents the Town of Concord.
25. MAPC - The Metropolitan Area Planning Council Representative is appointed by the Town Manager to represent the Town of Concord and its policies at M.A.P.C. meetings and to keep the Town Manager, Selectmen, and the Planning Board informed about major regional issues.
26. MBTA - The Massachusetts Bay Transportation Authority Advisory Board Representative is appointed by the Select Board to represent Concord and its policies in meetings of the M.B.T.A. Advisory Board, and to keep The Select Board informed about major issues involving the M.B.T.A.

27. Minuteman Regional High School Committee - The Concord representative is appointed by the Town Moderator. This school district provides vocational technical education to students from the region's sixteen towns.
28. Natural Resources Commission - Five members and two associate members appointed by the Town Manager. It is responsible for the overall stewardship of the natural resources of the Town, and the establishment of Town environmental policy in conjunction with The Select Board and Town Meeting. The Commission administers the Wetlands Protection Act and serves as the Conservation Commission and Town Forest Committee.
29. Personnel Board - Consists of five members appointed by The Select Board. It is responsible for the administration of the classification and compensation plans of the Town.
30. Planning Board - Consists of seven members appointed by The Select Board. It reviews all plans regarding the purchase of or construction on public land. It also investigates all petitions pertaining to zoning and, in accordance with the Zoning Bylaw, reviews and makes modifications to site plans for approval or disapproval.
31. Public Ceremonies and Celebrations Committee - Consists of seven members appointed by The Select Board. The committee is responsible, with the approval of the Select Board, to plan and implement public ceremonies to observe Patriots' Day, the historic events at Meriam's Corner, Memorial Day and Veterans' Day. In addition, the committee annually designates the Town's Honored Citizen.
32. Public Works Commission - Consists of five members appointed by the Town Manager. The Commission advises the Town Manager, the Public Works Director, and the Planning Board on issues pertaining to water, sewage, drainage, and roads and solid waste removal. It sets policy, adopts regulations and establishes fees for the water system, sewage and sewage disposal facilities, drainage facilities, roads, sidewalks, solid waste removal and recycling. The Commission also approves new road standards.
33. Records and Archives Committee - Consists of five members appointed by Selectmen to oversee maintenance, storage, etc. of the Town's records and memorable documents.
34. Recreation Commission - Consists of five members appointed by the Town Manager. The Commission provides policy guidance to the Recreation Director regarding programs, policies, operations, and long range planning; reviews the Recreation Department's budget, and sets user fees.
35. Board of Registrars - Consists of three members appointed by The Select Board. The committee's duties include: the annual listing of all persons in the Town who are 17 years of age or older; attending to the registration of voters; accepting nomination papers; certifying initiative or referendum petitions; and maintaining voting lists.
36. Retirement Board - The Retirement Board composition is as follows per MGL Chapter 30, Section 20(4). Five members chosen in the following manner: The Town accountant who shall be a member ex officio, a second member appointed by the Select Board, a third and fourth member shall be elected by the members in or retired from service of such system from among their number

in such manner and for such term, not exceeding three years, as the Select Board in the town shall determine, and a fifth member who shall not be an employee, a retiree, or official of the governmental unit and shall be chosen by the other four for a term of three years. The Retirement Board shall administer the contributory retirement system for public employees of the Town.

37. School Committees - Consists of five members elected by the Town to serve on the Concord Public School Committee and the Concord Carlisle Regional School Committee. There are also two Carlisle School Committee members who serve on the Concord Carlisle Regional School Committee. The Committee members act as public officers and not as agents of the Town. Committee members have no authority as individuals but shall have complete authority within the General Laws, over school affairs when they serve as a legal body.
38. Select Board - Consists of five elected members. The Select Board appoint the Town Manager and numerous other boards and committees. The Select Board also make recommendations for budget, approve town government organization, approve actions in litigation, serve as licensing authority on many matters, vote many rules and regulations, and issue Warrants for Town Meeting.
39. Tax Fairness Committee – Consists of up to seven members by the Select Board, and a majority of appointed members shall constitute a quorum. This committee provides a mechanism for thoughtful and public examination of the issues surrounding local taxation, including the fair allocation of property tax burdens, potential alternatives to the property tax, and the loss of economic diversity resulting from reliance on the residential property tax in the Town of Concord. The Committee will make recommendations as appropriate to the Select Board on issues of tax fairness
40. Tax Relief Committee – Consists of three members appointed by the Select Board. The Committee will solicit donations for Concord residents in need. The dissemination of the collected funds will be the responsibility of the Hugh Cargill Trust Committee. The Committee will educate the public and advertise the need for a fund throughout the year.
41. Trustees of Town Donations - Consists of five members appointed by The Select Board. The Trustees manage and dispense all real and personal property donated to the Town. They also hold title to any cemetery lot in perpetual trust as the exclusive burial place for any one designated in the instrument by which such title becomes vested in the trustees.
42. West Concord Advisory Committee – Consists of seven members appointed by the Planning Board. This committee provides a mechanism for thoughtful and public examination of the issues surrounding future development, growth, and improvement in West Concord Center as defined by the West Concord Village Center Master Plan of 2010.
43. White Pond Advisory Committee - Five members appointed by The Select Board to review and analyze the concerns of the White Pond neighborhood.
44. Youth Coordinator Advisory Board – The Board shall consist of seven voting members appointed by the Select Board, and up to two non-voting Associate members. The Board will work to improve the quality of life of Concord's school-aged young people who are under the age of 21.

SECTION VII

VII.1 APPENDICES

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APPENDIX A

Revised 10/12

ADMINISTRATIVE POLICIES & PROCEDURES

<u>APP #</u>	<u>SUBJECT</u>	<u>DATE</u>
1	Use of Town Property	10/99 Last Rev 09/12
2	Out-Of-State Travel	08/01 Last Rev 09/12
3	Departmental Deficits - Use of Reserve Fund	06/99 Last Rev
4	Reservation of Public Building Meeting Rooms; Open Doors - Town House	06/99 Last Rev 09/12
5	Municipal Grievance Procedures Relating to the Americans with Disabilities Act	07/97 Last Rev 09/12
6	Communications	06/99 Last Rev 09/12
7	Site Inspection Tours	06/99 Last Rev 09/12
8	Emergency Meeting Cancellations	06/99 Last Rev 09/12
9	Employee Conduct	06/99 Last Rev 09/12
10	Select Board Guidelines - Town Committee and Board Appointments	02/79 Rev 01/98 Last Rev 06/12
11	Closing of Town Buildings for Adverse Weather Conditions	06/99 Last Rev 09/12
12	Annual Town Report	09/99 Last Rev
13	Standards of Conduct	03/99 Last Rev 09/12
14	Utilization of Town Counsel: Legal Review of Contract Documents	06/99 Last Rev 09/12
15	Notification of White Pond Advisory Committee	06/99 Last Rev
16	Flag Lowering	06/99 Last Rev
17	Public Statements - Lawsuits	06/99 Last Rev 09/12
18	Application for and Acceptance of State and Federal Grants	06/99 Last Rev
19	Acceptance of Gifts	09-79 Last Rev 09/12
20	Citizen Requests to Distribute Literature	06/99 Last Rev 09/12
21	Reimbursement for Utilization of Private Automobiles	01/08 Last Rev
22	Storage of Inflammable Materials and Explosives	————
23	Building Move Procedures	06/99 Last Rev 09/12
24	Weapons	02/02 Last Rev 09/12

<u>APP #</u>	<u>SUBJECT</u>	<u>DATE</u>
25	Public Records Law	08/00 Last Rev 09/12
26	Names on War Memorials	01/03 Last Rev
27	Town Vehicle Use	06/99 Last Rev 09/12
28	Display of Merchandise on Town Sidewalks	06/99 Last Rev
29	Educational Assistance Policy and Addendum	06/99 Last Rev 10/09
30	Use of Cell Phones While at Work	01/05 Last Rev 09/12
31	Pole and Conduit Location	06/99 Last Rev
32	Use of Town Land By Community Groups	06/99 Last Rev 09/12
33	Selection of Consultants	06/94 Last Rev
34	Rental and Sale of Town Property	Last Rev 05/11
35	Prohibition of Smoking	08/04 Last Rev 09/12
36	Purchasing Addendum	03/83 11/85 Last Rev
37	Historic Districts Commission Authority Over Town Projects	09/83 Last Rev 09/12
38	Municipal Outdoor Lighting Policy and Guidelines	12/01 Last Rev
39	Application for Building Permit Small Lots Under the Grandfather Clause of MGL Chapter 40A S6.	07/84 Last Rev
40	Right-to-Know Law	06/99 Last Rev 09/12
41	Employment and Services for Disabled Persons	06/99 Last Rev
42	HIPAA Privacy Policy	02/05 Last Rev
43	Naming of Town Property	12/27/90 Last Rev 09/12
44	Designation of National Incident Management System Town's Incident Management Standard	03/17/06 Last Rev
45	Telephone Procedures, Policies & Guidelines	09/05/91 Last Rev
46	Rabies Control Plan	4/29/93 Last Rev
47	Seat Belt Law	2/25/94 Last Rev
48	Charitable and Political Sign Placement	04/07 Last Rev 11/16
49	Buy Recycled Policy	12/99 Last Rev
50	Use of Electronic Mail	11/98 Last Rev 10/12

<u>APP #</u>	<u>SUBJECT</u>	<u>DATE</u>
51	Use of Internet	11/98 Last Rev 10/12
52	Deployment and Use of Technology	04/00 Last Rev 10/12
53	Pay for Employees Activated for Military Duty	11/03 Last Rev 10/12
54	Decision Process for Land Acquisition	08/08 Last Rev
55	Web Content and Link Posting	06/09 Last Rev 10/12
56	Staff Provision of Records & Information	05/10 Last Rev
57	Workplace Violence	07/10 Last Rev
58	Equal Employment Opportunity – Statement of Policy	02/11 Last Rev
59	Energy Management Policy	06/11 Last Rev
60	Sustainable Municipal Practices	09/11 Last Rev
61	Remote Network Access	10/11 Last Rev
62	Social Media Policy	07/12 Last Rev
63	Fuel Efficient Vehicle Policy	10/21/2013

Town of Concord

APP # 19
Acceptance of Gifts

The acceptance of gifts is specifically governed by State Statute and Town Bylaw. This Administrative Policy-Procedure shall set forth the procedures for the acceptance of gifts.

I Funds

- A. Chapter 44, Section 53A of the General Laws provides:
1. For the acceptance of gifts or grants of funds by a Town officer or department (committee or board also) with the approval of the Select Board.
 2. For the deposit of the funds with the Town Treasurer.
 3. For the expenditure of funds for the specific purpose of the gift without further Town Meeting appropriation, subject to the approval of The Select Board.
- B. The only exception to the above provisions is gifts to the Cemetery Perpetual Care fund which are governed by Chapter 14, Section 25 of the General Laws (Gifts for Cemeteries), and a number of Special Acts/Town Bylaws governing the Trustees of Town Donations.
- C. Any employee or board member who receives a gift on behalf of the Town shall promptly deposit the gift with the Treasurer. If the gift is of a value of \$250 or more, written acknowledgment shall be provided by the Treasurer to the benefactor. The recipient shall also notify the Town Manager of the receipt of the gift.
- a. By vote of the Select Board on September 10, 1979, the Town Manager is authorized to accept gifts of funds up to \$500.
 - b. For gifts over \$500, a vote of the Select Board is required.
- D. No expenditure of the funds will be permitted until the Town Manager or Selectmen have accepted the gift, as appropriate.
- E. All expenditures from the funds will be made through the Town's standard purchasing and bill-payroll processing procedures.

II. Real and Personal Property

- A. The Town Bylaw approved under Article 41 of the 1977 Annual Town Meeting, provides "that the Town authorize the Town Manager or Treasurer to accept bequests, devises or gifts of property, both real and personal, or any interest therein, in the name of the Town, subject in each case to the approval of the Select Board, except as otherwise provided by law."
- B. The General Laws authorizing the establishment of the Natural Resources Commission (MGL Ch 40, 8C), and the Historical Commission (MGL Ch 40, 8D) authorize these

commissions to accept real and personal property subject to the approval of the Select Board. The Library Corporation, as separate from the Library Committee, and not a Town agency, is not covered by this policy-procedure.

- C. Any employee or board member who is offered a gift of real or personal property on behalf of the Town, and the Natural Resources Commission and Historical Commission, when they accept a gift of real or personal property on behalf of the Town, shall notify the Town Manager in writing.
 - a. By vote of the Select Board on September 10, 1979, the Town Manager is authorized to accept gifts of personal and real property, exclusive of land and buildings, with an estimated value of up to \$500.
 - b. Gifts of land and buildings, and property with an estimated value of over \$500, require a vote of the Select Board.

The employee or board member will be notified of the date and time of the agenda item in the event they wish to attend. The Treasurer will provide The Select Board with a listing of all such gifts received for acceptance.

The above Administrative Policy-Procedure governs gifts only, and not payments for services rendered; fines; fees; or replacement of damaged property.

Any questions in this regard should be forwarded to the Town Manager's Office.

Distribution: Department Heads
Board and Committee Chairpersons
Town Counsel

Town of Concord

APP # 18

Applications for and Acceptance of State and Federal Grants

The application for and acceptance of state and federal grants is governed by state and federal statutes. This Administrative Policy-Procedure shall set forth the procedures for the application and acceptance of all grants:

1. Applications for grants of state and federal funds must be signed by the Town Manager. A copy of the application and notification of any awards shall also be forwarded to the Town Accountant.
2. The Town Manager shall be notified as soon as an application is initiated.
3. After a grant has been awarded, the expenditure of funds in accordance with the grant will require the approval of the Select Board. The employee or board member will be notified of the date and time of the agenda item in the event they wish to attend.
4. All expenditures from grant funds shall be made utilizing the Town's standard purchasing and bill-payroll processing procedures.

cc: All Board and Committee Chairpersons
All Department Heads
Town Counsel

Town of Concord

APP #10

Town Board, Committee, and Task Force Appointment Policy

The Select Board and Town Manager have jointly adopted this policy concerning the appointment of members to Town boards, committees, and task forces. Please refer to this policy when considering or suggesting an individual for appointment to a Town board, committee, or task force.

Distribution: All Department Heads
All Committee, Board and Task Force Chairs
Town Clerk

I. General

This policy has been jointly adopted by the Select Board and Town Manager, and is intended to cover all committees, boards, commissions and task forces (each, a "Committee") appointed by the Town Manager and Selectmen (each, an "Appointing Authority"). This policy does not apply to Town employees.

II. Powers and Duties

Effective local government requires that all Committees respect the duties and responsibilities of other Committees and coordinate their activities to the greatest extent possible. It is in the overall best interest of the Town that each Committee carries out its responsibilities in a consistent and professional manner that is in harmony with the general policies promulgated by the Select Board.

The powers and duties of some Committees appointed by The Select Board or Town Manager are governed by State statute. These include: the Board of Appeals, Planning Board, Historic District Commission, Board of Health, Natural Resources Commission, and others. Once appointed by The Select Board or Town Manager, these Committees operate with a high degree of autonomy. However, it is in the best interests of the Town that these Committees be guided by the general policies promulgated by The Select Board to the extent possible.

Other Committees appointed by The Select Board or Town Manager serve as, among other things, advisors to The Select Board or Town Manager in the performance of their respective duties to the public. These Committees have the powers and duties delegated to them in their specific charges. Committees may be called upon to represent the Town in dealing with other local, regional, or State agencies to the extent requested by their Appointing Authority. When doing so, they shall take positions on all issues consistent with the views of the Select Board and Town Manager, and they shall keep their Appointing Authority fully informed concerning their activities.

III. Officers of Committees, Boards, and Task Forces

Each Committee shall annually elect from among its members a Chair and a Clerk. Certain Committees may also find it desirable to elect a Vice-Chair who may act in the absence of the Chair. In the case of new Committees, or Committees that have become inactive, the

Appointing Authority may appoint a chair pro-tem to serve until the Committee itself elects a Chair for the balance of the current year.

Except in unusual circumstances, the chairmanship and the clerkship should rotate yearly amongst the Committee membership.

IV. Open Meeting Law and Minutes

All Committees shall operate in accordance with the Open Meeting Law (MGL Ch. 39, sect. 23a- c) and shall keep minutes of their proceedings. Each Committee shall establish its own procedures for approval and submission of minutes to the Town House on a timely basis. Committees are strongly urged to prepare, review and approve minutes as expeditiously as possible in order to maximize the public's access to information concerning Committee activity. In most instances, Committee minutes should be reviewed and approved within six weeks of the original meeting date. All Committees shall submit electronically a copy of approved minutes to the Town Clerk and to the Select Board immediately upon approval.

Committees are reminded that "draft" copies of the Committee's minutes are considered a public record and must be made available to the public upon request, even when the Committee has not yet had the opportunity to review and adopt the minutes.

Upon the dissolution of any Committee, either by action of the Appointing Authority, or pursuant to an expiration date provided in the Committee's charge, all records, documents, correspondence and files concerning the Committee's work shall be promptly turned over to the Town Clerk for appropriate filing and archival storage.

V. Participation in Town Government

Effective Town government requires active and informed citizen participation. The work of every Committee is inter-dependent with that of others. To foster informed decision making in the Town, the Select Board and Town Manager believe it appropriate that every Committee have as full representation of its membership as possible at the following regular governmental functions:

- Town government Coordination Meetings (September & December)
- Finance Committee budget hearings
- Planning Board hearings on Town Meeting warrant articles
- Selectmen's hearings on Town Meeting warrant articles
- Town Meeting

The objective is not to enforce uniformity or adherence to a majority view, but to assure understanding of all issues relating to the work of the Committee on which an individual serves and an understanding of Town government in general. Broad participation is essential to maintain an open Town Meeting and to avoid domination by those having only a limited range of knowledge or special interests.

VI. Conflict of Interest

All Committee members are subject to the requirements of Massachusetts General Laws, Chapter 268A, Conduct of Public Employees. The statute covers:

- (a) Gifts or receipt of compensation or gratuities from anyone other than the Town
- (b) Offers or promises to influence official acts
- (c) Financial interest in contracts or other particular matters
- (d) Acting as agent or attorney before a Town Committee
- (e) Unfair advantage in relation to a particular matter

If a prospective Committee member has any question concerning a potential conflict of interest under MGL ch. 268A, the member shall raise the question in advance of appointment. Those members currently serving should discuss questions of conflict with the Committee chair and the Appointing Authority as soon as possible. The State Ethics Commission is a useful resource for information concerning the application of the law, and

Committee members are expected to follow guidance provided by the State Ethics Commission. Subject to review by the State Ethics Commission, the Appointing Authority will make the final determination concerning conflict of interest, with the assistance of Town Counsel as appropriate.

In addition, all Committee members must avoid the appearance of conflict of interest in all matters coming before the Committee. Committee members shall seek guidance from the State Ethics Commission as appropriate, and file with their Committee chair and the Appointing Authority written notice of facts potentially creating the appearance of a conflict of interest as required.

VII. Appointment Policy and Procedures

(a) General

It is the policy of The Select Board and Town Manager to seek the best qualified persons to serve on each Committee. The Select Board and Town Manager will endeavor to develop a pool of persons interested in serving on each such Committee from at least the following sources:

1. Green cards on file
2. Personal knowledge
3. Recommendations from Town organizations or individuals
4. Suggestions from the Committee having a vacancy
5. Suggestion by prospective appointee(s)
6. Research of skills available in Town
7. Individual responses to publicity regarding vacancies (new green cards)

It is the policy of the Select Board and Town Manager to enlarge the general pool of applicants through active solicitation of Town organizations and through publicity in the press and on community access television. The timing and extent of specific active solicitations shall be determined by the Appointing Authority based on its judgment as to appropriateness and need.

In accordance with the vote on Article 47 of the 1978 Annual Town Meeting, the Select Board and Town Manager shall make a special effort to seek out roughly equal numbers of women and men as candidates for appointments over which they have authority, and will make appointments in accordance with the Massachusetts Equal Rights Amendment which states, in part, that "Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin" and will not exclude candidates from appointment based on their sexual orientation.

(b) Term of Office

1. Unless otherwise prescribed by statute, Town Meeting vote, or specific Committee charge, three years shall be the standard term of office for Committee members.
2. Except as provided in section VII(c) below, those appointed to a three-year term as a full member of a Committee shall be limited to two (2) full consecutive terms.
3. Except as provided in section VII(c) below, those appointed to a full-member Committee term of five (5) years or longer shall be limited to one (1) full term.
4. A partial term to fill a vacancy shall not be considered to be a full term.
5. Before reappointment to a second term, the individual contribution of the member's value to the Committee and his or her attendance record shall be reviewed by the Committee chair. Attendance of less than 75% of all Committee meetings shall prejudice reappointment.

6. All terms, unless prescribed by statute, shall terminate at the end of the month following Town Meeting, or May 31st, whichever is later.
7. The terms of office on Committees shall be set on a staggered basis in the interest of fostering continuity of knowledge and experience on all Committees. The Appointing Authority shall determine the year in which a given term expires at the time of appointment.
Exception: *Ad hoc* committees appointed for a specific responsibility, at which time the charge to the Committee should include a specific time frame for submission of the Committee's final report and dissolution of the Committee.
8. With the consent of the Committee chair, a Committee member may take a leave of absence from Committee meetings and responsibilities not to exceed 90 days. For an absence longer than 90 days, the Committee member should resign and otherwise face removal under section VII(l) below.
9. Each Committee member shall hold office until his or her successor has been appointed and qualifies, unless his or her office shall become vacant by reason of resignation or removal.

(c) Appointments for Additional Terms

Members who have served a three-year term on the Records & Archives Committee may be re-appointed to additional terms indefinitely. For other Committees, the Appointing Authority may re-appoint a Committee member to serve one or more terms on the Committee beyond what is permitted under section VII(b) above where one or more of the following obtains:

1. Through service on the Committee, the member has developed extensive and valuable background knowledge and experience concerning specific matters before the Committee that are expected to be ongoing Committee matters in the future and which will be difficult adequately to pass on to new members.
2. A Committee member has skills and expertise, (such as an uncommon advanced degree in a field directly relevant to the Committee's charge) that make the member's continued service on the Committee of special value to the Town.
3. The departure of the member from the Committee will result in an absence of important institutional knowledge or know-how regarding the ongoing activities of the Committee that will not be furnished by other Committee members, such as where all members of the Committee would be new appointees if the member in question is not reappointed.

It is intended that re-appointments under this section VII(c) shall be rare. In each such case, the appointment shall specifically reference this section of this Appointment Policy.

(d) Dual Committee Appointments

In general, individuals shall be limited to service on only one Committee at a time, especially in the case of a statutory or regulatory Committee. Exceptions shall be made for instances in which, by law or specific Committee charge, a Committee member serves as a representative on another Committee (e.g. the Board of Health representative on the Council on Aging), or serves on a joint Committee formed from other Committees.

(e) Committee Transfers

In general, a member of one Committee shall only be considered for appointment to another Committee upon completion of the current Committee term of office.

(f) Eligibility for Appointment

All residents of the Town of Concord aged 18 and over are eligible for appointment, except the following:

1. Town employees whose service on a given Committee, in the judgment of the Appointing Authority, would create the appearance of a conflict of interest. Example: an employee of the Public Works Department should not be appointed to the Public

- Works Commission, but may, however, be appointed to the Council on Aging, Recreation Commission, or other Committee where appointment would not create an appearance of conflict.
2. The Town Manager, Concord Public School and CCRHS Administrators, and Town department heads (these individuals exert a significant influence over public policy by virtue of their positions, but may be eligible for ad hoc Committees where such representation is required by the charge).
 3. Elected Municipal Officials (Selectmen, School Committee members, Town Moderator, Housing Authority Commissioners), except that elected officials may serve on temporary, ad hoc Committees.
 4. Relatives, spouses, or business associates of existing Committee members whose appointment, in the judgment of the Appointing Authority, would create the appearance of a concentration of power or viewpoint or a conflict of interest.

(g) Criteria for Selection

Actual appointments from the pool of applicants shall be made by the Select Board and Town Manager on the basis of:

1. the level of applicant's interest in serving and interest in the work of the Committee;
2. the need for diversity on the Committee, taking into account the educational and professional background of the applicant, as well as the need for diversity among all committee members in terms of neighborhood representation, gender, age, and other demographic characteristics.
3. special skills needed by a particular Committee.

(h) Residency

In most instances, Committee members should be residents of the Town of Concord. There may be occasional exceptions when an individual's unique skill or experience supports the appointment of a non-resident and would be beneficial to the Committee's work; however, this should be relatively rare. Non-residents shall not be eligible for appointment to any Committee responsible for exercising statutory or regulatory authority.

In the event a Committee member becomes a resident of another community, the member or the Committee chair shall promptly notify the Appointing Authority. The Appointing Authority may, upon the request of the Committee chair, permit the non-resident member to continue to serve until the subsequent May 31, except in the case of statutory and regulatory Committees.

(i) Role of Committee in Appointments

Each Committee is expected to:

1. Encourage individuals to complete green cards
2. State the qualifications they are looking for in appointments
3. Make suggestions to the Appointing Authority on potential members

Committees may invite prospective members to attend meetings to familiarize themselves with the work of the Committee. Committees shall not make any representation to candidates concerning the likelihood of appointment nor provide their suggestions on candidates to the Appointing Authority with any rank order, nor take any vote with respect to candidates.

(j) Selection Procedures

1. The individual member and the Committee chair shall notify the Appointing Authority in writing as soon as a vacancy occurs.
2. A notice will be prepared for release to the press and for public posting pursuant to the 1996 Town Meeting vote under Article #12.

3. No action will be taken on a vacancy for at least two weeks after the announcement of the vacancy.
4. For Select Board appointments, nominations shall be made at one Board meeting, and formal action will not be taken until a subsequent Board meeting.
5. For Town Manager appointments that are approved by the Select Board, the request for appointment shall be made at one Board meeting, and action on the request shall be taken not later than the next Board meeting.
6. Except in unusual circumstances, the Appointing Authority shall endeavor to make appointments within two months of the announcement of a vacancy.

(k) Orientation Procedure

Upon appointment, all Committee members shall present themselves at the Town Clerk's office in order to take the oath of office. The Town will provide the new Committee member with an informational packet referred to as the "Committee Handbook" which shall include: a copy of the Committee charge or relevant administrative code, and copies of the Open Meeting, Public Records, and Conflict of Interest laws.

It shall be the responsibility of the Committee chair to provide for the orientation of new members to familiarize them with the work of the Committee, current projects, and Town government operations in general as they may impact the Committee's work.

(l) Removal from Committees

As provided in the Town Charter, the Select Board may remove, after such hearing as The Select Board deem advisable, any Committee members appointed by the Board. Further, the Town Manager may remove any Committee member appointed by the Town Manager for cause, with or without a hearing. "Cause" shall include the repeated failure to attend Committee meetings, the commission of an ethical violation (as found by the State Ethics Commission or a violation of the Open Meeting Law, as found by the Office of the Attorney General, if the Town Manager believes such action to be necessary to preserve public confidence in Town government.

VIII. Conflicts with Law

In case of a conflict between any provision of this Appointment Policy and the laws of The Commonwealth of Massachusetts or the Town Charter, Massachusetts law or the Town Charter, as the case may be, shall take precedence.

Effective Date: 1/31/79
Revised: 06/99
Sept. 2012

Town of Concord

APP # 8
Committee or Board Meeting Cancellations

In order to support a uniform procedure upon cancellation of committee or board meetings due to inclement weather or any other unforeseen event, outlined below is a procedure for notifying the public:

The decision to cancel a meeting is up to the individual committee or board.

The committee/board Chair and/or assigned staff person should notify the Town Clerk's Office of the cancellation or, if time allows, send written notice to the Town Clerk's Office. The Chair or staff person should arrange for posting of a cancellation notice on the front door or other visible location at the building where the meeting was to have taken place. Staff is encouraged to notify the public by other reasonable means, such as by telephone answering machine, posting on the Town web site, etc.

Any questions or comments in this regard should be addressed to either the Town Manager's Office or the Town Clerk's Office.

Distribution: All Department Heads
All Committee and Board Chairs

Public Body Checklist for Entering Into Executive Session

Issued by the Attorney General's Division of Open Government – March 12, 2013

- Executive session listed as a topic for discussion on meeting notice, including as much detail about the purpose for the executive session as possible without compromising the purpose for which it is called. See G.L. c. 30A, § 20(b); 940 CMR 29.03(1)(b).
- Public body convened in open session first. G.L. c. 30A, § 21(b)(1).
- Chair publicly announced the purpose for executive session, citing one or more of the 10 purposes found at G.L. c. 30A, § 21(a).
- Chair stated all subjects that may be revealed without compromising the purpose for which the executive session was called. G.L. c. 30A, § 21(b)(3). For example, the Chair identified the party a public body may be negotiating with or the litigation matter the public body will be discussing.
- Chair stated whether the public body will adjourn from the executive session, or will reconvene in open session after the executive session. G.L. c. 30A, § 21(b)(4).
- For Executive Session Purposes 3, 6, and 8:
 - Chair publicly stated the having the discussion in open session would have a detrimental effect on the public body's negotiating position, bargaining position, litigating position, or ability to obtain qualified applicants. G.L. c. 30A, §§ 21(a)(3), (6), (8).
- A majority of members of the body voted by roll-call to enter into executive session. G.L. c. 30A, § 21(b)(2).

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. Checklists are updated periodically, so please confirm that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at openmeeting@state.ma.us. For more information on the Open Meeting Law, please visit www.mass.gov/ago/openmeeting.

Public Body Checklist for Posting a Meeting Notice

Effective Date: 10/6/2017

Issued by the Attorney General's Division of Open Government – September 25, 2017

Notice Contents

- The notice contains the date, time, and location of the meeting. G.L. c. 30A, § 20(b).
- If the meeting is a joint meeting of several public bodies, the names of all bodies meeting are listed at the top of the notice.
- The notice contains all of the topics that the chair reasonably anticipates will be discussed at the meeting. The topics are sufficiently specific to reasonably advise the public of the issues to be discussed at the meeting, including executive session topics. G.L. c. 30A § 20(b); 940 CMR 29.03(1)(b).
- The notice is printed in a legible, easily understandable format. G.L. c. 30A, § 20(b).
- The date and time that the notice is posted is conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d). If the notice is amended within 48 hours of a meeting, not including Saturdays, Sundays, and legal holidays, then the date and time that the meeting notice is amended must also be conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d).

Notice Publication

- The notice is published at least 48 hours before the meeting, not including Saturdays, Sundays and legal holidays. G.L. c. 30A, § 20(b).
- The notice is posted with the proper authority:
 - Local public bodies – Filed with the municipal clerk, who must post it in a location conspicuously visible to the public at all hours in or on the municipal building where the clerk's office is located, or to the municipal website if adopted by the municipality as the official method of posting notices. G.L. c. 30A, § 20(c); 940 CMR 29.03.
 - State public bodies – Posted to a website, and a copy sent to the Secretary of State's Regulations Division. G.L. c. 30A, §20(c).
 - Regional public bodies – Posted in every municipality within the region, unless the public body has adopted an alternative notice posting method. G.L. c. 30A, § 20(c); 940 CMR 29.03.
 - County public bodies – Filed with the office of the county commissioners and a copy of the notice is publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose, unless the county has adopted its website as the official method for posting notices. G.L. c. 30A, § 20(c); 940 CMR 29.03.

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. These checklists are updated periodically, so please check that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at openmeeting@state.ma.us. For more information on the Open Meeting Law, please visit www.mass.gov/ago/openmeeting.

Public Body Checklist for Creating and Approving Meeting Minutes

Issued by the Attorney General's Division of Open Government – September 25, 2017

- Minutes must accurately set forth the date, time, place of the meeting, and a list of the members present or absent. G.L. c. 30A, § 22(a).
- Minutes must include an accurate summary of the discussion of each subject. See G.L. c. 30A, § 22(a). The summary does not need to be a transcript, but should provide enough detail so that a member of the public who did not attend the meeting could read the minutes and understand what occurred and how the public body arrived at its decisions.
- The minutes must include a record of all the decisions made and the actions taken at each meeting, including a record of all votes. G.L. c. 30A, § 22(a).
- The minutes must include a list of all of the documents and other exhibits used by the public body during the meeting. G.L. c. 30A, § 22(a). Documents and exhibits used at the meeting are part of the official record of the session, but do not need to be physically attached to the minutes. See G.L. c. 30A, §§ 22(d), (e).
- If one or more public body members participated remotely in the meeting, the minutes must include the name(s) of the individual(s) participating remotely. 940 CMR 29.10(7)(b).
- If one or more public body members participated remotely in the meeting, the minutes must record all votes as roll call votes. 940 CMR 29.10(7)(c).
- Executive session minutes must record all votes as roll call votes. G.L. c. 30A, § 22(b).
- The minutes must be approved in a timely manner. G.L. c. 30A, § 22(c). A “timely manner” will generally be considered to be within the next **three** public body meetings or within **30 days**, whichever is later, unless the public body can show good cause for further delay. 940 CMR 29.11(2).

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. Checklists are updated periodically, so please confirm that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at openmeeting@state.ma.us. For more information on the Open Meeting Law, please visit www.mass.gov/ago/openmeeting.

**Public Body Checklist for
Preliminary Screening Committees**

Issued by the Attorney General's Division of Open Government—March 10, 2017

Executive session Purpose 8, G.L. c. 30A, § 21(a)(8), permits a preliminary screening committee, often called a search committee, to enter executive session to consider or interview applicants for employment or appointment. This is a slightly different executive session purpose than the other nine, as it anticipates that a public body will create a subcommittee—the preliminary screening committee—for this purpose.

- The preliminary screening committee need not contain any members of the parent public body, but, if it does, it must contain less than a quorum. Other individuals may also be members of the preliminary screening committee.
- Before entering executive session, the chair must declare that an open meeting will have a detrimental effect in obtaining qualified candidates, and this statement should then be reflected in the meeting minutes. G.L. c. 30A, § 21(a)(8).
- The preliminary screening committee may perform the initial work of considering and interviewing applicants in executive session. Once there are finalists—meaning at least two individuals to proceed onto the next level of consideration—those finalists must be considered in open session. See OML 2016-105.
- The preliminary screening committee may not enter executive session to prepare questions to ask candidates. See OML 2016-105. Such discussions must occur in open session.
- The preliminary screening committee must create and approve minutes of all meetings, including executive sessions. G.L. c. 30A, § 22(a).

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. Checklists are updated periodically, so please confirm that you are using the most current version. For questions, please contact the Attorney General's Division of Open Government at 617-963-2540 or via email at openmeeting@state.ma.us. For more information on the Open Meeting Law, please visit www.mass.gov/ago/openmeeting.

Town of Concord

Public Records Access Guidelines

Effective January 1, 2017, the Massachusetts Public Records Law, G.L. c.66 and c.4, §7(26) provides that a municipality must, within 10 business days (Monday through Friday, excluding legal holidays), respond to a request for records by providing access to or a copy of such records, or explaining any delay or denial. These guidelines are intended to assist members of the public seeking access to public records in the custody of the Town of Concord.

General Information:

1. Business Hours. The regular business hours of the Town House are:
 - a. Regular Hours: Mon – Fri, 8:30a – 4:30p
 - b. Summer Hours 2017 (July 1 – Labor Day): Mon-Thurs, 8:00a – 5:00p; Fri, 8:00a – 12:00 noon

2. Records Access Officers. The Town Manager has designated each Department Head as an RAO:

Department/Committee	Name	Contact Information
Human Resources	Amy Foley, Director	22 Monument Square PO Box 535 Concord, MA 01742 Ph (978) 318-3025 Fax (978) 318-3024 afoley@concordma.gov
Finance Department <ul style="list-style-type: none"> • Accounting • Assessors • Collector • Payroll • Retirement • Treasurer 	Kerry Lafleur, Director	22 Monument Square PO Box 535 Concord, MA 01742 Ph (978) 318-3090 Fax (978) 318-3093 klafleur@concordma.gov
Fire Dept	Mark Cotreau, Chief	209 Walden Street Concord, MA 01742 Ph (978) 318-3488 Fax (978) 318-6697 Mcotreau@concordma.gov
Information Systems Technology	Mark Howell, Chief Information Officer	Ph (978) 318-3170 mhowell@concordma.gov
Libraries	Kerry Cronin, Library Director	Main Library: 129 Main Street Concord, MA 01742 Ph (978) 318-3300 Fax (978)-318-3344 kcronin@minlib.net
Municipal Light Plant	David Wood, Superintendent	1175 Elm Street Concord, MA 01742

		Ph (978) 318-3126 Fax (978) 318-3105 dwood@concordma.gov
Planning and Land Management <ul style="list-style-type: none"> • Building Inspections • Health • Natural Resources / Conservation • Planning/Zoning • 	Marcia Rasmussen, Director	141 Keyes Rd Concord, MA 01742 Ph (978)318-3290 Fax (978) 318-3281 mrasmussen@concordma.gov Regular Hours: 8:00a – 4:30p
Police Dept	Joseph O'Connor, Chief	219 Walden St Concord, MA 01742 Ph (978) 318 3400 Fax (978) 318-3480 joconnor@concordma.gov
Public Works <ul style="list-style-type: none"> • Cemetery • Engineering • GIS • Highway • Parks & Trees • Recycling & Trash billing • Water & Sewer 	Richard Reine, Director	133, 135 Keyes Rd Concord, MA 01742 Ph (978) 318-3200 Fax (978) 287-4762 rreine@concordma.gov
Schools	Laurie Hunter, Superintendent	120 Meriam Road Concord, MA 01742 Ph (978)-341-2490 x8112 Fax (978)-318-1537 lhunter@concordps.org
Town Clerk <ul style="list-style-type: none"> • All other inquiries 	Kaari Mai Tari, Town Clerk	22 Monument Square PO Box 535 Concord, MA 01742 Ph (978) 318-3080 townclerk@concordma.gov
Town Manager's Office <ul style="list-style-type: none"> • Beede Swim & Fitness Center • Community Services Coordinator • Council on Aging • Recreation Dept • Veterans Services 	Kate Hodges, Assistant Town Manager	22 Monument Square PO Box 535 Concord, MA 01742 Ph (978) 318-3000 Fax (978) 318-3002 khodges@concordma.gov

Records Access Officers are available to answer questions concerning and help facilitate the making of public records requests. Contact information for RAOs is also posted on the Town's website at <http://www.concordma.gov/520/Public-Records-Law> and at public offices.

3. Public Records Law Information. General information about the public records law and public records requests is found in the Secretary of the Commonwealth's, "A Guide to the

Making Public Records Requests:

4. Public Records Requests. Any person may make a public records request:
 - (a) In person at the department's office as listed above;
 - (b) By first class mail addressed to the RAO at the RAO's business address set forth above;
 - (c) By facsimile addressed to the RAO at the business facsimile number set forth above; or
 - (d) By e-mail addressed to the RAO at the e-mail address set forth above.
5. Requests Encouraged to be in Writing. Although not required, it is strongly encouraged that public records requests be in writing to ensure the most efficient and accurate response. All written public records requests, including via email and facsimile, shall be addressed/directed to an RAO, and contain the requester's name and contact information, so that the RAO is able to provide the required response.
6. Contact Information. Individuals making in-person requests will not be requested or required to give their names or contact information. For in-person requests that require additional time for a comprehensive response, requesters will be advised to check in periodically with the RAO or department from which records are sought, or requesters may voluntarily provide contact information. Voluntary Public Records Request Forms shall be available in all municipal offices.
7. Specificity of Requests. To facilitate timely responses to public records requests, requests should be as specific as possible, detailing, if known, records custodian(s), and date and subject matter parameters. The more specific the request, the better able the Town will be to respond, as broad requests often require more extensive staff efforts to locate, review and copy all possibly responsive records.
8. Receipt of Requests. Written requests received during normal business hours, as defined in paragraph 1, above, will be considered received on that date. Written requests sent via email or facsimile after normal business hours shall not be considered received until the following business day. Business days shall not include Saturdays, Sundays, and legal holidays.
9. Purpose of Request. The RAO will not ask a requester to identify the purpose of the request, but may ask for more information to assist the requester to make an appropriate request and/or to enable the RAO to respond more efficiently.

Responses to Public Records Requests:

10. Fees. If fees will be assessed, a written estimate of the same will be provided to the Requester.
11. Response if Longer than 10 Business Days or Denial in Whole or in Part. If a full response, including provision of records, cannot be made within 10 business days of receipt of the request, the RAO or designee will respond to the requester in writing:

explaining the anticipated time frame for complete response; identifying any records that the Town does not have in its custody; identifying records which the Town does not expect will be provided, or that will be redacted, specifying the relevant exemption(s) and application thereof to the requested record or portion thereof; providing a good faith fee estimate; and including a statement of appeal rights.

12. Clarification of Request. Depending upon the scope of the request, the requester may be asked to clarify the request, provide more specific detail, and/or agree to a voluntary extension of time for the Town to respond fully to the request.
13. Time for Response. Typically, a complete response will be provided within 25 business days of receipt of the request. If, due to the scope of the request, the need for redactions, or other complications, the Town is concerned that it will not be able to provide a complete response within that time frame, the Town may ask the requester for an extension of time to comply or petition the State Supervisor of Public Records for additional time.
14. Publicly Available Records. The Town maintains a searchable website at www.concordma.gov where certain public records are available for inspection, downloading or printing. If a request seeks documents publicly available on the Town's website, the requester will be directed to the website in satisfaction of the request, unless the requester does not have the ability to receive or access the records in a usable electronic form.
15. Electronic Records Delivery Preference. To the extent feasible, the RAO or designee will provide public records in response to a request by electronic means, unless the record is not available electronically or the requester does not have the ability to receive or access the records electronically. To the extent available and feasible, the RAO will provide an electronic record in the requester's preferred format.
16. Request for Records to be Mailed. Should a requester seek to have responsive records provided by mail, the requester will be charged the actual cost of postage, using the least expensive form of mailing possible, unless the requester requests, and agrees to pay for, an expedited form of mailing and such fees are paid in advance.
17. Creation of Records. The Town is only required to provide records that are in existence at the time of a request and is not required to create a new record to accommodate a specific request.
18. Answering Questions. The Town is not required to answer questions in response to a public records request.
19. Supplementing Responses. The Town is not required to supplement its response to a previous public records request in the event that responsive records are created in the future.
20. Unique Right of Access. Pursuant to the provisions of 950 CMR 32.06(1)(g), if a requester or requester's representative (such as an attorney), has "a unique right of access by statutory, regulatory, judicial or other applicable means", a request for records will not be considered a G.L. c.66, §10 public records request.

Categories of Records:

21. The Municipal Records Retention Schedule, issued by the Supervisor of Public Records, describes the different categories of records maintained by various Town departments. The entire schedule may be viewed online at: https://www.sec.state.ma.us/arc/arcpdf/Municipal_Retention_Schedule_20161109.pdf which schedule identifies various categories of records maintained by municipal departments and so-called “records in common”.
- a. The searchable version of the Municipal Records Retention Schedule may be viewed online at: <http://retweb.sec.state.ma.us/retweb/default.asp>

Exemptions:

22. Exemptions/Redaction/Withholding. Some public records, or portions of records, may not be provided in response to a public records request because the Town has determined such records to be exempt from disclosure pursuant to the provisions of G.L. c.4, §7(26), the attorney-client privilege, or other applicable exemptions or common law privileges. For more information about exemptions to the Public Records Law, see the Secretary of the Commonwealth’s, “A Guide to the Massachusetts Public Records Law,” January 2017 edition, available at <http://www.sec.state.ma.us/pre/prepdf/guide.pdf>.

Fees:

23. Reasonable Fees. In some circumstances, the Town may assess a reasonable fee for the production of public records.
24. Categories of Permissible Charges. Permissible charges include, but are not limited to:
- a. five cents (\$0.05) per page of black and white printouts or copies;
 - b. actual cost for storage devices or materials such as CDs or thumb/flash drives;
 - c. actual cost for duplication of records not susceptible to ordinary means of reproduction, such as color copies and large format plans;
 - d. postage fees (where applicable; see paragraph 16, above); and
 - e. fees for employee time required to satisfy a public records request (see paragraph 26 below).

No copying fee will be charged for records provided in electronic form.

25. Employee Time for Locating and Segregating Records. A fee may be charged for employee time necessary to identify, locate, and compile the records requested. A fee may also be charged for employee time necessary to review, and, as applicable, segregate and/or redact information exempt from public disclosure. The hourly rate for such fees shall be the hourly rate of the lowest paid employee capable of performing the task, provided, however, that this hourly rate shall not exceed twenty-five dollars (\$25.00) per hour, unless the [City/Town] has obtained the approval of the State Supervisor of Public Records to charge a higher hourly rate. Depending upon the nature of the request, different rates may be charged for different types of work (i.e., a different hourly rate for search time and a different hourly rate for segregation/redaction time).
26. Small Municipality Exception. As of the 2010 Decennial Census, the Town had 17,668 residents. See <https://www.census.gov/quickfacts/fact/map/concordtownmiddlesexcountymassachusetts,MA/PST040216#viewtop>. In accordance with 950 CMR 32.07(2)(m)(2), therefore, the Town may assess fees for all employee time, including the first two hours.

27. Requests for Commercial Purposes. Said fee limitations may not apply when a request for records is for a commercial purpose as determined by the State's Supervisor of Records.
28. Petition for Higher Fee. In certain circumstances, the Town may petition the State Supervisor of Public Records for permission to assess fees for employee time at a rate in excess of \$25.00.

Appeals:

29. If a requester wishes to assert a claim that they have been denied access to public records, they may appeal the RAO's determination to the State Supervisor of Records pursuant to 950 CMR 32.08(1). The Supervisor shall make a final determination on the appeal within ten (10) business days of receipt.
30. If the requester is dissatisfied with the determination of the State Supervisor of Records, the requester may appeal to Superior Court. Alternatively, a requester may bypass the Supervisor and go directly to Superior Court.
31. For further information on appeals, see the Secretary of the Commonwealth's "A Guide to the Massachusetts Public Records Law," January 2017 edition, available at <http://www.sec.state.ma.us/pre/prepdf/guide.pdf>.

A Guide to the Massachusetts Public Records Law

Excerpts from pages 1-12 and 40-43 are
included here.



Published by
William Francis Galvin
Secretary of the Commonwealth
Division of Public Records

Updated January 2017

www.sec.state.ma.us/pre/prepdf/guide.pdf



The founding fathers of our nation strove to develop an open government formed on the principles of democracy and public participation. An informed citizen is better equipped to participate in that process.

Laws mandating the disclosure of public records have existed in the Commonwealth of Massachusetts since 1851. The federal Freedom of Information Act was signed into law in 1966 by President Lyndon B. Johnson. In 1974, Congress amended the federal Freedom of Information Act in order to make government records more accessible to the public.

The Massachusetts Public Records Law parallels federal law, with some variation. Every government record in Massachusetts is presumed to be public unless it may be withheld under a specifically stated exemption.

As Secretary of the Commonwealth and chief public information officer for the Commonwealth, I am pleased to publish this guide explaining the Public Records Law. The full text of the law is provided, as well as a brief description of each of the exemptions to the law.

Also included is a section of frequently asked questions about a requester's right to access public records, as well as a government records custodian's duty to respond to those requests.

Any additional questions regarding the Public Records Law should be directed to the Division of Public Records at (617) 727-2832 during regular business hours.

You may access Division of Public Records publications and other information at www.sec.state.ma.us/pre/preidx.htm.

A handwritten signature in cursive script that reads "William Francis Galvin". The signature is written in dark ink and is positioned above the printed name.

William Francis Galvin
Secretary of the Commonwealth

Frequently Asked Questions

What is the difference between the federal Freedom of Information Act and the Massachusetts Public Records Law?

The federal Freedom of Information Act is a statute that applies to federal records. The Massachusetts Public Records Law applies to records created by or in the custody of a state or local agency, board or other government entity.

Who can help me with questions regarding the Public Records Law?

The Division of Public Records (Division) has always provided an “attorney of the day” to assist any person seeking information regarding the Public Records Law.

The hours of operation for the Division are Monday-Friday, with the exception of holidays, from 8:45 a.m. to 5:00 p.m. The telephone number for the Division is (617) 727-2832, and the email address is pre@sec.state.ma.us.

What is a “public record”

Every record that is made or received by a government entity or employee is presumed to be a public record unless a specific statutory exemption permits or requires it to be withheld in whole or in part.

Specific statutory exemptions have been created by the legislature. There are non-statutory exemptions as well called common law exemptions. Non-statutory exemptions include the common law attorney client privilege and the work product privilege. These exemptions permit the agency or municipality to withhold a record from the public. A records access officer (RAO) must prove with specificity why it should be allowed to withhold any public record.

The exemptions to the Public Records Law are described in this guide. If an RAO claims an exemption and withholds a record, the RAO has the burden of showing how the exemption applies to the record and why it should be withheld.

How do I find the records I seek?

A person seeking access to government records must obtain them from the government office that created or received the records.

Does the Division of Public Records have my records?

The Division of Public Records (Division) is not a warehouse for government records. The only records kept in the Division are those that are essential to the business operations of the Division.

2 • A Guide to the Massachusetts Public Records Law

To obtain public records a person must directly contact the municipal or state agency office that is the custodian of the sought for records.

Does the Public Records Law apply to court, legislative or federal records?

The Public Records Law does not apply to records held by federal agencies, the legislature or the courts of the Commonwealth. Accordingly, the Supervisor is unable to assist requesters seeking such records.

What is a Records Access Officer?

A Records Access Officer (RAO) is the person responsible for responding to requests for public records. Information on how to contact an RAO is usually available on the website for the applicable municipal or state entity holding the records sought by requesters.

What is a records custodian?

A records custodian means any governmental entity that makes or receives public records.

How do I obtain copies of public records?

To obtain a copy of a record, you must make a request to the RAO for the municipal or state agency that you believe has records you are seeking.

What do I do if my request is denied?

An RAO must respond to your request as determined by the Public Records Law. If the RAO fails to respond or denies a request, a requester may appeal the matter to the Supervisor within ninety days.

Under the Public Records Regulations, all appeals to the Supervisor must include a copy of the original request, any response by the RAO and a statement indicating the reason for the appeal. The requester must also provide a copy of the appeal petition to the RAO.

May I also go to court to seek public records?

A requester may also commence a civil action in superior court to enforce the requirements of the Public Records Law. Where applicable, the superior court may award reasonable attorney's fees and costs in cases where the requestor obtains relief.

My appeal was closed because I did not provide the necessary information. What do I do now?

The Supervisor will close an appeal without a finding if a requester fails to provide a copy of the request or the response. The Supervisor will close an appeal without a finding if the requester fails to provide a copy of the request to the RAO, or fails to provide a copy of the petition for appeal to the RAO.

In such cases, a requester may seek a new appeal, provided the appeal is filed in compliance with the Public Records Regulations.

What are the requirements for an RAO response to a public records request?

An RAO's response must be in writing, and must provide the name of the RAO. The response must include a good faith estimate of any cost of providing the record.

The response must also include a specific exemption to the Public Records Law to justify the denial of access to any record, and an explanation of how that exemption applies to the records. Any denial must include instructions on how to appeal to the Supervisor of Records.

Must my request be in writing, and do I need to use a specific form?

A written request is not required but is strongly recommended. An oral request made in person is permitted. An RAO is not permitted to require a written request, but may write an oral request on its own form to assist in prompt response.

To appeal an RAO response to the Supervisor, however, a request must be in writing.

May I appeal a failure to answer a question?

The Public Records Law only applies to records. An RAO is not required by the Public Records Law to answer questions or create a record in response to a request; however, an RAO must provide any records that exist that respond to a question.

What is the cost for copies of public records; what about electronic records?

Absent a specifically identified statute or regulation, an RAO may charge no more than \$0.05 per page for single and double-sided black and white paper copies or computer printouts. There is no longer a separate charge for police or fire reports, or for computer printouts.

4 • A Guide to the Massachusetts Public Records Law

The Public Records Law and its Regulations apply to all Massachusetts government records, regardless of form, and regardless of the location of the records.

Provision of public records in electronic form is preferred where available. An RAO is not permitted to assess a copying fee for electronic records. The \$0.05 fee applies only to paper copies of records.

Is an RAO required to provide a fee estimate?

The Public Records Regulations require that an RAO provide a detailed, written, good faith estimate for the cost of complying with a public record request.

The fee estimate must contain a statement advising the requester that the actual cost of producing the record might vary once the agency or municipality begins preparing the record. An agency or municipality is permitted to require payment of the estimated fee before commencing work.

All agencies and municipalities are strongly urged to waive the fees associated with access to public records, but are not required to do so under the law.

Public records that are of great interest to a large number of people must be readily available within the office of the RAO and should be provided at a minimum cost, if any. Examples include minutes of board meetings, town meeting documents, warrants, street lists and municipal financial documents. Many of these records are required to be placed on the RAO's website.

May the RAO charge a fee for search and segregation of records?

An RAO may charge and recover a fee for the time spent searching, redacting, photocopying and refiling a record. Agencies shall not assess a fee for the first four hours of time spent searching for, compiling, segregating, redacting and reproducing a requested record. Municipalities with a population of over 20,000 shall not assess a fee for the first two hours of time spent searching for, compiling, segregating, redacting and reproducing a requested record. Municipalities with a population of 20,000 and under are permitted to charge for the first two hours of time spent searching for, compiling, segregating, redacting and reproducing a requested record.

The hourly rate may not be greater than the prorated hourly wage of the lowest paid employee who is capable of performing the task. Generally, an RAO is not permitted to charge an hourly rate in excess of \$25.00 per hour to search for records. Municipal RAOs may petition the Supervisor for permission to charge a fee in excess of \$25.00.

The fee estimate must provide the hourly rate and the number of hours required for each portion of the task. An RAO may not recover fees associated with record organization.

Agency and municipal RAOs may petition the Supervisor for permission to assess a fee for time spent segregating and redacting.

If a requestor wishes to review records in the records custodian's office but does not require copies, a records custodian may charge and recover a fee for his or her time spent searching for and redacting the records. Access to records viewed in this manner cannot be denied and only minor fees associated with securing the record should be charged.

When must minutes of an open meeting be made available to the public?

The Open Meeting Law, applicable to public bodies such as select boards for towns, is enforced by the Office of the Attorney General, Division of Open Government.¹ Any questions regarding the content of minutes, requirements to keep minutes or any procedural aspects of the Open Meeting Law should be addressed to the Division of Open Government.²

Minutes of open meetings, regardless of form, are public and must be made available in a timely fashion.

There is no requirement that the minutes be transcribed or approved before they are made public. An RAO should clearly mark all such minutes "unofficial."

Pursuant to the Open Meeting Law, minutes of prior open meetings, regardless of form, must be reviewed and accepted promptly. Copies of the minutes of all open meetings should be readily available. Many public bodies are required to post minutes to meetings on the public body's website. RAOs are strongly encouraged to waive all fees associated with the minutes of open meetings.

Minutes of executive session meetings must be reviewed and released regularly and promptly. Executive session minutes must be released to the public as soon as the stated purpose for the executive session protection has ceased.

¹ G. L. c. 30A, §§ 18-25.

² www.mass.gov/ago/bureaus/government/the-division-of-open-government/.

Does a requester have greater right of access to records if he is the subject of a record?

Under the Public Records Law, every requester is treated equally; therefore, even a person who is the subject of the record is not granted any greater access right than any other person.

Some statutes and regulations allow requesters to obtain records in a manner that does not require a request under the Public Records Law. It should be noted that once a record is deemed public it may be obtained by anyone upon request.

A list of statutes limiting access to public records is found in the back of this book. This list includes student records, criminal offender record information, and other records the access to which is limited by law.

Is a requester required to disclose the intended use of the public record requested?

With the possible exception of situations where the RAO is anticipating the withholding of records pursuant to Exemption (n) of the Public Records Law, determining whether the records are being requested for a commercial purpose, or determining whether to grant a fee waiver, a records custodian may not ask a requester the reason for the request or the intended use of the requested records.³

How should an RAO respond to an unclear request?

RAOs must help the requester to determine the precise record or records responsive to a request; however, a requester must provide a reasonable description of the requested records. If a request is unclear the RAO is expected to seek clarification from the requester.

What if a records custodian claims that it is not subject to the Public Records Law?

The Public Records Law only applies to Massachusetts governmental entities. The burden lies with the entity to show that the Public Records Law does not apply.

Are RAOs required to forward a request for records not in their possession?

RAOs must use their knowledge of the records to ensure that a request for records is delivered to the appropriate party. A large public records request may include items for which the RAO is not directly responsible, as it may

³ G. L. c. 4, § 7(26)(n); 950 C.M.R. 32.06(2)(h).

include a request for records of another division or department of the RAOs' agency or municipality. An RAO is expected to forward such requests to the appropriate parties in responding to a public records request, and inform the requester he or she has done so.

Overview

The Massachusetts Public Records Law (Public Records Law) and its Regulations provide that each person has a right of access to public information.⁴ This right of access includes the right to inspect, copy or have copies of records provided upon the payment of a reasonable fee.⁵

The Public Records Law broadly define “public records” to include “all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee” of any Massachusetts governmental entity.⁶

There are strictly and narrowly construed exemptions and common law privileges to the broad definition of “public records.”⁷ This guide will briefly review the application of these exemptions as well as explore some of the other issues that arise when a request is made for access to government records.

Updated Public Records Law

The Public Records Law and its Regulations were updated with changes effective January 1, 2017. Among other things, the updated law sets limits on fees, provides deadlines for the provision of records, and requires the designation of a “Records Access Officer.” The updated law also distinguishes between “agencies” and “municipalities” and assigns certain duties to each entity.

The Regulations define “agency” as the following:

Any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth that is identified in M.G.L. c. 66, § 6A and c. 4, § 7, clause Twenty-sixth and makes or receives “public records”, as defined in 950 CMR 32.02. Agency includes any person, corporation, association, partnership or other legal entity which receives or expends public

⁴ G. L. c. 66, § 10(a).

⁵ Id.; 950 C.M.R. 32.

⁶ G. L. c. 4, § 7(26).

⁷ G. L. c. 4, § 7(26); see also Attorney General v. Assistant Commissioner of the Real Property Department of Boston, 380 Mass. 623, 625 (1980) (the statutory exemptions are to be strictly and narrowly construed).

funds for the payment or administration of pensions for any current or former employees of the commonwealth or any political subdivision as defined in M.G.L. c. 32, § 1.⁸

The Regulations define “municipality” as the following:

Cities and towns, local housing, redevelopment or similar authorities. A consortium, consolidation or combination of entities within a single political subdivision of the commonwealth or among multiple political subdivisions of the commonwealth shall be deemed a municipality.⁹

A “Records Access Officer” (RAO) is an employee of a governmental records custodian. An RAO is the employee designated within a governmental entity to perform certain duties, including coordinating a response to requests for access to public records, assisting individuals seeking public records in identifying the records requested, and preparing guidelines that enable requesters to make informed requests regarding the availability of such public records electronically or otherwise.¹⁰

The Request

There are no strict rules that govern the manner in which requests for public information should be made. Requests may be made in person or in writing. Written requests may be made in person, by mail, facsimile or email.¹¹ An RAO must provide information on her custodian’s website with respect to requests for public records.

A requester must provide the RAO with a reasonable description of the desired information.¹²

The Response

The RAO must respond to requests without unreasonable delay and within ten business days.¹³ The RAO may offer to provide records; provide a fee estimate, where applicable; or deny access to records in a manner consistent with G. L. c. 66, § 10(a-b).¹⁴

A denial must detail the specific basis for withholding the requested materials.¹⁵ The denial must include a citation to one of the statutory or

⁸ 950 C.M.R. 32.02

⁹ Id.

¹⁰ Id.

¹¹ 950 CMR 32.06(1)(c).

¹² 950 CMR 32.06(1)(b).

¹³ G. L. c. 66, § 10(a-b); 950 CMR 32.06(2)(a).

¹⁴ Id.

¹⁵ G. L. c. 66, § 10(a-b).

common law exemptions upon which the RAO relies, and must explain why the exemption applies.¹⁶

A denial must also advise the requester of the right to seek redress through the administrative process provided by the Supervisor of Records (Supervisor) as well as the judicial remedy available in superior court.¹⁷

The mandatory disclosure provision of the Public Records Law only applies to information that is in the custody of the governmental entity at the time the request is received.¹⁸ Consequently, there is no obligation to create a record for a requester or to honor prospective requests. It should be noted, however, that the Regulations do not prohibit an RAO from responding to such requests.

Information contained in a database is presumed to exist at the time of the request. Provision of an extract of requested data does not constitute creation of a public record. An RAO may not deny a request for data contained in such a database on the theory that extraction results in creating a new record. To do so would deny access to information that does exist at the time of the request, though not in a form easily accessible by the requester.

All requests for public records must be honored in accordance with the Public Records Law. With the exception of situations in which an RAO is determining whether the records are being requested for a commercial purpose, whether to grant a fee waiver, or the applicability of Exemption (n), an RAO may not ask a requester the reason for the request or the intended use of the requested records. Inquiries by an RAO into a requester's status or motivation for seeking information are prohibited.¹⁹

Fees

An RAO may charge a reasonable fee to recover the costs of complying with a public records request.²⁰ An RAO is encouraged, but not required, to waive fees where disclosure is in the public interest.²¹

¹⁶ Id.

¹⁷ 950 CMR 32.06(3)(c).

¹⁸ G. L. c. 4, § 7(26) (defining “public records” as materials which have already been “made or received” by a public entity); see also 32 Op. Att’y Gen. 157, 165 (May 18, 1977) (custodian is not obliged to create a record in response to a request for information).

¹⁹ See G. L. c. 66, § 10(a) (public records are to be provided to “any person”); but see G. L. c. 4, § 7(26)(n) (a records custodian may ask the requester to voluntarily provide additional information in order to reach a “reasonable judgment” regarding disclosure of responsive records); 950 CMR 32.06(2)(h).

²⁰ G. L. c. 66, § 10(a); see also 950 CMR 32.07.

²¹ 950 CMR 32.07(2)(k).

10 • A Guide to the Massachusetts Public Records Law

The Supervisor does not have the authority to order a waiver of reasonable fees. An RAO assessing a fee must do so in accordance with any applicable statutory provisions, the Regulations or an enabling provision.²²

The updated Public Records Law and its Regulations provide for the following with respect to fees to access public records:

Fees for segregating and redacting

An agency or municipality shall not assess a fee for time spent segregating and redacting a requested record unless such segregation or redaction is required by law or approved by the Supervisor of Records through a petition discussed below.²³

“Segregation time” means the time used to review records to determine what portions are subject to redaction or withholding under M.G.L. c. 4, § 7, clause Twenty-sixth or other legally applicable privileges. Segregation time shall not include time expended to review record for accuracy and correct errors.²⁴

“Redact” means to delete, or otherwise expurgate that part of a public record that is exempt from disclosure under M.G.L. c. 4, § 7, clause Twenty-sixth or other legally applicable privileges from non-exempt material.²⁵

Fees for Copies

In addition to the search and segregation fees, records custodians may charge \$0.05 for either single and double-sided black and white paper copies or printouts.²⁶ When the request is for materials that are not susceptible to ordinary means of reproduction, such as photographs or computer tapes, the actual cost of reproduction may be assessed to the requester.²⁷ There are also specific statutes that establish fees for copies of public records.²⁸

Agencies

Agencies may not assess a fee for the first four hours of time spent searching for, compiling, segregating, redacting and reproducing a requested record. Agencies may not assess a fee of more than \$25 per hour for the cost to comply with a request for public records.²⁹

²² See e.g., G. L. c. 66, § 10(a); see also 950 CMR 32.07.

²³ G.L. c. 66, §10(d); 950 CMR 32.07(2)(d).

²⁴ 950 CMR 32.02.

²⁵ *Id.*

²⁶ 950 CMR 32.07(2)(e).

²⁷ 950 CMR 32.07(2)(h).

²⁸ See e.g., G. L. c. 262, § 38 (copies of records at the Registry of Deeds).

²⁹ 950 CMR 32.07(2)(l).

Municipalities

Municipalities with a population of over 20,000 may not assess a fee for the first two hours of time spent searching for, compiling, segregating, redacting and reproducing a requested record. Municipalities with a population of 20,000 and under may assess a fee, including the first two hours, for time spent searching for, compiling, segregating, redacting and reproducing a requested record.³⁰

Population data shall be determined by the decennial US. Census and it shall be the burden of the RAO to provide population data information when responding to a request.³¹

A municipal records access officer may not assess a fee of more than \$25 per hour for the cost to comply with a request for public records unless approved by the Supervisor through a petition discussed below.³²

RAO Petitions

Under the updated Public Records Law and Regulations, RAOs may request an extension from the Supervisor of Records if more time is needed to provide records. Such a request for extension must occur within 20 business days of receipt of request or within 10 business days after receipt of a determination by the Supervisor of Records that the requested record constitutes a public record. The Supervisor may grant an extension of 20 business days to an agency and 30 business days to a municipality, or longer depending on the circumstances.³³

RAOs may also petition the Supervisor of Records to charge for time spent segregating or redacting records. Only a municipal RAO may petition the Supervisor for permission to charge fees in excess of the maximum hourly rate of \$25 per hour for time required to comply with a request.³⁴

Filing a petition does not affect the requirement that an RAO shall provide an initial response to a requester within ten business days after receipt of a request for public records.³⁵

³⁰ 950 CMR 32.07(2)(m).

³¹ Id.

³² Id.

³³ 950 CMR 32.06(4)(e).

³⁴ 950 CMR 32.06(4)(h).

³⁵ 950 CMR 32.06(4)(b).

Agency RAO reporting requirement

Agency RAOs are required to report to the Secretary certain information pertaining to requests for public records. This information includes, among other things, the nature of the request, the date of the request and response, the amount of fees assessed, and information regarding the use of administrative and judicial remedies.³⁶

Agency RAOs must report this information by using an online form provided on the Secretary's website. This website will serve as the form prescribed by the Secretary to accomplish this task as required by G.L. c. 66 § 6A(e). Agency RAOs may complete the online form using the following link: www.sec.state.ma.us/AgencyRAOWeb/RAOAccounts/Welcome.aspx.

The public may search the Agency Public Records Request Database website at: www.sec.state.ma.us/RequestSearchWeb/Webpages/Welcome.aspx.

Exemptions to the Public Records Law

The statutory definition of “public records” contains exemptions providing the basis for withholding records completely or in part.³⁷ The exemptions are strictly and narrowly construed.³⁸ Where exempt information is intertwined with non-exempt information, the non-exempt portions are subject to disclosure once the exempt portions are deleted.³⁹ A review of the appropriate applications of the exemptions follows.

Exemption (a) – The Statutory Exemption

Exemption (a) applies to records that are:

*specifically or by necessary implication exempted from disclosure by statute*⁴⁰

A government entity may use the statutory exemption as a basis for withholding requested materials where the exempting statute expressly states or necessarily implies that the public's right to inspect records under the Public Records Law is restricted.⁴¹

³⁶ G.L. c. 66, § 6A(e).

³⁷ G. L. c. 4, § 7(26).

³⁸ Attorney General v. Assistant Commissioner of the Real Property Department of Boston, 380 Mass. 623, 625 (1980).

³⁹ G. L. c. 66, § 10(a); Reinstein v. Police Commissioner of Boston, 378 Mass. 281, 289-90 (1979) (the statutory exemptions are not blanket in nature).

⁴⁰ G. L. c. 4, § 7(26)(a).

⁴¹ Attorney General v. Collector of Lynn, 377 Mass. 151, 154 (1979); Ottaway Newspapers, Inc. v. Appeals Court, 372 Mass. 539, 545-46 (1977).

Appendix

The provisions in this book are not the official versions of the Massachusetts General Laws (MGL) or Code of Massachusetts Regulations (CMR). Reasonable efforts have been undertaken to assure the validity of the information provided at the time of publishing; however, do not depend on this information without first consulting an official edition of the MGL or CMR.

Public Records Law

G. L. c. 4, § 7(26)

Twenty-sixth, “Public records” shall mean all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the general court to serve a public purpose, or any person, corporation, association, partnership or other legal entity which receives or expends public funds for the payment or administration of pensions for any current or former employees of the commonwealth or any political subdivision as defined in section 1 of chapter 32, unless such materials or data fall within the following exemptions in that they are:

- (a) specifically or by necessary implication exempted from disclosure by statute;
- (b) related solely to internal personnel rules and practices of the government unit, provided however, that such records shall be withheld only to the extent that proper performance of necessary governmental functions requires such withholding;
- (c) personnel and medical files or information; also any other materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy;
- (d) inter-agency or intra-agency memoranda or letters relating to policy positions being developed by the agency; but this subclause shall not apply to reasonably completed factual studies or reports on which the development of such policy positions has been or may be based;
- (e) notebooks and other materials prepared by an employee of the commonwealth which are personal to him and not maintained as part of the files of the governmental unit;

(f) investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest;

(g) trade secrets or commercial or financial information voluntarily provided to an agency for use in developing governmental policy and upon a promise of confidentiality; but this subclause shall not apply to information submitted as required by law or as a condition of receiving a governmental contract or other benefit;

(h) proposals and bids to enter into any contract or agreement until the time for the opening of bids in the case of proposals or bids to be opened publicly, and until the time for the receipt of bids or proposals has expired in all other cases; and inter-agency or intra-agency communications made in connection with an evaluation process for reviewing bids or proposals, prior to a decision to enter into negotiations with or to award a contract to, a particular person;

(i) appraisals of real property acquired or to be acquired until (1) a final agreement is entered into; or (2) any litigation relative to such appraisal has been terminated; or (3) the time within which to commence such litigation has expired;

(j) the names and addresses of any persons contained in, or referred to in, any applications for any licenses to carry or possess firearms issued pursuant to chapter one hundred and forty or any firearms identification cards issued pursuant to said chapter one hundred and forty and the names and addresses on sales or transfers of any firearms, rifles, shotguns, or machine guns or ammunition therefor, as defined in said chapter one hundred and forty and the names and addresses on said licenses or cards;

(k) [Stricken.]

(l) questions and answers, scoring keys and sheets and other materials used to develop, administer or score a test, examination or assessment instrument; provided, however, that such materials are intended to be used for another test, examination or assessment instrument;

(m) contracts for hospital or related health care services between (i) any hospital, clinic or other health care facility operated by a unit of state, county or municipal government and (ii) a health maintenance organization arrangement approved under chapter one hundred and seventy-six I, a nonprofit hospital service corporation or medical service corporation organized pursuant to chapter one hundred and seventy-six A and chapter one hundred and seventy-six B, respectively, a health insurance corporation licensed under chapter one hundred and seventy-five or any legal entity that is self insured and provides health care benefits to its employees.

(n) records, including, but not limited to, blueprints, plans, policies, procedures and schematic drawings, which relate to internal layout and structural elements, security measures, emergency preparedness, threat or vulnerability assessments, or any other records relating to the security or safety of persons or buildings, structures, facilities, utilities, transportation, cyber security or other infrastructure located within the commonwealth, the disclosure of which, in the reasonable judgment of the record custodian, subject to review by the supervisor of public records under subsection (c) of section 10 of chapter 66, is likely to jeopardize public safety or cyber security.

(o) the home address, personal email address and home telephone number of an employee of the judicial branch, an unelected employee of the general court, an agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of a political subdivision thereof or of an authority established by the general court to serve a public purpose, in the custody of a government agency which maintains records identifying persons as falling within those categories; provided that the information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180, or a criminal justice agency as defined in section 167 of chapter 6.

(p) the name, home address, personal email address and home telephone number of a family member of a commonwealth employee, contained in a record in the custody of a government agency which maintains records identifying persons as falling within the categories listed in subclause (o).

(q) Adoption contact information and indices therefore of the adoption contact registry established by section 31 of chapter 46.

(r) Information and records acquired under chapter 18C by the office of the child advocate.

(s) trade secrets or confidential, competitively-sensitive or other proprietary information provided 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 section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, 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; provided, however, that this subclause shall not exempt a public entity from disclosure required of a private entity so licensed.

(t) statements filed under section 20C of chapter 32.

(u) trade secrets or other proprietary information of the University of Massachusetts, including trade secrets or proprietary information provided to the University by research sponsors or private concerns.

Any person denied access to public records may pursue the remedy provided for in section 10A of chapter sixty-six.

Records Access Officers

G. L. c. 66, § 6A

(a) Each agency and municipality shall designate 1 or more employees as records access officers. In a municipality, the municipal clerk, or the clerk's designees, or any designee of a municipality that the chief executive officer of the municipality may appoint, shall serve as records access officers. For the purposes of this chapter the term "agency" shall mean any entity, other than a municipality, that is identified in clause twenty-sixth of section 7 of chapter 4 as possessing "public records," as defined therein.

(b) A records access officer shall coordinate an agency's or a municipality's response to requests for access to public records and shall facilitate the resolution of such requests by the timely and thorough production of public records. Each records access officer shall:

(i) assist persons seeking public records to identify the records sought;

(ii) assist the custodian of records in preserving public records in accordance with all applicable laws, rules, regulations and schedules; and

(iii) prepare guidelines that enable a person seeking access to public records in the custody of the agency or municipality to make informed requests regarding the availability of such public records electronically or otherwise.

Guidelines shall be updated periodically and shall include a list of categories of public records maintained by the agency or municipality. Each agency and municipality that maintains a website shall post the guidelines on its website.

(c) Each agency and municipality shall post in a conspicuous location at its offices and on its website, if any, the name, title, business address, business telephone number, and business email address of each records access officer. The designation of 1 or more records access officers shall not be construed to prohibit employees who have been previously authorized to make public records or information available to the public from continuing to do so. Any

RECORDS MANAGEMENT PROCEDURES

State law requires all committees to keep accurate written records of its public meetings. All committees, commissions, boards, sub-committees and ad-hoc committees shall appoint a clerk/secretary who will be responsible for posting meeting notices and agendas, taking minutes of all meetings, and serving as records custodian.

The records of each meeting are public records, and a copy of all non-executive session minutes must be available for public inspection. Records of any executive session remain closed to the public only as long as publication may defeat the purposes of the executive session. Minutes of meetings should include the following information:

- Date, time and place of the meeting
- Members present or absent
- A summary of the discussions on each subject
- A list of documents and other exhibits used at the meeting
- The decisions and actions taken at the meeting (including those taken in executive session)
- Exact wording of all motions, including who made and seconded the motion
- The vote of each member. Those members present and not participating in the vote should be recorded as abstentions.
- Votes in executive session must be recorded in the minutes by a roll call.

Once minutes are accepted by committee vote they become the official record of the meeting and become a permanent public record. Any secretarial notes, if not destroyed once the official minutes are accepted, are considered a public document under the public records law.

What to do with approved minutes:

- A courtesy copy of the minutes, upon approval, should be sent to the appointing authority (Town Manager, Select Board, or Moderator).
- The original approved set of minutes should be retained in the department office ***for committees with assigned staff liaisons***. A copy should be forwarded to the Town Clerk electronically after the minutes are approved – townclerk@concordma.gov. It is not necessary to forward attachments or supporting documents. Older original copies of minutes should be periodically forwarded to the Town Clerk's Office for binding and transfer to the Town Archives.
- ***Committees without assigned staff liaisons*** should submit the approved minutes to the Town Clerk's Office electronically for filing and public access once they are approved – townclerk@concordma.gov. Supporting documents used at the meeting should be forwarded with the minutes to the Town Clerk for filing and public access.
- All approved minutes are retained by the Town Clerk's Office. Periodically, the Town Clerk's copy of the minutes will be bound up and transferred to the Town Archives.

What about other committee records?

Under the State Open Meeting Law, documents and other exhibits used by the body at an open or executive session (including photographs, recordings or maps) shall, along with the minutes, be part of the official record of the session. These should be retained either at the department level (for those committees with staff liaisons) or at the Town Clerk's Office (for those committees without staff liaisons). These supporting documents will be periodically placed in the Town Archives by the Town Clerk.

Dissolution of a committee:

Upon dissolution of a board, committee, or commission, the records should be culled, weeding out all non-permanent records. These should be organized in a reasonable and understandable manner and submitted to the Town Clerk for review by the Records & Archives Committee and transferred to the Town Archives.

**REMOTE PARTICIPATION POLICY
TOWN OF CONCORD MA**

1. PURPOSE STATEMENT

The Office of the Attorney General amended the Open Meeting Law regulations at 940 CMR 29.00 to allow members of public bodies, in limited circumstances, to participate remotely in meetings. While members of Town boards and committees should make every effort to attend meetings in person, the new regulations seek to promote greater participation in government meetings by allowing members to participate remotely when certain specific circumstances prevent them from being physically present. **IT IS INTENDED THAT THIS POLICY SHALL BE USED ONLY ON RARE OCCASIONS WHERE NECESSARY FOR THE CONDUCT OF BUSINESS BY BOARDS AND COMMITTEES.**

The intent of this policy is to establish clear guidelines on the practice of remote participation by Town Boards under the Open Meeting Law, M.G.L. c.30A, 18-25.

2. ENABLING AUTHORITY – 940 CMR 29.10 (8)

A municipality may adopt a policy that prohibits or further restricts the use of remote participation by public bodies within its jurisdiction.

3. APPLICABILITY

The Board of Selectmen, on January 7, 2013 voted to authorize the adoption of 940 CMR 29.10 so that remote participation is permitted in the Town. The Board of Selectmen may revoke its adoption of 940 CMR 29.10 by simple majority vote at any time.

This policy and 940 CMR 29.10 shall apply to all Town boards, committees, commissions, sub-committees and working groups (“Town boards”) regardless of whether such Town Boards are appointed or elected. Where either the Remote Participation Policy or 940 CMR 29.10 is more stringent, the more stringent Policy shall control.

4. MINIMUM REQUIREMENTS FOR REMOTE PARTICIPATION

No member of a Town Board shall participate in a meeting remotely unless the following requirements are met:

- a) A member who cannot attend a meeting for one or more of the five permissible reasons set forth in Section 5 below, must request permission from the chair at least **48 hours** prior to the scheduled meeting;
- b) Members of the Town Board who participate remotely and all persons present at the meeting locations shall be clearly audible to each other and, if the meeting is televised, the member participating remotely shall be audible to the television audience;
- c) A quorum of the Town Board, including the chair or the person authorized to chair the meeting, shall be physically present at the meeting locations;
- d) To the greatest extent practical, and to ensure informed discussion and decision-making, members of the Town Board who participate remotely should have access to the materials being used at the meeting location.
- e) Remote participation shall be limited to one member per scheduled meeting.
- f) Remote participation is not allowed for executive session meetings

- g) Any cost of remote participation in a meeting shall be borne by the remotely participating member.
- h) Remote participants shall not operate a motor vehicle or otherwise jeopardize personal or public safety while participating in a meeting.
- i) A board may not impose additional remote participation requirements without the Board of Selectmen's prior review and approval.

5. PERMISSIBLE REASONS FOR REMOTE PARTICIPATION

A Board member may attend a meeting through electronic conferencing if his or her physical presence at the meeting is made unreasonably difficult due to:

- a) Personal illness or disability that does not affect the Board member's ability to perform his or her duties as a Board Member.
- b) A family or other personal emergency.
- c) Military service.
- d) Significant geographic distance.

A member's qualification to participate remotely does not necessarily mean that the member will be permitted to participate remotely. The determination by the person chairing the meeting to allow or not to allow remote participation shall be final and shall not be appealable. Factors in making this determination may include, but shall not be limited to the following:

- a) The specific challenges faced by the member to attend all or part of the meeting
- b) The ability of the Town Board or its staff to provide access to meeting materials

6. TECHNOLOGY

- a) The following media devices are acceptable methods for remote participation.
 - i. Telephone, internet, or satellite enabled audio or video conferencing
 - ii. Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible by one another.
- b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.
- c) The focus of the chair should always be on maintaining the flow of the meeting. If the chair determines that technical difficulties are inhibiting the progress of the meeting, the chair may elect to terminate the participation of the remote member. If technical difficulties arise resulting in the loss of connection with the remote participant, that participant's attendance shall be terminated. Either such event shall be noted in the meeting minutes.
- d) Each individual Town Board that anticipates using remote participation shall determine which of the acceptable methods may be used by its members.

7. PROCEDURES FOR REMOTE PARTICIPATION

- a) Any member of a Town Board who wishes to participate remotely shall, as soon as reasonably possible (and no less than 2 business days) prior to a meeting (two business days is preferred), notify the person chairing the meeting of his or her desire to do so and the reason for and facts supporting his or her request.
- b) If the person chairing the meeting approves the request for remote participation, he or she shall make any necessary arrangements with appropriate Town personnel to ensure that the required equipment is available and, to the greatest extent practical, provide access to all meeting materials. **THE TOWN DOES NOT GUARANTEE AVAILABILITY OF REQUIRED EQUIPMENT AT ANY PARTICULAR TIME OR LOCATION.**
- c) At the start of the meeting, the chair shall announce the name of any member who will participate remotely and the reason (see paragraph 5., above) for his or her remote participation. This information shall be recorded in the minutes. The chair may also request, at the beginning of any hearing or matter before the Board, if any

- party or person attending or participating therein has any objection to the member's remote participation. In the case of an objection, the chair may in his or her discretion, exclude the member participating remotely from participating in any manner or vote with respect to such hearing or matter.
- d) Members participating remotely may vote and shall be counted as present for the meeting.
 - e) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.
 - f) The Town shall not be responsible for the reimbursement of any out-of-pocket costs associated with the remote participation of Board members.
 - g) Members participating remotely are cautioned that the same obligations of consideration apply as in any physical meeting. Remote participants should direct all their attention to the meeting, and should make their decisions based upon the same information as is available to all the other participants in the meeting. The remote participant shall also state at the beginning of any meeting that no other person is in proximity who could exert undue influence on the participant, in either executive or public session, and shall inform the chair if that situation changes.
 - h) The chair of any Board for which a request is received to participate remotely shall provide to the Board of Selectmen, no later than December 31 of each year, a report that indicates the date of any meetings for which remote participation was requested, the name(s) of individuals making the request, the determination of the chair for each request, and a summary of any logistical, technical and compliance issues related to remote participation.

Note: Consideration should be given to the proposed language in the Charter regarding associate members on Boards and Commissions. Associate members should be utilized in the absence of members of Boards and Commissions when deemed appropriate by the chair.

Effective Date: 06/99

Combines Former APP #4 & #12

Rev. Sept. 2012

Town of Concord

APP # 4

Reservation of Public Meeting Rooms: Open Doors

1. Public meeting rooms are available for committee and board use in various Town buildings, and reservations should be made in advance by contacting the appropriate staff as follows:
 - Town House - Administrative Assistant to the Board of Selectmen (318-3001).
 - a) Chairpersons of all standing committees which meet regularly in the Town House may pick up a key from the Selectmen's Administrative Assistant.
 - b) If a committee or board is holding a meeting at the Town House and does not have a key, then they should pick up a key that morning from the Selectmen's Administrative Assistant.
 - 141 Keyes Road - Administrative Assistant to the Planning Board (318-3290).
 - Harvey Wheeler Community Center - Council on Aging (318-3020).
 - Hunt Recreation Center - Recreation Department (369-6460).
(Reservations at each building are on a first come, first served basis.)
 - 24 Court Lane – Assessors Office (318-3070).
(Reservations at each building are on a first come, first served basis.)
2. Committees or boards which meet in any public building are responsible for ensuring that the front doors are unlocked while their meeting is occurring. Obviously, the first committee or board to meet in the evening or on the weekend will have to unlock the front doors of the building.
3. The committee or board utilizing the meeting room is responsible for ensuring that the lights are turned off when the meeting is finished. The last committee or board to leave the building should also insure that any remaining lights are turned off and the front doors are locked.
4. Where a staff member is assigned to a particular committee, the staff member is responsible for ensuring that the doors are unlocked and later re-locked.

Distribution: Department Heads
All Committee and Board Chairs

Appendix O

Effective: 10/31/1978

Revised: 06/99

Revised: 9/2012

Effective Date: 10/31/78

Revised: 06/99

Sept. 2012

Town of Concord

APP # 6

Staff Communications with Boards

1. When a member of a board or committee requests information on behalf of the committee from a staff member, the information should be provided and the department head should be made aware of the request. If the information is in a written form, "cc:" should be addressed to the Town Manager and department head.
2. When a department wishes to initiate an action before the Board of Selectmen, a memorandum should be addressed to the Town Manager, requesting the item be put on the Board's agenda.
3. If a department head feels that compliance with a board or committee member's request raises concerns or should not be granted for some reason, the department head should consult with the Town Manager.

(The above procedures do not apply to any communications between committees, boards, and the Board of Selectmen.)

Distribution: All Department Heads
Committee Chairs

Date Issued: 03-24-99
Revised: **Sept. 2012**

TOWN OF CONCORD
APP #13
STANDARDS OF CONDUCT

CODE OF ETHICS

The Town of Concord is committed to upholding the highest ethical standards in the conduct of the public's business. This commitment requires that employees treat citizens, the general public, and their fellow employees with respect and courtesy at all times. The commitment to ethical government also requires that employees:

- Uphold and inspire public confidence and respect
- Uphold all relevant Town, State, and federal laws and regulations
- Conduct themselves at all times according to the principles of honesty, integrity, impartiality and courtesy
- Ensure that they behave appropriately in their positions, never using their positions or giving the appearance of using their positions to secure advantage or favor for themselves, their family, or friends

POLICY

It is expected that all employees shall be familiar with and comply with this policy and with the ethical code it supports. Employees are reminded that compiling an all-inclusive list of ethical and behavioral standards is impossible. The following gives employees a general sense of the behavior expected of them and is not intended as a complete set of guidelines. Employees are encouraged to seek guidance and/or clarification via their department head whenever any question arises as to appropriate behavior. Depending upon the issue, the question may require forwarding to the Human Resources Office or to the Town Manager's Office.

A. Personal Integrity

1. The Massachusetts Conflict of Interest Law

All new employees are given a summary of the Massachusetts Conflict of Interest Law (Massachusetts General Laws, Chapter 268A) when hired. In addition, employees may refer to their department head for contents of the

law. The law covers all municipal employees to ensure that their private interests do not conflict with their public obligations. The law is broadly written to prevent employees from becoming involved in situations which could result in a conflict -- or even give the appearance of a conflict.

EMPLOYEES MUST FAMILIARIZE THEMSELVES WITH AND ABIDE BY THE MASSACHUSETTS CONFLICT OF INTEREST LAW AT ALL TIMES. THE CONFLICT OF INTEREST LAW REQUIRES ALL MUNICIPAL EMPLOYEES, AS WELL AS ELECTED PUBLIC OFFICIALS AND BOARD AND COMMITTEE MEMBERS TO COMPLETE THE STATE ETHICS COMMISSION'S ONLINE TRAINING. THIS TRAINING MUST BE COMPLETED AGAIN EVERY TWO YEARS.

Employees have a responsibility to ensure that other Town employees also comply with the law and this policy, and they must report any violations of ethical conduct to the department head or Town Manager's Office.

An employee with any questions regarding a violation, an appearance of a violation or a potential violation of the Conflict of Interest Law should seek guidance from his or her supervisor, the department head, the Human Resources Office, or the Town Manager's Office immediately.

2. Acceptance of Gifts

Employees shall not under any circumstances seek, solicit, or accept any gift, gratuity, loan, reward or fee where there is any direct or indirect connection or the appearance thereof between the solicitation or acceptance and their employment, except as may be specifically authorized by their department head.

Any other gift, gratuity, fee or reward that is not specifically authorized, which comes into the possession of any employee, shall be forwarded to the department head, along with a written account of the related circumstances.

APP #19 Acceptance of Gifts outlines the procedures that must be followed according to law in accepting gifts of funds, and real or personal property in behalf of the Town. The requirements vary according to the value and nature of the gift, so employees who receive such gifts should refer to the guidelines of APP #19 to assure compliance.

3. The Massachusetts Conscientious Employees Act

The Massachusetts Conscientious Employees Act protects from retaliation any employee who objects to, discloses, or provides information about his or her employer's activities, policies, or practices that the employee reasonably believes to be in violation of law or regulation, which pose a risk to the public health, safety, or environment. The law also protects employees when filing complaints of alleged illegal practices by another

employer with whom the public employer is doing business. Employees are encouraged to immediately report to department heads or to the Town Manager, Deputy Town Manager, or Human Resources Director any activity, policy, or practice being conducted by the Town which is believed to violate the law or constitute a risk to health, safety, or the environment.

4. Honesty and Impartiality

Employees must act with honesty, integrity and impartiality in the performance of their duties.

Employees must make decisions and recommendations without discrimination and provide accurate, balanced input, information, analyses and recommendations in a timely manner. Employees must not knowingly give any false or misleading reports, whether oral or written.

Employees are prohibited from publicly endorsing products as a representative of the Town. When asked for their opinions on services available in the community, employees will be fair and impartial in providing information.

B. Violations

An employee who violates any provision of this policy will be subject to disciplinary action up to and including termination. Depending on the nature of the situation, employees should also be aware that they may be subject to state or federally imposed penalties or even criminal charges.

Distribution: Department Heads
 All Town Employees

Town of Concord

APP #50
Use of Electronic Mail

POLICY/PURPOSE

The purpose of this policy is twofold. First, it is to address the implications of electronic mail (e-mail) as a public record. Second, it is to ensure the proper use of e-mail as a communications tool in the workplace.

The term "public records" is defined by statute to include all documentary materials or data, regardless of physical form or characteristics, made or received by an officer or employee of any agency or municipality of the Commonwealth, unless falling within a statutory exemption (M.G.L. C.4, S.7). Therefore, the Secretary of the Commonwealth advises that the Public Records Law clearly applies to government records generated or received electronically. All electronic mail sent, and all electronic mail received by way of the Town's system, or any address when in an official capacity, should be considered a public record subject to inspection and disclosure and scheduled retention and disposition. Notwithstanding the record retention guidelines included in Appendix A of this policy, employees and committee members using e-mail while acting in their official capacity are the keepers of the public record in that respect. They should have no expectation of privacy in their use or storage of electronic mail.

E-mail is a Town of Concord resource and is provided as a business communications tool. As a frequent method of communication in the workplace, it is important to provide a clear e-mail use policy to ensure that e-mail shall not be used in any manner that is discriminatory, that contributes to a hostile work environment, that interferes with the Town's business, or that violates any other Town policies in any manner,

RESPONSIBILITIES

As with all Town Administrative Policies and Procedures, it is the responsibility of all department heads to monitor and reinforce employee compliance with the Town policy and related department procedures that may be put in place toward that end.

It is the responsibility of Information Services to support and maintain the Town's e-mail system; and provide routine backup and off-site storage of e-mail files for data recovery purposes.

It is the responsibility of all employees and committee members to comply with Town policy and departmental procedures. Computers, e-mail and the Internet must be used in a manner consistent with other Town policies, such as those prohibiting discrimination and harassment, and those identifying minimum standards of conduct.

COMMITTEE USE OF ELECTRONIC MAIL

In order to assist members of governmental bodies to comply with the Open Meeting Law in their use of this technology, the Middlesex District Attorney's Office has established guidelines for committees' use of electronic mail. The guidelines reaffirm that no substantive discussion by a quorum of members of a governmental body about public business within the jurisdiction of the governmental body is permissible except at a meeting held in compliance with the requirements of the Open Meeting Law. Like private conversations held in person or over the telephone, e-mail conversations among a quorum of members of a governmental body that

relate to public business violate the Open Meeting Law, as the public is deprived of the opportunity to attend and monitor the e-mail "meeting."

Despite the convenience and speed of communication by e-mail, its use by members of a governmental body carries a high risk of violating the Open Meeting Law. Not only do private e-mail communications deprive the public of the chance contemporaneously to monitor the discussion, but by excluding non-participating members, such communications are also inconsistent with the collegial character of governmental bodies. For these reasons, the Middlesex District Attorney cautions that e-mail messages among members of governmental bodies are best avoided except for matters of a purely housekeeping or administrative nature.

PRIVACY/PUBLIC ACCESS

Town computers, software, hardware, Internet access and e-mail, including all pass codes and attachments composed, sent or received, are Town property and can be confiscated at any time (with or without notice).

Information on the Town's system, including e-mail messages, content, attachments and websites visited are not private; incoming and outgoing messages and attachments are subject to being, and will be, accessed, reviewed, disclosed or monitored in the exclusive discretion of the Town at any time (with or without notice) and regardless of passwords.

Use of the system is limited to current employees and others who have been approved to use it by the Town. No employee shall read or access another employee's e-mail without a legitimate business purpose.

No employee shall send e-mail under another employee's name without authorization.

No employee shall change any portion of a previously sent e-mail message without authorization.

APPROPRIATE USE

E-mail shall be used for business matters directly related to the operational activities of the Town of Concord and as a means to further the Town's objective of providing services that are efficient, complete, accurate, and timely.

E-mail shall not be used for personal gain or to conduct personal business; limited personal communication is permitted as long as it does not interfere with work or business use in any way. The nature and frequency of such personal use is subject to the review and discretion of the department head.

E-mail shall not be used to promote discrimination on the basis of race, color, national origin, age as defined by law, marital status, sex, political affiliation, religion, disability, genetic information or sexual orientation as defined by law; to promote, result in, or contribute to sexual harassment; or to promote personal, political or religious business or beliefs.

E-mail shall not be used in any other way that is inconsistent with Town policies and procedures.

Employees who discover a violation of this policy by another employee are obligated to report it to their supervisor or to the Assistant Town Manager.

An employee violation of this policy by may result in disciplinary action up to and including termination.

Distribution: All Town Employees
Board and Committee Members

Appendix A to APP #50
Use of Electronic Mail
E-MAIL FILING AND RETENTION

In addition to ensuring the appropriate use e-mail sent and received via Town technology, this policy is intended to provide for efficient retention of e-mail communications. E-mail communications are considered public records and retention and disposition of public records are authorized by retention schedules issued by the Secretary of the Commonwealth. Transmission data contained in an e-mail communication (including the sender, addressee, date and time of transmission, and receipt) should be retained as part of the record, whether the record is printed out or stored electronically.

Departments may retain e-mail in hard copy, electronically, or by a combination of these two means. E-mail should not be retained electronically for longer than two years; after that time, the record should be printed and retained in paper form. Departments are responsible for developing filing systems that include e-mail and are responsible for instructing employees on appropriate use of these systems.

When appropriate, e-mail messages may be filed with program records and assume the same retention as the records they are filed with. When e-mail records do not relate obviously or directly to a program, they may be filed as correspondence. If a particular record is not described on an existing records retention schedule, the appropriate department head may apply to the Supervisor of Public records for authority to dispose of that record, and to add records to existing schedules. Only when e-mail messages are clearly conversational and do not add in any way to the operational records of the department, may they be discarded without adhering to retention schedules. Examples of this form of e-mail include: "Sorry I missed you via telephone. Please call me when you have a minute."; "I will be out of the office at a conference this Thursday, so please mark your calendar."; or "This is a reminder of this Friday's staff meeting. Please send along any agenda items you may have."

Some e-mail systems enable users to enclose or attach records to messages. These enclosed or attached records need to be filed according to their function and content, and they will assume the retention schedule of the records they are filed with.

Effective Date: 06/99

Revised: Sept. 2012

Town of Concord

APP # 14

Utilization of Town Counsel

1. Town Counsel provides legal services to all Town departments and agencies. Utilization of Town Counsel must be authorized by the Town Manager in advance.
2. The utilization of legal counsel, other than Town Counsel, must also be expressly authorized by the Town Manager in advance when the Town is, or may be responsible for associated expenses. When an employee utilizes private legal counsel in an action arising in the course of the employee's official duties with the Town (either as defendant or plaintiff), the Town Manager must be advised immediately in order to determine any necessary coordination with Town Counsel.
3. Prior to making a new legal service request to Town Counsel, the Town Manager must be contacted for authorization. The request must include the subject and probable duration of Counsel review.
4. Copies of correspondence to and from Town Counsel are to be provided to the Town Manager.
5. From time to time, the services of special legal counsel other than Town Counsel are called for. All such use of special counsel will, again, be expressly authorized by the Town Manager.

Legal Review of Contract Documents

The following procedure shall govern the need to obtain legal review of Town contracts:

1. Generally, annual contracts or agreements and those involving expenditures less than \$2,000 will not require Town Counsel review.
2. Contracts utilizing the Town's standard contract documents will not require Town Counsel review, unless the contract is unusual or for a large amount.

3. Contracts which do not utilize the Town's standard contract documents will require Town Counsel Review.
4. All projects which are funded by borrowings will require Town Counsel review, and bonding clearance from bond counsel.
5. All building construction contracts will require Town Counsel review.

From the time that contracts are received by the Town Manager, applicants should be prepared to wait seven days for processing. In most instances, the contracts will be processed the same day. However, the seven day rule will apply in order to allow sufficient time for a decision to be made on whether or not to refer the contract to Town Counsel and to allow Town Counsel sufficient time for review.

Distribution: All Department Heads

Date Issued: 06-09
Revised: Oct. 2012

Town of Concord
APP #55

Web Content and Link Posting

Purpose

The Town of Concord recognizes the Internet (the “Web”) as yet another opportunity to extend a wide variety of services and information to the citizens of Concord and those who engage in business with the Town – as well as those who visit the Town, either in person or simply over the Web. The posting of new and informative content to the official Town of Concord Web site is common practice for the Town. The Town also occasionally adds links to non-Town Web sites that may be of interest or assistance to residents. The overarching goal of all Web site content and link posting is to forward the stated goals and objectives of the Town of Concord in terms of providing relevant information and resources via the Web.

This policy has been developed in order to streamline the Web site content submission and posting process, to keep the quality of the Web site high, and to protect the Town from claims of copyright infringement.

Scope

This policy applies to all employees of the Town of Concord, as well as all Web pages owned and/or managed by the Town.

Policy

1. The following groups and/or individuals are allowed to submit content for posting:
 - Town employees
 - Board and committee Chairs or their designees
2. Every effort should be made, within the staffing resources of each department, to post on a regular basis as soon as new content is available and to delete outdated material as soon as it is no longer timely or important to maintain as an archive of information. The following types of content are allowed to be submitted for posting:
 - Department operational information

- Board and committee meeting agendas
- Final, approved, board and committee meeting minutes
(Draft minutes may be acceptable, particularly when there may be a significant delay in posting of final, committee-approved minutes. But careful consideration must be given before posting draft minutes because of the inherent risk in distributing information that has not been checked for errors by the full membership of the relevant committee. Draft minutes must be clearly dated and marked as "DRAFT" if posted, and must be removed from the Web site as soon as corrected.)
- The Town Charter, general and zoning bylaws, Annual Town Reports, budget materials, Town Meeting information and materials, plans, studies, reports, Town-wide policies and procedures, and other documents of Town-wide interest
- News, notices or significant events of Town-wide interest
- Links to non-Town Web sites that have been determined to forward the goal of the Town to offer residents and other Web site visitors useful information that is complementary to the Town's Web site and related objectives. The information provided by external Web sites shall represent a logical nexus and consistency with the goals and objectives of the Town's Web site.

The Town Manager reserves the right to reject any content or link that is determined to be not in the best interests of the Town of Concord or not aligned with the Goals and Objectives of the Town Manager and Board of Selectmen.

3. All Web content submitted must be approved prior to posting. The following individuals retain the right to edit, request changes, approve, or deny submitted content: Town Manager, Deputy Town Manager, department heads and senior department managers, or the designees of all of the aforementioned.
4. All Web content submissions must be sent to the designated staff members responsible for posting in each department. All posting to the front page of the Town's Web site, including the News & Notices section of that page, shall be approved by the Town Manager's Office prior to posting. For routine News & Notices submittals, the Information Services Staff will serve as Town Manager's Office designees.
5. Whenever submissions are time sensitive, they should be forwarded as far as possible in advance of the requested posting date allowing for any changes that may be deemed necessary to the content.

6. The following file formats are most preferable for posting: .rtf, .pdf, .doc, .ppt and .jpg. Formatting changes may be made at the discretion of those responsible for posting.
 - All postings must be checked for spelling, grammar, and factual accuracy. This check is to be completed or arranged for by the individual submitting the content.

Submission of Copyrighted Work

No employee of the Town of Concord may reproduce any copyrighted work in violation of the law. Copyrighted works include, but are not limited to: text (e.g. articles), images (e.g. photographs), graphics (e.g. logos), sound recordings (e.g. MP3s), video recordings (e.g. movies), or software programs. If a work is copyrighted, there must be express written permission of the copyright holder to reproduce the copyrighted work in order to avoid violation.

SECTION VII

IV. 2. LEGAL SUMMARIES REQUIRING ACKNOWLEDGMENT

Summary of the Conflict of Interest Law for Municipal Employees

This summary of the conflict of interest law, General Laws chapter 268A, is intended to help municipal employees understand how that law applies to them. This summary is not a substitute for legal advice, nor does it mention every aspect of the law that may apply in a particular situation. Municipal employees can obtain free confidential advice about the conflict of interest law from the Commission's Legal Division at our website, phone number, and address above. Municipal counsel may also provide advice.

The conflict of interest law seeks to prevent conflicts between private interests and public duties, foster integrity in public service, and promote the public's trust and confidence in that service by placing restrictions on what municipal employees may do on the job, after hours, and after leaving public service, as described below. The sections referenced below are sections of G.L. c. 268A.

When the Commission determines that the conflict of interest law has been violated, it can impose a civil penalty of up to \$10,000 (\$25,000 for bribery cases) for each violation. In addition, the Commission can order the violator to repay any economic advantage he gained by the violation, and to make restitution to injured third parties. Violations of the conflict of interest law can also be prosecuted criminally.

I. Are you a municipal employee for conflict of interest law purposes?

You do not have to be a full-time, paid municipal employee to be considered a municipal employee for conflict of interest purposes. Anyone performing services for a city or town or holding a municipal position, whether paid or unpaid, including full- and part-time municipal employees, elected officials, volunteers, and consultants, is a municipal employee under the conflict of interest law. An employee of a private firm can also be a municipal employee, if the private firm has a contract with the city or town and the employee is a "key employee" under the contract, meaning the town has specifically contracted for her services. The law also covers private parties who engage in impermissible dealings with municipal employees, such as offering bribes or illegal gifts. Town meeting members and charter commission members are not municipal employees under the conflict of interest law.

II. On-the-job restrictions.

(a) Bribes. Asking for and taking bribes is prohibited. (See Section 2)

A bribe is anything of value corruptly received by a municipal employee in exchange for the employee being influenced in his official actions. Giving, offering, receiving, or asking for a bribe is illegal.

Bribes are more serious than illegal gifts because they involve corrupt intent. In other words, the municipal employee intends to sell his office by agreeing to do or not do some official act, and the giver intends to influence him to do so. Bribes of any value are illegal.

(b) Gifts and gratuities. Asking for or accepting a gift because of your official position, or because of something you can do or have done in your official position, is prohibited. (See Sections 3, 23(b)(2), and 26)

Municipal employees may not accept gifts and gratuities valued at \$50 or more given to influence their official actions or because of their official position. Accepting a gift intended to reward past official action or to bring about future official action is illegal, as is giving such gifts. Accepting a gift given to you because of the municipal position you hold is also illegal. Meals, entertainment event tickets, golf, gift baskets, and payment of travel expenses can all be illegal gifts if given in connection with official action or position, as can anything worth \$50 or more. A number of smaller gifts together worth \$50 or more may also violate these sections.

Example of violation : A town administrator accepts reduced rental payments from developers.

Example of violation : A developer offers a ski trip to a school district employee who oversees the developer's work for the school district.

Regulatory exemptions . There are situations in which a municipal employee's receipt of a gift does not present a genuine risk of a conflict of interest, and may in fact advance the public interest. The Commission has created exemptions permitting giving and receiving gifts in these situations. One commonly used exemption permits municipal employees to accept payment of travel-related expenses when doing so advances a public purpose. Another commonly used exemption permits municipal employees to accept payment of costs involved in attendance at educational and training programs. Other exemptions are listed on the Commission's website.

Example where there is no violation : A fire truck manufacturer offers to pay the travel expenses of a fire chief to a trade show where the chief can examine various kinds of fire-fighting equipment that the town may purchase. The chief fills out a disclosure form and obtains prior approval from his appointing authority.

Example where there is no violation : A town treasurer attends a two-day annual school featuring multiple substantive seminars on issues relevant to treasurers. The annual school is paid for in part by banks that do business with town treasurers. The treasurer is only required to make a disclosure if one of the sponsoring banks has official business before her in the six months before or after the annual school.

(c) Misuse of position. Using your official position to get something you are not entitled to, or to get someone else something they are not entitled to, is prohibited. Causing someone else to do these things is also prohibited. (See Sections 23(b)(2) and 26)

A municipal employee may not use her official position to get something worth \$50 or more that would not be properly available to other similarly situated individuals. Similarly, a municipal employee may not use her official position to get something worth \$50 or more for someone else that would not be properly

available to other similarly situated individuals. Causing someone else to do these things is also prohibited.

Example of violation : A full-time town employee writes a novel on work time, using her office computer, and directing her secretary to proofread the draft.

Example of violation : A city councilor directs subordinates to drive the councilor's wife to and from the grocery store.

Example of violation : A mayor avoids a speeding ticket by asking the police officer who stops him, "Do you know who I am?" and showing his municipal I.D.

(d) Self-dealing and nepotism. Participating as a municipal employee in a matter in which you, your immediate family, your business organization, or your future employer has a financial interest is prohibited. (See Section 19)

A municipal employee may not participate in any particular matter in which he or a member of his immediate family (parents, children, siblings, spouse, and spouse's parents, children, and siblings) has a financial interest. He also may not participate in any particular matter in which a prospective employer, or a business organization of which he is a director, officer, trustee, or employee has a financial interest. Participation includes discussing as well as voting on a matter, and delegating a matter to someone else.

A financial interest may create a conflict of interest whether it is large or small, and positive or negative. In other words, it does not matter if a lot of money is involved or only a little. It also does not matter if you are putting money into your pocket or taking it out. If you, your immediate family, your business, or your employer have or has a financial interest in a matter, you may not participate. The financial interest must be direct and immediate or reasonably foreseeable to create a conflict. Financial interests which are remote, speculative or not sufficiently identifiable do not create conflicts.

Example of violation : A school committee member's wife is a teacher in the town's public schools. The school committee member votes on the budget line item for teachers' salaries.

Example of violation : A member of a town affordable housing committee is also the director of a non-profit housing development corporation. The non-profit makes an application to the committee, and the member/director participates in the discussion.

Example : A planning board member lives next door to property where a developer plans to construct a new building. Because the planning board member owns abutting property, he is presumed to have a financial interest in the matter. He cannot participate unless he provides the State Ethics Commission with an opinion from a qualified independent appraiser that the new construction will not affect his financial interest.

In many cases, where not otherwise required to participate, a municipal employee may comply with the law by simply not participating in the particular matter in which she has a financial interest. She need not give a reason for not participating.

There are several exemptions to this section of the law. An appointed municipal employee may file a written disclosure about the financial interest with his appointing authority, and seek permission to participate notwithstanding the conflict. The appointing authority may grant written permission if she determines that the financial interest in question is not so substantial that it is likely to affect the integrity of his services to the municipality. Participating without disclosing the financial interest is a violation. Elected employees cannot use the disclosure procedure because they have no appointing authority.

Example where there is no violation : An appointed member of the town zoning advisory committee, which will review and recommend changes to the town's by-laws with regard to a commercial district, is a partner at a company that owns commercial property in the district. Prior to participating in any committee discussions, the member files a disclosure with the zoning board of appeals that appointed him to his position, and that board gives him a written determination authorizing his participation, despite his company's financial interest. There is no violation.

There is also an exemption for both appointed and elected employees where the employee's task is to address a matter of general policy and the employee's financial interest is shared with a substantial portion (generally 10% or more) of the town's population, such as, for instance, a financial interest in real estate tax rates or municipal utility rates.

Regulatory exemptions. In addition to the statutory exemptions just mentioned, the Commission has created several regulatory exemptions permitting municipal employees to participate in particular matters notwithstanding the presence of a financial interest in certain very specific situations when permitting them to do so advances a public purpose. There is an exemption permitting school committee members to participate in setting school fees that will affect their own children if they make a prior written disclosure. There is an exemption permitting town clerks to perform election-related functions even when they, or their immediate family members, are on the ballot, because clerks' election-related functions are extensively regulated by other laws. There is also an exemption permitting a person serving as a member of a municipal board pursuant to a legal requirement that the board have members with a specified affiliation to participate fully in determinations of general policy by the board, even if the entity with which he is affiliated has a financial interest in the matter. Other exemptions are listed in the Commission's regulations, available on the Commission's website.

Example where there is no violation: A municipal Shellfish Advisory Board has been created to provide advice to the Board of Selectmen on policy issues related to shellfishing. The Advisory Board is required to have members who are currently commercial fishermen. A board member who is a commercial fisherman may participate in determinations of general policy in which he has a financial interest common to all commercial fishermen, but may not participate in determinations in which he alone has a financial interest, such as the extension of his own individual permits or leases.

(e) False claims. Presenting a false claim to your employer for a payment or benefit is prohibited, and causing someone else to do so is also prohibited. (See Sections 23(b)(4) and 26)

A municipal employee may not present a false or fraudulent claim to his employer for any payment or benefit worth \$50 or more, or cause another person to do so.

Example of violation : A public works director directs his secretary to fill out time sheets to show him as present at work on days when he was skiing.

(f) Appearance of conflict. Acting in a manner that would make a reasonable person think you can be improperly influenced is prohibited. (See Section 23(b)(3))

A municipal employee may not act in a manner that would cause a reasonable person to think that she would show favor toward someone or that she can be improperly influenced. Section 23(b)(3) requires a municipal employee to consider whether her relationships and affiliations could prevent her from acting fairly and objectively when she performs her duties for a city or town. If she cannot be fair and objective because of a relationship or affiliation, she should not perform her duties. However, a municipal employee, whether elected or appointed, can avoid violating this provision by making a public disclosure of the facts. An appointed employee must make the disclosure in writing to his appointing official.

Example where there is no violation : A developer who is the cousin of the chair of the conservation commission has filed an application with the commission. A reasonable person could conclude that the chair might favor her cousin. The chair files a written disclosure with her appointing authority explaining her relationship with her cousin prior to the meeting at which the application will be considered. There is no violation of Sec. 23(b)(3).

(g) Confidential information. Improperly disclosing or personally using confidential information obtained through your job is prohibited. (See Section 23(c))

Municipal employees may not improperly disclose confidential information, or make personal use of non-public information they acquired in the course of their official duties to further their personal interests.

III. After-hours restrictions.

(a) Taking a second paid job that conflicts with the duties of your municipal job is prohibited. (See Section 23(b)(1))

A municipal employee may not accept other paid employment if the responsibilities of the second job are incompatible with his or her municipal job.

Example : A police officer may not work as a paid private security guard in the town where he serves because the demands of his private employment would conflict with his duties as a police officer.

(b) Divided loyalties. Receiving pay from anyone other than the city or town to work on a matter involving the city or town is prohibited. Acting as agent or attorney for anyone other than the city or town in a matter involving the city or town is also prohibited whether or not you are paid. (See Sec. 17)

Because cities and towns are entitled to the undivided loyalty of their employees, a municipal employee may not be paid by other people and organizations in relation to a matter if the city or town has an interest in the matter. In addition, a municipal employee may not act on behalf of other people and organizations or act as an attorney for other people and organizations in which the town has an interest. Acting as agent includes contacting the municipality in person, by phone, or in writing; acting as a liaison; providing documents to the city or town; and serving as spokesman.

A municipal employee may always represent his own personal interests, even before his own municipal agency or board, on the same terms and conditions that other similarly situated members of the public would be allowed to do so. A municipal employee may also apply for building and related permits on behalf of someone else and be paid for doing so, unless he works for the permitting agency, or an agency which regulates the permitting agency.

Example of violation : A full-time health agent submits a septic system plan that she has prepared for a private client to the town's board of health.

Example of violation : A planning board member represents a private client before the board of selectmen on a request that town meeting consider rezoning the client's property.

While many municipal employees earn their livelihood in municipal jobs, some municipal employees volunteer their time to provide services to the town or receive small stipends. Others, such as a private attorney who provides legal services to a town as needed, may serve in a position in which they may have other personal or private employment during normal working hours. In recognition of the need not to unduly restrict the ability of town volunteers and part-time employees to earn a living, the law is less restrictive for "special" municipal employees than for other municipal employees.

The status of "special" municipal employee has to be assigned to a municipal position by vote of the board of selectmen, city council, or similar body. A position is eligible to be designated as "special" if it is unpaid, or if it is part-time and the employee is allowed to have another job during normal working hours, or if the employee was not paid for working more than 800 hours during the preceding 365 days. It is the position that is designated as "special" and not the person or persons holding the position. Selectmen in towns of 10,000 or fewer are automatically "special"; selectman in larger towns cannot be "specials."

If a municipal position has been designated as "special," an employee holding that position may be paid by others, act on behalf of others, and act as attorney for others with respect to matters before municipal boards other than his own, provided that he has not officially participated in the matter, and the matter is not now, and has not within the past year been, under his official responsibility.

Example : A school committee member who has been designated as a special municipal employee appears before the board of health on behalf of a client of his private law practice, on a matter that he has not participated in or had responsibility for as a school committee member. There is no conflict. However, he may not appear before the school committee, or the school department, on behalf of a client because he has official responsibility for any matter that comes before the school committee. This is still the case even if he has recused himself from participating in the matter in his official capacity.

Example : A member who sits as an alternate on the conservation commission is a special municipal employee. Under town by-laws, he only has official responsibility for matters assigned to him. He may

represent a resident who wants to file an application with the conservation commission as long as the matter is not assigned to him and he will not participate in it.

(c) Inside track. Being paid by your city or town, directly or indirectly, under some second arrangement in addition to your job is prohibited, unless an exemption applies. (See Section 20)

A municipal employee generally may not have a financial interest in a municipal contract, including a second municipal job. A municipal employee is also generally prohibited from having an indirect financial interest in a contract that the city or town has with someone else. This provision is intended to prevent municipal employees from having an "inside track" to further financial opportunities.

Example of violation : Legal counsel to the town housing authority becomes the acting executive director of the authority, and is paid in both positions.

Example of violation : A selectman buys a surplus truck from the town DPW.

Example of violation : A full-time secretary for the board of health wants to have a second paid job working part-time for the town library. She will violate Section 20 unless she can meet the requirements of an exemption.

Example of violation : A city councilor wants to work for a non-profit that receives funding under a contract with her city. Unless she can satisfy the requirements of an exemption under Section 20, she cannot take the job.

There are numerous exemptions. A municipal employee may hold multiple unpaid or elected positions. Some exemptions apply only to special municipal employees. Specific exemptions may cover serving as an unpaid volunteer in a second town position, housing-related benefits, public safety positions, certain elected positions, small towns, and other specific situations. Please call the Ethics Commission's Legal Division for advice about a specific situation.

IV. After you leave municipal employment. (See Section 18)

(a) Forever ban. After you leave your municipal job, you may never work for anyone other than the municipality on a matter that you worked on as a municipal employee.

If you participated in a matter as a municipal employee, you cannot ever be paid to work on that same matter for anyone other than the municipality, nor may you act for someone else, whether paid or not. The purpose of this restriction is to bar former employees from selling to private interests their familiarity with the facts of particular matters that are of continuing concern to their former municipal employer. The restriction does not prohibit former municipal employees from using the expertise acquired in government service in their subsequent private activities.

Example of violation : A former school department employee works for a contractor under a contract that she helped to draft and oversee for the school department.

(b) One year cooling-off period. For one year after you leave your municipal job you may not participate in any matter over which you had official responsibility during your last two years of public service.

Former municipal employees are barred for one year after they leave municipal employment from personally appearing before any agency of the municipality in connection with matters that were under their authority in their prior municipal positions during the two years before they left.

Example : An assistant town manager negotiates a three-year contract with a company. The town manager who supervised the assistant, and had official responsibility for the contract but did not participate in negotiating it, leaves her job to work for the company to which the contract was awarded. The former manager may not call or write the town in connection with the company's work on the contract for one year after leaving the town.

A former municipal employee who participated as such in general legislation on expanded gaming and related matters may not become an officer or employee of, or acquire a financial interest in, an applicant for a gaming license, or a gaming licensee, for one year after his public employment ceases.

(c) Partners. Your partners will be subject to restrictions while you serve as a municipal employee and after your municipal service ends.

Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality or provide services as an attorney to anyone but the city or town in relation to the matter.

Example : While serving on a city's historic district commission, an architect reviewed an application to get landmark status for a building. His partners at his architecture firm may not prepare and sign plans for the owner of the building or otherwise act on the owner's behalf in relation to the application for landmark status. In addition, because the architect has official responsibility as a commissioner for every matter that comes before the commission, his partners may not communicate with the commission or otherwise act on behalf of any client on any matter that comes before the commission during the time that the architect serves on the commission.

Example : A former town counsel joins a law firm as a partner. Because she litigated a lawsuit for the town, her new partners cannot represent any private clients in the lawsuit for one year after her job with the town ended.

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This summary is not intended to be legal advice and, because it is a summary, it does not mention every provision of the conflict law that may apply in a particular situation. Our

website, <http://www.mass.gov/ethics> contains further information about how the law applies in many situations. You can also contact the Commission's Legal Division via our website, by telephone, or by letter. Our contact information is at the top of this document.

Version 7: Revised November 14, 2016

The Commonwealth of Massachusetts
State Ethics Commission
John W. McCormack State Office Building, Room 619
One Ashburton Place, Boston, MA 02108
Telephone (617) 727-0060 Fax (617) 723-5851

List of Disclosure Forms for Municipal Employees

<http://www.mass.gov/ethics/disclosure-forms/municipal-employee-disclosure-forms/>

- 1c. Disclosure of Municipal Employee's Financial Interest in a Particular Matter required by section 19
- 2c. Disclosure of Municipal Employee's Financial Interest in a Municipal Contract required by section 20(b)
- 3c. Disclosure of Special Municipal Employee's Financial Interest in a Municipal Contract required by section 20(c)
- 4c. Approval of a Special Municipal Employee's Financial Interest in a Municipal Contract required by section 20(d)
- 5c. Disclosure by a Municipal Employee of Part-Time, Call or Volunteer Services to a Police, Fire, Rescue or Ambulance Department as required by section 20(f)
- 6c. Section 20 Exemption Request Letter Available for Employees of Small Towns (less than 3,500 residents)
8. Disclosure of Appearance of Undue Favor or Improper Influence required by section 23(b)(3)
9. Disclosure of Gift Unrelated to Official Position required by 930 CMR 5.06
10. Disclosure of a Gift with a Value of Less Than \$50 required by 930 CMR 5.07
- 11a. Disclosure of Travel Expense Reimbursement for Non-Elected/Appointed Public Employees as Required by 930 CMR 5.08(2) (d)1
- 11b. Disclosure of Reimbursed Travel Expenses by an Elected Public Official as Required by 930 CMR 5.08(2)(d)2
12. Reconciliation Statement of Travel Expenses for a Public Employee required by 930 CMR 5.08(2)(d)3
13. Disclosure of Public Employee's Receipt of Travel Expenses within Six Months required by 930 CMR 5.08(2)(d)4
14. Disclosure by Public Employee of In-State Travel Expenses required by 930 CMR 5.08(2)(e)
- 15a. Disclosure by Appointed/Non-Elected Public Employee of Incidental Hospitality at an Event required by 930 CMR 5.08(3)(b)
- 15b. Disclosure by an Elected Official of Incidental Hospitality at an Event required by 930 CMR 5.08(3)(b)
16. Disclosure for Public Employees to Receive Honoraria for Legitimate Speaking Engagements as Required by 930 CMR 5.08(4)(c)
17. Disclosure by Public Employee of Honorary Degree required by 930 CMR 5.08(5)
18. Disclosure by Public Employee of Meritorious Public Service or Life Achievement Award required by 5.08(6)

19. Disclosure by a Public Employee of Appointment or Election to an Uncompensated Public Position required by 930 CMR 6.02(3)
 - 20a. Disclosure by a Supervisory School Employee Advocating for a Child required by 930 CMR 6.03(4)
 21. Disclosure by a Charter School Trustee or School Committee Member of a Financial Interest in a General School Fee required by 930 CMR 6.09 Instructions for Completing a Disclosure of a Charter School Trustee or School Committee Member's Financial Interest in a General School Fee, required by 930 CMR 6.09
 22. Disclosure by a Public Employee of a Financial Interest in a Contract Regarding Certain Real Estate Interests required by 930 CMR 6.10
 - 23a. Disclosure by a Special Public Employee of a Financial Interest in an Additional Public Contract for Legal or Professional Services required by 930 CMR 6.13
 24. Disclosure of a Financial Interest in a Public Contract Pre-Dating Election or Appointment as Required by 930 CMR 6.26(3)
 25. Disclosure of a Financial Interest in a Public Contract Acquired After Election or Appointment By Transfer from an Immediate Family Member or By Inheritance as Required by 930 CMR 6.26(4)
 26. Disclosure by a Public Employee of a Financial Interest in a Substantially Similar Public Contract as Required by 930 CMR 6.26(5)
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THE COMMONWEALTH OF MASSACHUSETTS

OPEN MEETING LAW, G.L. c. 30A, §§ 18-25¹

* * *

Chapter 28 of the Acts of 2009, sections 17–20, repealed the existing state Open Meeting Law, G.L. c. 30A, §§ 11A, 11A-1/2, county Open Meeting Law, G.L. c. 34, §9F, 9G, and municipal Open Meeting Law, G.L. c. 39, §§ 23A, 23B, and 23C, and replaced them with a single Open Meeting Law covering all public bodies, G.L. c. 30A, §§ 18-25, enforced by the Attorney General.

* * *

Section 18: [DEFINITIONS]

As used in this section and sections 19 to 25, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“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; provided, however, that “deliberation” shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

“Emergency”, a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

“Executive session”, any part of a meeting of a public body closed to the public for deliberation of certain matters.

“Intentional violation”, an act or omission by a public body or a member thereof, in knowing violation of the open meeting law.

“Meeting”, a deliberation by a public body with respect to any matter within the body’s jurisdiction; provided, however, “meeting” shall not include:

- (a) an on-site inspection of a project or program, so long as the members do not deliberate;
- (b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;
- (c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;
- (d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or

¹ NOTICE: This is NOT the official version of the Massachusetts General Law (MGL). While reasonable efforts have been made to ensure the accuracy and currency of the data provided, do not rely on this information without first checking an official edition of the MGL.

(e) a session of a town meeting convened under section 9 of chapter 39 which would include the attendance by a quorum of a public body at any such session.

“Minutes”, the written report of a meeting created by a public body required by subsection (a) of section 22 and section 5A of chapter 66.

“Open meeting law”, sections 18 to 25, inclusive.

“Post notice”, to display conspicuously the written announcement of a meeting either in hard copy or electronic format.

“Preliminary screening”, the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview.

“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; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that “public body” shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

“Quorum”, a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.

Section 19. Division of Open Government; Open Meeting Law Training; Open Meeting Law Advisory Commission; Annual Report

(a) There shall be in the department of the attorney general a division of open government under the direction of a director of open government. The attorney general shall designate an assistant attorney general as the director of the open government division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical and other assistants as the work of the division may require. The division shall perform the duties imposed upon the attorney general by the open meeting law, which may include participating, appearing and intervening in any administrative and judicial proceedings pertaining to the enforcement of the open meeting law. For the purpose of such participation, appearance, intervention and training authorized by this chapter the attorney general may expend such funds as may be appropriated therefor.

(b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law. Open meeting law training may include, but shall not be limited to, instruction in:

- (1) the general background of the legal requirements for the open meeting law;
- (2) applicability of sections 18 to 25, inclusive, to governmental bodies;

- (3) the role of the attorney general in enforcing the open meeting law; and
- (4) penalties and other consequences for failure to comply with this chapter.

(c) There shall be an open meeting law advisory commission. The commission shall consist of 5 members, 2 of whom shall be the chairmen of the joint committee on state administration and regulatory oversight; 1 of whom shall be the president of the Massachusetts Municipal Association or his designee; 1 of whom shall be the president of the Massachusetts Newspaper Publishers Association or his designee; and 1 of whom shall be the attorney general or his designee.

The commission shall review issues relative to the open meeting law and shall submit to the attorney general recommendations for changes to the regulations, trainings, and educational initiatives relative to the open meeting law as it deems necessary and appropriate.

(d) The attorney general shall, not later than January 31, file annually with the commission a report providing information on the enforcement of the open meeting law during the preceding calendar year. The report shall include, but not be limited to:

- (1) the number of open meeting law complaints received by the attorney general;
- (2) the number of hearings convened as the result of open meeting law complaints by the attorney general;
- (3) a summary of the determinations of violations made by the attorney general;
- (4) a summary of the orders issued as the result of the determination of an open meeting law violation by the attorney general;
- (5) an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions;
- (6) the number of actions filed in superior court seeking relief from an order of the attorney general; and
- (7) any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate.

Section 20. Meetings of a Public Body to be Open to the Public; Notice of Meeting; Remote Participation; Recording and Transmission of Meeting; Removal of Persons for Disruption of Proceedings

(a) Except as provided in section 21, all meetings of a public body shall be open to the public.

(b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.

(c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies. For meetings of a

regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or town within such district and shall post the notice in the manner prescribed for local public bodies. For meetings of a county public body, notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose.

For meetings of a state public body, notice shall be filed with the attorney general by posting on a website in accordance with procedures established for this purpose and a duplicate copy of the notice shall be filed with the regulations division of the state secretary's office.

The attorney general shall have the authority to prescribe or approve alternative methods of notice where the attorney general determines such alternative will afford more effective notice to the public.

(d) The attorney general may by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. Such authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39.

(e) A local commission on disability may by majority vote of the commissioners at a regular meeting authorize remote participation applicable to a specific meeting or generally to all of the commission's meetings. If a local commission on disability is authorized to utilize remote participation, a physical quorum of that commission's members shall not be required to be present at the meeting location; provided, however, that the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location. The commission shall comply with all other requirements of law.

(f) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.

(g) Within 2 weeks of qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated pursuant to section 25 and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the appointing authority, city or town clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain such certification from each person upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

Section 21. Executive Sessions

(a) A public body may meet in executive session only for the following purposes:

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. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:

- i. to be present at such executive session during deliberations which involve that individual;
- ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
- iii. to speak on his own behalf; and
- iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;

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;

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;

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;

7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;

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;

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; or

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a

of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, 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.

(b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that:

1. the body has first convened in an open session pursuant to section 21;
2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes;
3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and
5. accurate records of the executive session shall be maintained pursuant to section 23.

Section 22. Meeting Minutes; Records

(a) A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.

(b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes.

(c) Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days.

(d) Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.

(e) The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.

(f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from

disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21.

When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

(g)(1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting.

(2) Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

Section 23. Enforcement of Open Meeting Law; Complaints; Hearings; Civil Actions

(a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law.

(b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension.

(c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following

a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to:

- (1) compel immediate and future compliance with the open meeting law;
- (2) compel attendance at a training session authorized by the attorney general;
- (3) nullify in whole or in part any action taken at the meeting;
- (4) impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation;
- (5) reinstate an employee without loss of compensation, seniority, tenure or other benefits;
- (6) compel that minutes, records or other materials be made public; or
- (7) prescribe other appropriate action.

(d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review.

(e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance.

(f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law.

Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets.

In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (c).

In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no

civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law.

(g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel.

(h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.

Section 24. Investigation by Attorney General of Violations of Open Meeting Law

(a) Whenever the attorney general has reasonable cause to believe that a person, including any public body and any other state, regional, county, municipal or other governmental official or entity, has violated the open meeting law, the attorney general may conduct an investigation to ascertain whether in fact such person has violated the open meeting law. Upon notification of an investigation, any person, public body or any other state, regional, county, municipal or other governmental official or entity who is the subject of an investigation, shall make all information necessary to conduct such investigation available to the attorney general. In the event that the person, public body or any other state, regional, county, municipal or other governmental official or entity being investigated does not voluntarily provide relevant information to the attorney general within 30 days of receiving notice of the investigation, the attorney general may: (1) take testimony under oath concerning such alleged violation of the open meeting law; (2) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violation of the open meeting law; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person is a nonresident or has no place of business within the commonwealth, in Suffolk county.

(b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination.

(c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business.

(d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material

demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

(e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth.

(f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court.

(g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

Section 25. Regulations; Letter Rulings; Advisory Opinions

(a) The attorney general shall have the authority to promulgate rules and regulations to carry out enforcement of the open meeting law.

(b) The attorney general shall have the authority to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.

Open Meeting Law Guide and Educational Materials



COMMONWEALTH OF MASSACHUSETTS

OFFICE OF ATTORNEY GENERAL
MAURA HEALEY

JANUARY 2018

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Dear Massachusetts Residents:

One of the most important functions of the Attorney General's Office is to promote openness and transparency in government. Every resident of Massachusetts should be able to access and understand the reasoning behind the government policy decisions that affect our lives. My office is working to achieve that goal through fair and consistent enforcement of the Open Meeting Law, along with robust educational outreach about the law's requirements.

The Open Meeting Law requires that most meetings of public bodies be held in public, and it establishes rules that public bodies must follow in the creation and maintenance of records relating to those meetings. Our office is dedicated to providing educational materials, outreach and training sessions to ensure that members of public bodies and citizens understand their rights and responsibilities under the law.

Whether you are a town clerk or town manager, a member of a public body, or a concerned citizen, I want to thank you for taking the time to understand the Open Meeting Law. If you would like additional guidance on the law, I encourage you to contact my Division of Open Government at (617) 963-2540 or visit our website at www.mass.gov/ago/openmeeting for more information.

Sincerely,

A handwritten signature in black ink, appearing to read "Ma Healey". The signature is fluid and cursive, with the first name "Ma" and the last name "Healey" clearly distinguishable.

Maura Healey
Massachusetts Attorney General

Attorney General's Open Meeting Law Guide

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.

Attorney General's Authority

The Open Meeting Law was revised as part of the 2009 Ethics Reform Bill, and now centralizes responsibility for statewide 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 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 orders 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.

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 of violating it. The certification must be retained where the public body maintains its official records. All public body members should familiarize themselves with the Open Meeting Law, the Attorney General's regulations, this Guide, and Open Meeting Law determinations issued to the member's public body within the last five years in which the Attorney General found a violation of the law.

In the event a Certificate has not yet been completed by a presently serving 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. A public body member must sign a new Certificate upon reelection or reappointment to the public body but need not sign a Certificate when joining a subcommittee.

[Open Meeting Law 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, and determinations and declinations as to complaints can be found on the Attorney General's Open Meeting website, www.mass.gov/ago/openmeeting. Members of public bodies, other local and state government officials, and the public are encouraged to visit the website regularly for updates on the law and the Attorney General's interpretations of it.

Meetings of Public Bodies

[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 or among members of a **public body**;
- 2) if so, does the communication constitute a **deliberation**;
- 3) does the communication involve a matter within the body's **jurisdiction**; and
- 4) if so, does the communication fall within an **exception** listed in the law?

[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 branches¹ 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

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

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 (including those of charter schools) are certainly subject to the Open Meeting Law, as are subcommittees of public bodies, regardless of whether their role is decision-making or advisory. Individual government officials, such as a town manager or police chief, and members of their staff are not 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. This exception for individual officials to the general Open Meeting Law does not apply where such officials are serving as members of a multiple-member public body that is subject to the law.

Bodies appointed by a public official solely for the purpose of advising the official on a decision that individual could make alone are not public bodies subject to the Open Meeting Law. For example, a school superintendent appoints a five-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

[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. These types of communications generally will 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. Additionally, certain communications that may otherwise be considered deliberation are specifically exempt by statute from the definition of deliberation (for example, discussion of the recess and continuance of a Town Meeting pursuant to G.L. c. 39, § 10A(a) is not deliberation).

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 less 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 serial manner in order to evade the application of the law.

Note that the expression of an opinion on matters within the body’s jurisdiction to a quorum of a public body is a deliberation, even if no other public body member responds. For

² See [Connelly v. School Committee of Hanover](#), 409 Mass. 232 (1991).

example, if a member of a public body sends an email to a quorum of a public body expressing her opinion on a matter that could come before that body, this communication violates the law even if none of the recipients responds.

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.” 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. Certain discussions regarding procedural or administrative matters may also relate to public business within a body's jurisdiction, such as where the discussion involves the organization and leadership of the public body, committee assignments, or rules or bylaws for the body. Statements made for political purposes, such as where a public body’s members characterize their own past achievements, generally are not considered communications on public business within the jurisdiction of the public body.

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

The Attorney General interprets the exemption for “quasi-judicial boards or commissions” 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.

We have received several inquiries about the exception for Town Meeting and whether it applies to meetings outside of a Town Meeting session by Town Meeting members or Town Meeting committees or to deliberation by members of a public body – such as a board of selectmen – during a session of Town Meeting. The Attorney General interprets this exemption to mean that the Open Meeting Law does not reach any aspect of Town Meeting. Therefore,

the Attorney General will not investigate complaints alleging violations in these situations. Note, however, that this is a matter of interpretation and future Attorneys General may choose to apply the law in such situations.

Notice

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.

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 with enough time 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, on, or near the municipal building in which the clerk's office is located. In the event that 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 adopt the municipal website as the official method of notice posting.

Prior to utilizing the municipal website, the Chief Executive Officer of the municipality must authorize or vote to adopt such website as the official method of posting notice. The clerk of the municipality must inform the Division of Open Government of its notice posting method and must inform the Division of any future changes to that posting method. Public bodies must consistently use the most current notice posting method on file with the Division. A description of the website, including directions on how to locate notices on the website, must also be posted on or adjacent to the main and handicapped accessible entrances to the building where the clerk's office is located. Note that meeting notices must still be available in or around the clerk's office so that members of the public may view the notices during normal business hours.

What are the requirements for posting 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.

The regional school district committee must file and post notice of the website address, as well as directions on how to locate notices on the website, in each city and town within the region or district. A copy of the notice must 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 notice of meetings on the county public body's website. The county public body must file and post notice of the website address, as well as directions on how to locate notices on the website, in the office of the county commissioners. 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 post meeting notices 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 specific webpage location where notices will be posted and of any subsequent changes to that posting location. A copy of each meeting 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.

Where a public body adopts a website as the official method of posting notices, it must make every effort to ensure that the website is accessible at all hours. If a website becomes inaccessible within 48 hours of a meeting, not including Saturdays, Sundays or legal holidays, the website must be restored within six business hours of the discovery. If the website is not restored within six business hours, the public body must re-post notice of its meeting to another date and time, in accordance with the requirements of the Open Meeting Law.

[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 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.³ The Attorney General's Disability Rights Project is available to answer questions about accessibility and may be reached at (617) 963-2939.

³ The 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.

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 all topics that the chair reasonably anticipates, 48 hours in advance, 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. Where there are no anticipated topics for discussion in open session other than the procedural requirements for convening an executive session, the public body should list “open session” as a topic, in addition to the executive session, so the public is aware that it has the opportunity to attend and learn the basis for the executive session.

Meeting notices must also indicate the date and time that the notice was posted, either on the notice itself or in a document or website accompanying the notice. If a notice is revised, the revised notice must also conspicuously record both the date and time the original notice was posted as well as the date and time the last revision was posted. Recording the date and time enables the public to observe that public bodies are complying with the Open Meeting Law’s notice requirements without requiring constant vigilance. Additionally, in the event of a complaint, it provides the Attorney General with evidence of compliance with those requirements.

If a discussion topic is proposed after a meeting notice is posted, and it was not reasonably anticipated by the chair more than 48 hours before the meeting, the public body should update its posting to provide the public with as much notice as possible of what subjects will be discussed during the meeting. Although a public body may consider a topic that was not listed in the meeting notice if it was not anticipated, the Attorney General strongly encourages public bodies to postpone discussion and action on topics that are controversial or may be of particular interest to the public if the topic was not listed in the meeting notice.

Executive Session

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 first:

- 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, the member must state at the start of the executive session that no other person is present 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, all votes taken must be recorded by roll call, and the public body may only discuss matters for which the executive session was called.

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 reasons 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, 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 for the individual who is the subject of the discussion. The individual has the right to be present, though he or she may choose not to attend. The individual who is the subject of the discussion may also choose to have the discussion in an open meeting, and that choice 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;

Generally, a public body must identify the specific non-union personnel or collective bargaining unit with which it is negotiating before entering into executive session under Purpose 2. A public body may withhold the identity of the non-union personnel or bargaining unit if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

While a public body may agree on terms with individual non-union personnel in executive session, the final vote to execute such agreements must be taken by the public body in open session. In contrast, a public body may approve final terms and execute a collective bargaining agreement in executive session, but should promptly disclose the agreement in open session following its execution.

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

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;

Generally, a public body must identify the collective bargaining unit with which it is negotiating or the litigation matter it is discussing before entering into executive session under Purpose 3. A public body may withhold the identity of the collective bargaining unit or name of the litigation matter if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

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 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: For the reasons discussed above, 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. However, 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. Purpose 5 does not require that the same rights be given to the person who is the subject of a criminal complaint. 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;**

Generally, a public body must identify the specific piece of property it plans to discuss before entering into executive session under Purpose 6. A public body may withhold the identity of the property if publicly disclosing that information would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details

would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

Under this purpose, as with the collective bargaining and litigation purpose, an executive session may be held only 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. A public body may withhold that information only if publicly disclosing it would compromise the purpose for which the executive session was called. While we generally defer to public bodies' assessment of whether the inclusion of such details would compromise the purpose for an executive session, a public body must be able to demonstrate a reasonable basis for that claim if challenged.

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. It may, however, include a review of résumés and 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 less 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 provided:

- 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 section 1F of chapter 164;
- in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164; or
- in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164;
- 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.

Remote Participation

May a member of a 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.

Note that the Attorney General's regulations enable members of public bodies to participate remotely if the practice has been properly adopted, but do not require that a public body permit members of the public to participate remotely. If a public body chooses to allow

individuals who are not members of the public body to participate remotely in a meeting, it may do so without following the Open Meeting Law's remote participation procedures.

[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 applies 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).

Note about Local Commissions on Disability: Local commissions on disability may decide by majority vote of the commissioners at a regular meeting to permit remote participation during a specific meeting or during all commission meetings. G.L. c. 30A, § 20(e). Adoption by the municipal adopting authority is not required.

[What are the permissible reasons for remote participation?](#)

Once remote participation is adopted, any member of a public body may participate remotely only if physical attendance would be unreasonably difficult.

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

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:

1. 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;
2. Members of a public body who participate remotely and all persons present at the meeting location must be clearly audible to each other; and
3. All votes taken during a meeting in which a member participates remotely must be by roll call vote.

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; such information must also be recorded in the meeting minutes. The chair's statement does not need to contain any detail about the reason for the member's remote participation.

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 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.

Public Participation

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. 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 may not 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. If the person does not leave, the chair may authorize a constable or other officer to remove the person. Although public participation is entirely within the chair's discretion, the

Attorney General encourages public bodies to allow as much public participation as time permits.

Any member of the public may 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. If someone arrives after the meeting has begun and wishes to record a meeting, that person should attempt to notify the chair prior to beginning recording, ideally in a manner that does not significantly disrupt the meeting in progress (such as passing a note for the chair to the board administrator or secretary). The chair should endeavor to acknowledge such attempts at notification and announce the fact of any recording to those in attendance.

Minutes

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 include:

- the date, time and place of the meeting;
- the members present or absent;
- the decisions made and actions taken, including a record of all votes;
- a summary of the discussions on each subject;
- a list of all documents and exhibits used at the meeting; and
- the name of any member who participated in the meeting remotely.

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. While public bodies must identify in the minutes all documents and exhibits used at a meeting and must retain them in accordance with the Secretary of the Commonwealth's records retention schedule, these documents and exhibits needn't be attached to or physically stored with the minutes.

Minutes, and all documents and exhibits used, 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. The State and Municipal Record Retention Schedules are available through the Secretary of the Commonwealth's website at: <http://www.sec.state.ma.us/arc/arcmu/rmuidx.htm>.

Open Session Meeting Records

The Open Meeting Law requires public bodies to create and approve minutes in a timely manner. A “timely manner” is considered to be within the next three public body meetings or 30 days from the date of the meeting, whichever is later, unless the public body can show good cause for further delay. The Attorney General encourages minutes to be approved at a public body’s next meeting whenever possible. The law requires that existing minutes be made available to the public within ten days of a request, whether they have been approved or remain in draft form. Materials or other exhibits used by the public body in an open meeting must also be made available to the public within ten days of a 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 résumé submitted by an applicant, which is 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.

Executive Session Meeting Records

Public bodies are not required to disclose the minutes, notes, or other materials used in an executive session if 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, however, minutes and other records from that executive session must be disclosed unless they fall within an exemption to the Public Records Law, G.L. c. 4, § 7, cl. 26, or the attorney-client privilege applies. Public bodies are also required to periodically review their executive session minutes to determine whether continued non-disclosure is warranted. These determinations 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 ten days of the request. If the public body has determined, prior to the request, that the requested executive session minutes may be released, it must make those minutes available to the requestor at that time. If the body previously determined that executive session minutes should remain confidential because publication would defeat the lawful purposes of the executive session, it should respond by stating the reason the minutes continue to be withheld. And if, at the time of a request, the public body has not conducted a review of the minutes to determine whether continued nondisclosure is warranted, the body must perform such a review and release the minutes, if appropriate, no later than its next meeting or within 30 days, whichever occurs first. In such circumstances, the body should still respond to the request within ten days, notifying the requestor that it is conducting this review.

Open Meeting Law Complaints

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 receive and investigate complaints, bring enforcement actions, issue advisory opinions, and promulgate 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. The Division of Open Government offers periodic online and in-person training on the Open Meeting Law and will respond to requests for guidance and information 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.

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 Attorney General's website, www.mass.gov/ago/openmeeting. 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 meet 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 complainant. The public body must simultaneously notify the Attorney General that it has responded to the complainant and provide the Attorney General with a copy of the response and a description of any remedial action taken. While the public body may delegate responsibility for responding to the complaint to counsel or another individual, it must first meet to do so. A public body is not required to respond to unsigned complaints or complaints not made on the Attorney General's complaint form.

The public body may request additional information from the complainant within seven business days of receiving the complaint. The complainant then has ten business days to respond; the public body will then have an additional ten business days after receiving the complainant's response to review the complaint and take remedial action. 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 include a copy of the complaint and 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 Attorney General 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 Attorney General 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 Attorney General after the 30-day local review period has elapsed but before 90 days have passed since the date of the violation or the date that the violation was reasonably discoverable.

When filing the complaint with the Attorney General, 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 response of the public body. Note, however, that the Attorney General will not review allegations that were not raised in the initial complaint filed with the public body. Under most circumstances, complaints filed with the Attorney General, and any documents submitted with the complaint, will be considered a public record and will be made available to anyone upon request.

The Attorney General will review the complaint and any remedial action taken by the public body. The Attorney General may request additional information from both the complainant and the public body. The Attorney General 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 Attorney General may decline to investigate a complaint that is filed with our office more than 90 days after the date of the alleged violation.

May a public body request mediation to resolve a complaint?

If a complainant files five complaints with the same public body or within the same municipality within 12 months, the public body may request mediation upon the fifth or subsequent complaint in order to resolve the complaint. The public body must request mediation prior to, or with, its response to the complaint, and will assume the expense of such mediation. If the parties cannot come to an agreement after mediation, the public body will

have ten business days to respond to the complaint and its resolution will proceed in the normal course.

Mediation may occur in open session or in executive session under Purpose 9. In addition, a public body may designate a representative to participate on behalf of the public body. If mediation does not resolve the complaint to each party's satisfaction, the complainant may file the complaint with the Attorney General. The complaint must be filed within 30 days of the last joint meeting with the mediator.

The mediator will be chosen by the Attorney General. If the complainant declines to participate in mediation after a request by the public body, the Attorney General may decline to review a complaint thereafter filed with our office. A public body may always request mediation to resolve a complaint, but only mediation requested upon a fifth or subsequent complaint triggers the requirement that the complainant participate in the mediation before the Attorney General will review the complaint.

Any written agreement reached in mediation must be disclosed at the public body's next meeting following execution of the agreement and will become a public record.

When is a violation of the law considered "intentional"?

Upon finding a violation of the Open Meeting Law, the Attorney General may impose a civil penalty upon a public body of not more than \$1,000 for each intentional violation. G.L. c. 30A, § 23(c)(4). An "intentional violation" is an act or omission by a public body or public body member in knowing violation of the Open Meeting Law. G.L. c. 30A, § 18. In determining whether a violation was intentional, the Attorney General will consider, among other things, whether the public body or public body member 1) acted with specific intent to violate the law; 2) acted with deliberate ignorance of the law's requirements; or 3) had been previously informed by a court decision or advised by the Attorney General that the conduct at issue violated the Open Meeting Law. 940 CMR 29.02. If a public body or public body member made a good faith attempt at compliance with the law but was reasonably mistaken about its requirements, its conduct will not be considered an intentional violation of the Law. G.L. c. 30A, § 23(g); 940 CMR 29.02. A fine will not be imposed where a public body or public body member acted in good faith compliance with the advice of the public body's legal counsel. G.L. c. 30A, § 23(g); 940 CMR 29.07.

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

The Open Meeting Law directs the Attorney General to create educational materials and provide training to public bodies to foster awareness of and compliance with the Open Meeting Law. The Attorney General 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 Attorney General offers periodic webinars and in-person regional training events for members of the public and public bodies, in addition to offering a free online training video.

Contacting the Attorney General

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

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Appendix

The Open Meeting Law, G.L. c. 30A, §§ 18-25⁴

Chapter 28 of the Acts of 2009, sections 17–20, repealed the existing state Open Meeting Law, G.L. c. 30A, §§ 11A, 11A-1/2, county Open Meeting Law, G.L. c. 34, §9F, 9G, and municipal Open Meeting Law, G.L. c. 39, §§ 23A, 23B, and 23C, and replaced them with a single Open Meeting Law covering all public bodies, G.L. c. 30A, §§ 18-25, enforced by the Attorney General.

Section 18: [DEFINITIONS]

As used in this section and sections 19 to 25, inclusive, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“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; provided, however, that “deliberation” shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

“Emergency”, a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

“Executive session”, any part of a meeting of a public body closed to the public for deliberation of certain matters.

“Intentional violation”, an act or omission by a public body or a member thereof, in knowing violation of the open meeting law.

“Meeting”, a deliberation by a public body with respect to any matter within the body’s jurisdiction; provided, however, “meeting” shall not include:

- (a) an on-site inspection of a project or program, so long as the members do not deliberate;
- (b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;
- (c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;
- (d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or
- (e) a session of a town meeting convened under section 9 of chapter 39 which would include the attendance by a quorum of a public body at any such session;

⁴ NOTICE: This is NOT the official version of the Massachusetts General Law (MGL). While reasonable efforts have been made to ensure the accuracy and currency of the data provided, do not rely on this information without first checking an official edition of the MGL.

“Minutes”, the written report of a meeting created by a public body required by subsection (a) of section 22 and section 5A of chapter 66.

“Open meeting law”, sections 18 to 25, inclusive.

“Post notice”, to display conspicuously the written announcement of a meeting either in hard copy or electronic format.

“Preliminary screening”, the initial stage of screening applicants conducted by a committee or subcommittee of a public body solely for the purpose of providing to the public body a list of those applicants qualified for further consideration or interview.

“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; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that “public body” shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

“Quorum”, a simple majority of the members of the public body, unless otherwise provided in a general or special law, executive order or other authorizing provision.

Section 19. Division of Open Government; Open Meeting Law Training; Open Meeting Law Advisory Commission; Annual Report

- (a) There shall be in the department of the attorney general a division of open government under the direction of a director of open government. The attorney general shall designate an assistant attorney general as the director of the open government division. The director may appoint and remove, subject to the approval of the attorney general, such expert, clerical and other assistants as the work of the division may require. The division shall perform the duties imposed upon the attorney general by the open meeting law, which may include participating, appearing and intervening in any administrative and judicial proceedings pertaining to the enforcement of the open meeting law. For the purpose of such participation, appearance, intervention and training authorized by this chapter the attorney general may expend such funds as may be appropriated therefor.
- (b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law. Open meeting law training may include, but shall not be limited to, instruction in:
1. the general background of the legal requirements for the open meeting law;
 2. applicability of sections 18 to 25, inclusive, to governmental bodies;
 3. the role of the attorney general in enforcing the open meeting law; and
 4. penalties and other consequences for failure to comply with this chapter.

- (c) There shall be an open meeting law advisory commission. The commission shall consist of 5 members, 2 of whom shall be the chairmen of the joint committee on state administration and regulatory oversight; 1 of whom shall be the president of the Massachusetts Municipal Association or his designee; 1 of whom shall be the president of the Massachusetts Newspaper Publishers Association or his designee; and 1 of whom shall be the attorney general or his designee.

The commission shall review issues relative to the open meeting law and shall submit to the attorney general recommendations for changes to the regulations, trainings, and educational initiatives relative to the open meeting law as it deems necessary and appropriate.

- (d) The attorney general shall, not later than January 31, file annually with the commission a report providing information on the enforcement of the open meeting law during the preceding calendar year. The report shall include, but not be limited to:
1. the number of open meeting law complaints received by the attorney general;
 2. the number of hearings convened as the result of open meeting law complaints by the attorney general;
 3. a summary of the determinations of violations made by the attorney general;
 4. a summary of the orders issued as the result of the determination of an open meeting law violation by the attorney general;
 5. an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions;
 6. the number of actions filed in superior court seeking relief from an order of the attorney general; and
 7. any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate.

Section 20. Meetings of a Public Body to be Open to the Public; Notice of Meeting; Remote Participation; Recording and Transmission of Meeting; Removal of Persons for Disruption of Proceedings

- (a) Except as provided in section 21, all meetings of a public body shall be open to the public.
- (b) Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon as reasonably possible prior to such meeting. Notice shall be printed in a legible, easily understandable format and shall contain the date, time and place of such meeting and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.
- (c) For meetings of a local public body, notice shall be filed with the municipal clerk and posted in a manner conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located.

For meetings of a regional or district public body, notice shall be filed and posted in each city or town within the region or district in the manner prescribed for local public bodies. For meetings of a regional school district, the secretary of the regional school district committee shall be considered to be its clerk and shall file notice with the clerk of each city or

town within such district and shall post the notice in the manner prescribed for local public bodies. For meetings of a county public body, notice shall be filed in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose.

For meetings of a state public body, notice shall be filed with the attorney general by posting on a website in accordance with procedures established for this purpose and a duplicate copy of the notice shall be filed with the regulations division of the state secretary's office.

The attorney general may prescribe or approve alternative methods of notice where the attorney general determines the alternative methods will afford more effective notice to the public.

- (d) The attorney general may, by regulation or letter ruling, authorize remote participation by members of a public body not present at the meeting location; provided, however, that the absent members and all persons present at the meeting location are clearly audible to each other; and provided, further, that a quorum of the body, including the chair, are present at the meeting location. Such authorized members may vote and shall not be deemed absent for the purposes of section 23D of chapter 39.
- (e) A local commission on disability may by majority vote of the commissioners at a regular meeting authorize remote participation applicable to a specific meeting or generally to all of the commission's meetings. If a local commission on disability is authorized to utilize remote participation, a physical quorum of that commission's members shall not be required to be present at the meeting location; provided, however, that the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location. The commission shall comply with all other requirements of law.
- (f) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting, the chair shall inform other attendees of any recordings.
- (g) No person shall address a meeting of a public body without permission of the chair, and all persons shall, at the request of the chair, be silent. No person shall disrupt the proceedings of a meeting of a public body. If, after clear warning from the chair, a person continues to disrupt the proceedings, the chair may order the person to withdraw from the meeting and if the person does not withdraw, the chair may authorize a constable or other officer to remove the person from the meeting.
- (h) Within 2 weeks of qualification for office, all persons serving on a public body shall certify, on a form prescribed by the attorney general, the receipt of a copy of the open meeting law, regulations promulgated pursuant to section 25 and a copy of the educational materials prepared by the attorney general explaining the open meeting law and its application pursuant to section 19. Unless otherwise directed or approved by the attorney general, the

appointing authority, city or town clerk or the executive director or other appropriate administrator of a state or regional body, or their designees, shall obtain such certification from each person upon entering service and shall retain it subject to the applicable records retention schedule where the body maintains its official records. The certification shall be evidence that the member of a public body has read and understands the requirements of the open meeting law and the consequences of violating it.

Section 21. Executive Sessions

(a) A public body may meet in executive session only for the following purposes:

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. A public body shall hold an open session if the individual involved requests that the session be open. If an executive session is held, such individual shall have the following rights:
 - i. to be present at such executive session during deliberations which involve that individual;
 - ii. to have counsel or a representative of his own choosing present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session;
 - iii. to speak on his own behalf; and
 - iv. to cause an independent record to be created of said executive session by audio-recording or transcription, at the individual's expense.

The rights of an individual set forth in this paragraph are in addition to the rights that he may have from any other source, including, but not limited to, rights under any laws or collective bargaining agreements and the exercise or non-exercise of the individual rights under this section shall not be construed as a waiver of any rights of the individual.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;
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;
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;

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;
 7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;
 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;
 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; or
 10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided 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 section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, 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.
- (b) A public body may meet in closed session for 1 or more of the purposes enumerated in subsection (a) provided that:
1. the body has first convened in an open session pursuant to section 21;
 2. a majority of members of the body have voted to go into executive session and the vote of each member is recorded by roll call and entered into the minutes;
 3. before the executive session, the chair shall state the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
 4. the chair shall publicly announce whether the open session will reconvene at the conclusion of the executive session; and
 5. accurate records of the executive session shall be maintained pursuant to section 23.

Section 22. Meeting Minutes; Records

- (a) A public body shall create and maintain accurate minutes of all meetings, including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes.
- (b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes.
- (c) Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days.
- (d) Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open or executive session shall, along with the minutes, be part of the official record of the session.
- (e) The minutes of any open session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, shall be public records in their entirety and not exempt from disclosure pursuant to any of the exemptions under clause Twenty-sixth of section 7 of chapter 4. Notwithstanding this paragraph, the following materials shall be exempt from disclosure to the public as personnel information: (1) materials used in a performance evaluation of an individual bearing on his professional competence, provided they were not created by the members of the body for the purposes of the evaluation; and (2) materials used in deliberations about employment or appointment of individuals, including applications and supporting materials; provided, however, that any resume submitted by an applicant shall not be exempt.
- (f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21.

When the purpose for which a valid executive session was held has been served, the minutes, preparatory materials and documents and exhibits of the session shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

For purposes of this subsection, if an executive session is held pursuant to clause (2) or (3) of subsections (a) of section 21, then the minutes, preparatory materials and documents and exhibits used at the session may be withheld from disclosure to the public in their entirety, unless and until such time as a litigating, negotiating or bargaining position is no longer jeopardized by such disclosure, at which time they shall be disclosed unless the attorney-client privilege or 1 or more of the exemptions under said clause Twenty-sixth of said section 7 of

said chapter 4 apply to withhold these records, or any portion thereof, from disclosure.

- (g) (1) The public body, or its chair or designee, shall, at reasonable intervals, review the minutes of executive sessions to determine if the provisions of this subsection warrant continued non-disclosure. Such determination shall be announced at the body's next meeting and such announcement shall be included in the minutes of that meeting.
- 2. Upon request by any person to inspect or copy the minutes of an executive session or any portion thereof, the body shall respond to the request within 10 days following receipt and shall release any such minutes not covered by an exemption under subsection (f); provided, however, that if the body has not performed a review pursuant to paragraph (1), the public body shall perform the review and release the non-exempt minutes, or any portion thereof, not later than the body's next meeting or 30 days, whichever first occurs. A public body shall not assess a fee for the time spent in its review.

Section 23. Enforcement of Open Meeting Law; Complaints; Hearings; Civil Actions

- (a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law.
- (b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension.
- (c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to:
 - 1. compel immediate and future compliance with the open meeting law;
 - 2. compel attendance at a training session authorized by the attorney general;
 - 3. nullify in whole or in part any action taken at the meeting;
 - 4. impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation;
 - 5. reinstate an employee without loss of compensation, seniority, tenure or other benefits;
 - 6. compel that minutes, records or other materials be made public; or
 - 7. prescribe other appropriate action.

- (d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review.
- (e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance.
- (f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law.
- Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets.
- In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (c).
- In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law.
- (g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel.
- (h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.

Section 24. Investigation by Attorney General of Violations of Open Meeting Law

- (a) Whenever the attorney general has reasonable cause to believe that a person, including any public body and any other state, regional, county, municipal or other governmental official or entity, has violated the open meeting law, the attorney general may conduct an investigation to ascertain whether in fact such person has violated the open meeting law. Upon notification of an investigation, any person, public body or any other state, regional, county, municipal or other governmental official or entity who is the subject of an investigation, shall make all information necessary to conduct such investigation available to the attorney general. In the event that the person, public body or any other state, regional, county, municipal or other governmental official or entity being investigated does not voluntarily provide relevant information to the attorney general within 30 days of receiving notice of the investigation, the attorney general may: (1) take testimony under oath concerning such alleged violation of the open meeting law; (2) examine or cause to be examined any documentary material of whatever nature relevant to such alleged violation of the open meeting law; and (3) require attendance during such examination of documentary material of any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material. Such testimony and examination shall take place in the county where such person resides or has a place of business or, if the parties consent or such person is a nonresident or has no place of business within the commonwealth, in Suffolk county.
- (b) Notice of the time, place and cause of such taking of testimony, examination or attendance shall be given by the attorney general at least 10 days prior to the date of such taking of testimony or examination.
- (c) Service of any such notice may be made by: (1) delivering a duly-executed copy to the person to be served or to a partner or to any officer or agent authorized by appointment or by law to receive service of process on behalf of such person; (2) delivering a duly-executed copy to the principal place of business in the commonwealth of the person to be served; or (3) mailing by registered or certified mail a duly-executed copy addressed to the person to be served at the principal place of business in the commonwealth or, if said person has no place of business in the commonwealth, to his principal office or place of business.
- (d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general's staff to whom such documentary material is to be made available for inspection and copying.

- (e) No such notice shall contain any requirement which would be unreasonable or improper if contained in a subpoena duces tecum issued by a court of the commonwealth or require the disclosure of any documentary material which would be privileged, or which for any other reason would not be required by a subpoena duces tecum issued by a court of the commonwealth.
- (f) Any documentary material or other information produced by any person pursuant to this section shall not, unless otherwise ordered by a court of the commonwealth for good cause shown, be disclosed to any person other than the authorized agent or representative of the attorney general, unless with the consent of the person producing the same; provided, however, that such material or information may be disclosed by the attorney general in court pleadings or other papers filed in court.
- (g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.

Section 25. Regulations; Letter Rulings; Advisory Opinions

- (a) The attorney general shall have the authority to promulgate rules and regulations to carry out enforcement of the open meeting law.
- (b) The attorney general shall have the authority to interpret the open meeting law and to issue written letter rulings or advisory opinions according to rules established under this section.

The official regulations are published in the Massachusetts Register. For more information, contact the Secretary of the Commonwealth's State Publications and Regulations Division.

Section

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29.01: Purpose, Scope and Other General Provisions

(1) Purpose. The purpose of 940 CMR 29.00 is to interpret, enforce and effectuate the purposes of the Open Meeting Law, M.G.L. c. 30A, §§ 18 through 25.

(2) Severability. If any provision of 940 CMR 29.00 or the application of such provision to any person, public body, or circumstances shall be held invalid, the validity of the remainder of 940 CMR 29.00 and the applicability of such provision to other persons, public bodies, or circumstances shall not be affected thereby.

(3) Mailing. All complaints, notices (except meeting notices) and other materials that must be sent to another party shall be sent by one of the following means: first class mail, email, hand delivery, or by any other means at least as expeditious as first class mail.

29.02: Definitions

As used in 940 CMR 29.00, the following terms shall, unless the context clearly requires otherwise, have the following meanings:

County Public Body. A public body created by county government with jurisdiction that comprises a single county.

District Public Body. A public body with jurisdiction that extends to two or more municipalities.

Emergency. A sudden, generally unexpected occurrence or set of circumstances demanding immediate action.

Intentional Violation. An act or omission by a public body or a member thereof, in knowing violation of M.G.L. c. 30A, §§ 18 through 25. Evidence of an intentional violation of M.G.L. c. 30A, §§ 18 through 25 shall include, but not be limited to, the public body or public body member that:

- (a) acted with specific intent to violate the law;
- (b) acted with deliberate ignorance of the law's requirements; or
- (c) was previously informed by receipt of a decision from a court of competent jurisdiction or advised by the Attorney General, pursuant to 940 CMR 29.07 or 940 CMR 29.08, that the conduct violates M.G.L. c. 30A, §§ 18 through 25. Where a public body or public body member has made a good faith attempt at compliance with the law, but was reasonably mistaken about its requirements, such conduct will not be considered an intentional violation of M.G.L. c. 30A, §§ 18 through 25.

Person. All individuals and entities, including governmental officials and employees. Person does not include public bodies.

Post Notice. To place a written announcement of a meeting on a bulletin board, electronic display, website, or in a loose-leaf binder in a manner conspicuously visible to the public, including persons with disabilities, at all hours, in accordance with 940 CMR 29.03.

Public Body. Has the identical meaning as set forth in M.G.L. c. 30A, § 18, that is, 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; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that Public Body shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

Qualification for Office. The election or appointment of a person to a public body and the taking of the oath of office, where required, and shall include qualification for a second or any subsequent term of office. Where no term of office for a member of a public body is specified, the member shall be deemed to be qualified for office on a biennial basis following appointment or election to office.

Regional Public Body. A public body with jurisdiction that extends to two or more municipalities.

Remote Participation. Participation by a member of a public body during a meeting of that public body where the member is not physically present at the meeting location.

29.03: Notice Posting Requirements

(1) Requirements Applicable to All Public Bodies.

- (a) Except in an emergency, public bodies shall file meeting notices sufficiently in advance of a public meeting to permit posting of the notice at least 48 hours in advance of the public meeting, excluding Saturdays, Sundays and legal holidays, in accordance with M.G.L. c. 30A, § 20. In an emergency, the notice shall be posted as soon as reasonably possible prior to such meeting.
- (b) Meeting notices shall be printed or displayed in a legible, easily understandable format and shall contain the date, time and place of such meeting, and a listing of topics that the chair reasonably anticipates will be discussed at the meeting. The list of topics shall have sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting.
- (c) Notices posted under an alternative posting method authorized by 940 CMR 29.03(2) through (5) shall include the same content as required by 940 CMR 29.03(1)(b). If such an alternative posting method is adopted, the municipal clerk, in the case of a municipality, or the body, in all other cases, shall file with the Attorney General written notice of adoption of the alternative method, including the website address where applicable, and any change thereto, and the most current notice posting method on file with the Attorney General shall be consistently used.
- (d) The date and time that a meeting notice is posted shall be conspicuously recorded thereon or therewith. If an amendment occurs within 48 hours of a meeting, not including Saturdays, Sundays, and legal holidays, then the date and time that the meeting notice is amended shall also be conspicuously recorded thereon or therewith.

(2) Requirements Specific to Local Public Bodies.

- (a) The official method of posting notice shall be by filing with the municipal clerk, or other person designated by agreement with the municipal clerk, who shall post notice of the meeting in a manner conspicuously visible to the public at all hours in, on, or near the municipal building in which the clerk's office is located.
- (b) Alternatively, the municipality may adopt the municipal website as the official method of notice posting.
 1. The Chief Executive Officer of the municipality, as defined in M.G.L. c. 4, § 7, must authorize or, by a simple majority, vote to adopt the municipal website as the official method of posting notice. Any municipality that has adopted its website as the official method of posting notice by another method as of October 6, 2017 will have satisfied the adoption requirement.
 2. If adopted, a description of the website as the notice posting method, including directions on how to locate notices on the website, shall be posted in a manner conspicuously visible to the public at all hours on or adjacent to the main and handicapped accessible entrances to the municipal building in which the clerk's office is located.
 3. Once adopted as the official method of notice posting, the website shall host the official legal notice for meetings of all public bodies within the municipality.
 4. Notices must continue to be filed with the municipal clerk, or any other person designated by agreement with the municipal clerk.

- (c) A municipality may have only one official notice posting method for the purpose of M.G.L. c. 30A, §§ 18 through 25, either 940 CMR 29.03(2)(a) or (b). However, nothing precludes a municipality from choosing to post additional notices *via* other methods, including a newspaper. Such additional notice will not be the official notice for the purposes of M.G.L. c. 30A, §§ 18 through 25.
- (d) Copies of notices shall also be accessible to the public in the municipal clerk's office during the clerk's business hours.

(3) Requirements Specific to Regional or District Public Bodies.

- (a) Notice shall be filed and posted in each city and town within the region or district in the manner prescribed for local public bodies in that city or town.
- (b) As an alternative method of notice, a regional or district public body may, by majority vote, adopt the regional or district public body's website as its official notice posting method. A copy of each meeting notice shall be kept by the chair of the public body or the chair's designee in accordance with the applicable records retention schedules. The public body shall file and post notice of the website address, as well as directions on how to locate notices on the website, in each city and town within the region or district in the manner prescribed for local public bodies in that city or town.

(4) Requirements Specific to Regional School Districts.

- (a) The secretary of the regional school district committee shall be considered to be its clerk. The clerk of the regional school district committee shall file notice with the municipal clerk of each city and town within such district and each such municipal clerk shall post the notice in the manner prescribed for local public bodies in that city or town.
- (b) As an alternative method of notice, a regional school district committee may, by majority vote, adopt the regional school district's website as its official notice posting method. A copy of each meeting notice shall be kept by the secretary of the regional school district committee or the secretary's designee in accordance with the applicable records retention schedules. The regional school district committee shall file and post notice of the website address, as well as directions on how to locate notices on the website, in each city and town within the region or district in the manner prescribed for local public bodies in that city or town.

(5) Requirements Specific to County Public Bodies.

- (a) Notice shall be filed and posted in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for this purpose.
- (b) As an alternative method of notice, a county public body may, by majority vote, adopt the county public body's website as its official notice posting method. A copy of the notice shall be kept by the chair of the county public body or the chair's designee in accordance with the applicable records retention schedules. The county public body shall file and post notice of the website address, as well as directions on how to locate notices on the website, in the office of the county commissioners and a copy of the notice shall be publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for this purpose.

(6) Requirements Specific to State Public Bodies. Notice shall be posted on a website. A copy of each notice shall also be sent by first class or electronic mail to the Secretary of the Commonwealth's Regulations Division. The chair of each state public body shall notify the Attorney General in writing of its webpage for listing meeting notices and any change to the webpage location. The public body shall consistently use the most current website location on file with the Attorney General. A copy of the notice shall be kept by the chair of the state public body or the chair's designee in accordance with the applicable records retention schedules.

(7) Websites. Where a public body adopts a website as its method of noticing meetings, it must make every effort to ensure that the website is accessible to the public at all hours. If a website becomes inaccessible to members of the public within 48 hours of a meeting, not including Saturdays, Sundays, and legal holidays, the municipal clerk or other individual responsible for posting notice to the website must restore the website to accessibility within six hours of the time, during regular business hours, when such individual discovers that the website has become inaccessible. In the event that the website is not restored to accessibility within six business hours of the website's deficiency being discovered, the public body must re-post notice of its meeting for another date and time in accordance with M.G.L. c. 30A, § 20(b).

29.04: Certification

(1) For local public bodies, the municipal clerk, and for all other public bodies, the appointing authority, executive director, or other appropriate administrator or their designees, shall, upon a public body member's qualification for office, either deliver to the public body member, or require the public body member to obtain from the Attorney General's website, the following educational materials:

- (a) The Attorney General's Open Meeting Law Guide, which will include an explanation of the requirements of the Open Meeting Law; the Open Meeting Law, M.G.L. c. 30A, §§ 18 through 25; and 940 CMR 29.00.
- (b) A copy of each Open Meeting Law determination issued to that public body by the Attorney General within the last five years in which the Attorney General found a violation of M.G.L. c. 30A, §§ 18 through 25. Open Meeting Law determinations are available at the Attorney General's website.

(2) Educational materials may be delivered to public body members by paper copy or in digital form.

(3) Within two weeks after receipt of the educational materials, the public body member shall certify, on the form prescribed by the Attorney General, receipt of the educational materials. The municipal clerk, appointing authority, executive director or other appropriate administrator, or their designees, shall maintain the signed certification for each such person, indicating the date the person received the materials.

(4) An individual serving on multiple public bodies must sign a certification for each public body on which he or she serves. A public body member does not need to sign a separate certification when joining a subcommittee of the public body.

(5) A public body member must sign a new certification upon reelection or reappointment to the public body.

29.05: Complaints

(1) All complaints shall be in writing, using the form approved by the Attorney General and available on the Attorney General's website. A public body need not, and the Attorney General will not, investigate or address anonymous complaints. A public body need not address a complaint that is not signed by the complainant. A public body need not address a complaint that is not filed using the Attorney General's complaint form.

(2) Public bodies, or the municipal clerk in the case of a local public body, should provide any person, on request, with an Open Meeting Law Complaint Form. If a paper copy is unavailable, then the public body should direct the requesting party to the Attorney General's website, where an electronic copy of the form will be available for downloading and printing.

(3) For local public bodies, the complainant shall file the complaint with the chair of the public body, who shall disseminate copies of the complaint to the members of the public body. The complainant shall also file a copy of the complaint with the municipal clerk, who shall keep such filings in an orderly fashion for public review on request during regular business hours. For all other public bodies, the complainant shall file the complaint with the chair of the relevant public body, or if there is no chair, then with the public body.

(4) The complaint shall be filed within 30 days of the alleged violation of M.G.L. c. 30A, §§ 18 through 25 or, if the alleged violation of M.G.L. c. 30A, §§ 18 through 25 could not reasonably have been known at the time it occurred, then within 30 days of the date it should reasonably have been discovered.

(5) Within 14 business days after receiving the complaint, unless an extension has been granted by the Attorney General as provided in 940 CMR 29.05(5)(b), the public body shall meet to review the complaint's allegations; take remedial action, if appropriate; and send to the complainant a response and a description of any remedial action taken. The public body shall simultaneously notify the Attorney General that it has sent such materials to the complainant and shall provide the Attorney General with a copy of the complaint, the response, and a description of any remedial action taken.

(a) Any remedial action taken by the public body in response to a complaint under 940 CMR 29.05(5) shall not be admissible as evidence that a violation occurred in any later administrative or judicial proceeding against the public body relating to the alleged violation.

(b) If the public body requires additional time to resolve the complaint, it may obtain an extension from the Attorney General by submitting a written request within 14 business days after receiving the complaint. A request may be submitted by the chair, the public body's attorney, or any person designated by the public body or the chair. The Attorney General will grant an extension if the request demonstrates good cause. Good cause will generally be found if, for example, the public body cannot meet within the 14 business day period to consider proposed remedial action. The Attorney General shall notify the complainant of any extension and the reason for it.

(6) If the public body needs additional information to resolve the complaint, then the chair may request it from the complainant within seven business days of receiving the complaint. The complainant shall respond within ten business days after receiving the request. The public body will then have an additional ten business days after receiving the complainant's response to review the complaint and take any remedial action pursuant to 940 CMR 29.05(5).

(7) If at least 30 days have passed after the complaint was filed with the public body, and if the complainant is unsatisfied with the public body's resolution of the complaint, the complainant may file a complaint with the Attorney General. When filing a complaint with the Attorney General, the complainant shall include a copy of the original complaint along with any other materials the complainant believes are relevant. The Attorney General shall decline to investigate complaints filed with the Attorney General more than 90 days after the alleged violation of M.G.L. c. 30A, §§ 18 through 25, or if the alleged violation of M.G.L. c. 30A, §§ 18 through 25, could not reasonably have been known at the time it occurred, then within 90 days of the date it should reasonably have been discovered. However, this time may be extended if the Attorney General grants an extension to the public body to respond to a complaint or if the complainant demonstrates good cause for the delay in filing with the Attorney General.

(8) The Attorney General shall acknowledge receipt of all complaints and will resolve them within a reasonable period of time, generally 90 days.

(9) Mediation to Resolve a Complaint.

- (a) If a complainant files five complaints alleging violations of M.G.L. c. 30A, §§ 18 through 25, with the same public body or within the same municipality within 12 months, upon the fifth or subsequent complaint to that public body or a public body within that municipality within the 12-month period, the public body may request mediation with the complainant, at the public body's expense, to resolve the complaint. A mediator is defined by M.G.L. c. 233, § 23C, and will be selected by the Attorney General.
- (b) A public body must request mediation prior to, or with, its response to the complaint. If the mediation does not produce an agreement, the public body will have ten business days from the last joint meeting with the mediator to respond to the complaint.
- (c) A public body may participate in mediation in open session, in executive session through M.G.L. c. 30A, § 21(a)(9), or by designating a representative to participate on behalf of the public body.
- (d) If the complainant declines to participate in mediation after a public body's request in accordance with 940 CMR 29.05(9)(a), the Attorney General may decline to review the complaint if it is thereafter filed with the Attorney General.
- (e) If the mediation does not resolve the complaint to the satisfaction of both parties, then the complainant may file a copy of his or her complaint with the Attorney General and request the Attorney General's review. The complaint must be filed with the Attorney General within 30 days of the last joint meeting with the mediator.
- (f) Any written agreement reached in mediation shall become a public record in its entirety and must be publicly disclosed at the next meeting of the public body following execution of the agreement.
- (g) Nothing in 940 CMR 29.05(9) shall prevent a complainant from filing subsequent complaints, however public bodies may continue to request mediation in an effort to resolve complaints in accordance with 940 CMR 29.05(9)(a).
- (h) Nothing in 940 CMR 29.05(9) shall prevent a public body or complainant from seeking mediation to resolve any complaint. However, only mediation requests that follow the requirements of 940 CMR 29.05(9)(a) will trigger the application of 940 CMR 29.05(9)(d).

29.06: Investigation

Following a timely complaint filed pursuant to 940 CMR 29.05, where the Attorney General has reasonable cause to believe that a violation of M.G.L. c. 30A, §§ 18 through 25 has occurred, then the Attorney General may conduct an investigation.

(1) The Attorney General shall notify the public body or person that is the subject of a complaint of the existence of the investigation within a reasonable period of time. The Attorney General shall also notify the public body or person of the nature of the alleged violation.

(2) Upon notice of the investigation, the subject of the investigation shall provide the Attorney General with all information relevant to the investigation. The subject may also submit a memorandum or other writing to the Attorney General addressing the allegations being investigated.

If the subject of the investigation fails to voluntarily provide the necessary or relevant information within 30 days of receiving notice of the investigation, the Attorney General may issue one or more civil investigative demands to obtain the information in accordance with M.G.L. c. 30A, § 24(a), to:

- (a) Take testimony under oath;
- (b) Examine or cause to be examined any documentary material; or
- (c) Require attendance during such examination of documentary material by any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material.

Any documentary material or other information produced by any person pursuant to 940 CMR 29.06 shall not, unless otherwise ordered by a court of the Commonwealth for good cause shown, be disclosed without that person's consent by the Attorney General to any person other than the Attorney General's authorized agent or representative. However, the Attorney General may disclose the material in court pleadings or other papers filed in court; or, to the extent necessary, in an administrative hearing or in a written determination to resolve the investigation pursuant to 940 CMR 29.07.

29.07: Resolution

(1) No Violation. If the Attorney General determines after investigation that M.G.L. c. 30A, §§ 18 through 25 has not been violated, the Attorney General shall issue a written determination to the subject of the complaint and copy any complainant.

(2) Violation Resolved Without Hearing. If the Attorney General determines after investigation that M.G.L. c. 30A, §§ 18 through 25 has been violated, the Attorney General may resolve the investigation without a hearing. The Attorney General shall determine whether the relevant public body, one or more of its members, or both, were responsible. The Attorney General will notify in writing any complainant of the investigation's resolution. Upon finding a violation of M.G.L. c. 30A, §§ 18 through 25, the Attorney General may take one of the following actions:

- (a) Informal Action. The Attorney General may resolve the investigation with a letter or other appropriate form of written communication that explains the violation and clarifies the subject's obligations under M.G.L. c. 30A, §§ 18 through 25, providing the subject with a reasonable period of time to comply with any outstanding obligations.
- (b) Formal Order. The Attorney General may resolve the investigation with a formal order. The order may require:
 1. immediate and future compliance with M.G.L. c. 30A, §§ 18 through 25;

2. attendance at a training session authorized by the Attorney General;
 3. nullification of any action taken at the relevant meeting, in whole or in part;
 4. that minutes, records or other materials be made public;
 5. that an employee be reinstated without loss of compensation, seniority, tenure or other benefits; or
 6. other appropriate action.
- (c) Orders shall be available on the Attorney General's website.

(3) Violation Resolved After Hearing. The Attorney General may conduct a hearing where the Attorney General deems appropriate. The hearing shall be conducted pursuant to 801 CMR 1.00: *Formal Rules*, as modified by any regulations issued by the Attorney General. At the conclusion of the hearing, the Attorney General shall determine whether a violation of M.G.L. c. 30A, §§ 18 through 25 occurred, and whether the public body, one or more of its members, or both, were responsible. The Attorney General will notify in writing any complainant of the investigation's resolution. Upon a finding that a violation occurred, the Attorney General may order:

- (a) immediate and future compliance with M.G.L. c. 30A, §§ 18 through 25;
- (b) attendance at a training session authorized by the Attorney General;
- (c) nullification of any action taken at the relevant meeting, in whole or in part;
- (d) imposition of a fine upon the public body of not more than \$1,000 for each intentional violation; however, a fine will not be imposed where a public body or public body member acted in good faith compliance with the advice of the public body's legal counsel, in accordance with M.G.L. 30A, § 23(g);
- (e) that an employee be reinstated without loss of compensation, seniority, tenure or other benefits;
- (f) that minutes, records or other materials be made public; or
- (g) other appropriate action.

Orders issued following a hearing shall be available on the Attorney General's website.

(4) A public body, subject to an order of the Attorney General following a written determination issued pursuant to 940 CMR 29.07, shall notify the Attorney General in writing of its compliance with the order within 30 days of receipt of the order, unless otherwise indicated by the order itself. A public body need not notify the Attorney General of its compliance with an order requiring immediate and future compliance pursuant to 940 CMR 29.07(2)(b)1. or 940 CMR 29.07(3)(a).

(5) A public body or any member of a body aggrieved by any order issued by the Attorney General under 940 CMR 29.07 may obtain judicial review of the order through an action in Superior Court seeking relief in the nature of *certiorari*. Any such action must be commenced in Superior Court within 21 days of receipt of the order.

29.08: Advisory Opinions

The Attorney General will generally not issue advisory opinions. However, the Attorney General may issue written guidance to address common requests for interpretation. Such written guidance will appear on the Attorney General's website.

29.09: Other Enforcement Actions

Nothing in 940 CMR 29.06 or 29.07 shall limit the Attorney General's authority to file a civil action to enforce M.G.L. c. 30A, §§ 18 through 25 pursuant to M.G.L. c. 30A, § 23(f).

29.10: Remote Participation

(1) Preamble. Remote participation may be permitted subject to the following procedures and restrictions. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. By promulgating 940 CMR 29.10, the Attorney General hopes to promote greater participation in government. 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 M.G.L. c. 30A, §§ 18 through 25, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

(2) Adoption of Remote Participation. Remote participation in meetings of public bodies is not permitted unless the practice has been adopted as follows:

- (a) Local Public Bodies. The Chief Executive Officer, as defined in M.G.L. c. 4, § 7, must authorize or, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that authorization or vote applying to all subsequent meetings of all local public bodies in that municipality.
- (b) Regional or District Public Bodies. The regional or district public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.
- (c) Regional School Districts. The regional school district committee must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.
- (d) County Public Bodies. The county commissioners must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of all county public bodies in that county.
- (e) State Public Bodies. The state public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.
- (f) Retirement Boards. A retirement board created pursuant to M.G.L. c. 32, § 20 or M.G.L. c. 34B, § 19 must, by a simple majority, vote to allow remote participation in accordance with the requirements of 940 CMR 29.10, with that vote applying to all subsequent meetings of that public body and its committees.
- (g) Local Commissions on Disability. In accordance with M.G.L. c. 30A, § 20(e), a local commission on disability may, by majority vote of the commissioners at a regular meeting, authorize remote participation applicable to a specific meeting or generally to all of the commission's meetings. If a local commission on disability is authorized to utilize remote participation, a physical quorum of that commission's members shall not be required to be present at the meeting location; provided, however, that the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location. The commission shall comply with all other requirements of law.

(3) Revocation of Remote Participation. Any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) may revoke that adoption in the same manner.

(4) Minimum Requirements for Remote Participation.

- (a) Members of a public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other as required by M.G.L. c. 30A, § 20(d);
- (b) A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location as required by M.G.L. c. 30A, § 20(d);
- (c) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of M.G.L. c. 39, § 23D.

(5) Permissible Reason for Remote Participation. If remote participation has been adopted in accordance with 940 CMR 29.10(2), a member of a public body shall be permitted to participate remotely in a meeting in accordance with the procedures described in 940 CMR 29.10(7) only if physical attendance would be unreasonably difficult.

(6) Technology.

- (a) The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted. Accommodations shall be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.
 - 1. telephone, internet, or satellite enabled audio or video conferencing;
 - 2. any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.
- (b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.
- (c) The public body shall determine which of the acceptable methods may be used by its members.
- (d) The chair or, in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged wherever 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 technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.
- (e) The amount and source of payment for any costs associated with remote participation shall be determined by the applicable adopting entity identified in 940 CMR 29.10(2).

(7) Procedures for Remote Participation.

- (a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.
- (b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely. This information shall also be recorded in the meeting minutes.

- (c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.
- (d) A member participating remotely may participate in an executive session, but shall 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 presence of that person is approved by a simple majority vote of the public body.
- (e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, § 22.

(8) Further Restriction by Adopting Authority. 940 CMR 29.10 does not prohibit any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) from enacting policies, laws, rules or regulations that prohibit or further restrict the use of remote participation by public bodies within that person or entity's jurisdiction, provided those policies, laws, rules or regulations do not violate state or federal law.

(9) Remedy for Violation. If the Attorney General determines after investigation that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

29.11: Meeting Minutes

(1) A public body shall create and maintain accurate minutes of all meetings including executive sessions, setting forth the date, time and place, the members present or absent, a summary of the discussions on each subject, a list of documents and other exhibits used at the meeting, the decisions made and the actions taken at each meeting, including the record of all votes in accordance with M.G.L. c. 30A, § 22(a).

(2) Minutes of all open and executive sessions shall be created and approved in a timely manner. A "timely manner" will generally be considered to be within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay. The Attorney General encourages public bodies to approve minutes at the next meeting whenever possible.

REGULATORY AUTHORITY

940 CMR 29.00: M.G.L. c. 30A, § 25(a) and (b).



The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

Instructions for filing a complaint:

- o Fill out the attached two-page form completely and sign it. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
 - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
 - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
 - o Complaints may be filed by mail, email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the Attorney General a copy of the complaint and a description of any action the public body has taken to address it. At the same time, the body must send the complainant a copy of its response. The public body may delegate this responsibility to its counsel or a staff member, but only after it has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

Once the public body has responded to the complaint:

- o If you are not satisfied with that the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, e-mail, or by hand, but only once you have waited for 30 days after filing the complaint with the public body.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by e-mail at openmeeting@state.ma.us.



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 3000 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**I. Disclosure of Your Complaint.**

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. 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.

III. 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) 963-2540 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: _____

CERTIFICATE OF RECEIPT OF OPEN MEETING LAW MATERIALS

I, _____, who qualified as a member of the
(Name)

_____, on _____, certify pursuant
(Public Body) (Date)

to G.L. c. 30A, § 20(h) and 940 CMR 29.04, that I have received and reviewed copies of the following Open Meeting Law materials:

- 1) the Open Meeting Law, G.L. c. 30A, §§ 18-25;
- 2) the Attorney General’s Regulations, 940 CMR 29.00–29.11;
- 3) the Attorney General’s Open Meeting Law Guide, explaining the Open Meeting Law and its application; and
- 4) if applicable, a copy of each Open Meeting Law determination issued by the Attorney General within the last five (5) years to the public body of which I am a member and in which the Attorney General found a violation of the Open Meeting Law.

I have read and understand the requirements of the Open Meeting Law and the consequences of violating it. I further understand that the materials I have received may be revised or updated from time to time, and that I have a continuing obligation to implement any changes to the Open Meeting Law during my term of office.

(Name)

(Name of Public Body)

(Date)

Pursuant to G.L. c. 30A, § 20(h), an executed copy of this certificate shall be retained, according to the relevant records retention schedule, by the appointing authority, city or town clerk, or the executive director or other appropriate administrator of a state or regional body, or their designee.

The form below must be returned annually to the Town Clerk’s Office

**ACKNOWLEDGEMENT OF RECEIPT
Summary of The Conflict of Interest Law
for Municipal & School Employees**

I hereby acknowledge receipt of the Summary of the Conflict of Interest Law for Municipal Employees, Mass. General Laws Chapter 268A, as prepared by the State Ethics Commission, revised May 10, 2013.

NAME (please print) _____

SIGNATURE _____

DEPARTMENT/BOARD/COMMITTEE/POSITION _____

DATE _____ TOWN SCHOOL

ONLINE TRAINING

In addition to the above certificate, all Municipal Employees must complete an online training every two years and forward the certificate of completion to the Town Clerk’s Office via mail or electronically.