

TOWN OF CONCORD

# Effective Governance Workshop

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Ethics, Open Meeting, and Public Records  
Compliance Overview

Saturday, November 6, 2021

# Before your First Meeting

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## Oath of Office – In person only

- Do you promise to Faithfully and Impartially perform the duties of the office to which I have been appointed?

## Committee Handbook

- Contains summaries, guides, and laws

## Return your acknowledgments in a timely manner

- They are in your handbook
- Receipt of Ethics Summary – when you are sworn in
- Receipt and review of Open Meeting Law Educational Materials – within 2 weeks of appointment

## Certificate of Ethics online training within 30 days of appointment

## Committee Member Resources & Legal Requirements

Updates to workshop material will be made in conjunction with annual workshop offerings. The state agencies listed below are responsible for enforcement of laws, rules and regulations. Their webpages provide a wealth of information and they invite direct inquiries to assist with application of laws, rules and regulations to ensure transparency in government. The Town Clerk's Office and the town staff person for your committee is your local resource.

### [2021 Committee Handbook](#)

This is a pdf document that you can navigate through using bookmarks and a dynamically linked table of contents. Find legal summaries, Town policies and guidelines quickly.

We are always looking to improve this document to make it more user friendly. Please share your ideas and suggestions.

### **Meetings during COVID-19 Pandemic**

[Updated Guidance from the Division of Open Government](#)

[Governor's Executive Order on the Meetings during COVID](#)

### **LEGAL REQUIREMENTS FOR ALL COMMITTEE MEMBERS**

Open Meeting Law: [Complete Public Body Member Certification](#)

- **[Certification form](#)** Complete and Return to the Town Clerk's Office

Ethics: [Conflict of Interest Law Summary](#)

- **[Acknowledgement of Conflict of Interest Law Summary](#)** Complete and Return to the Town Clerk's Office
- **[Online Conflict of Interest Training](#)** Complete every two years and submit certificate of training to the Town Clerk's Office

<https://concordma.gov/1893/Committee-Resources-Laws>

# Conflict of Interest Law

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You are a Municipal Employee representing the town in your committee work

Conflict of interest is personal

It's about personal gain or undue influence because of your position on the Board or Committee

# Categories of Conflict

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## **Solicitation or Acceptance of Gifts**

- Quid pro Quo: Never
- \$50 Rule (one-time or cumulative w/in a year)
- Formal acceptance process for gifts to the Town

## **Nepotism/Self-dealing**

- Financial interest: you, immediate family, business affiliate
- Negotiating for employment
- Confidential information

## **Divided Loyalty**

- Representing private interests before Town
- Personal financial interest in public contracts
- Second and subsequent jobs

# Unsure? GET ADVICE!

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**CALL the Ethics Commission "Attorney-of-the-Day:"**  
**(617) 371-9500/(888) 485-4766**

**Make a REQUEST ELECTRONICALLY:**  
[www.mass.gov/ethics](http://www.mass.gov/ethics)

**SEND A LETTER Requesting an Informal Written  
Advisory Opinion**



State Ethics Commission

# Open Meeting Law



- Meetings are held in public, with few exceptions.
- Public bodies must follow established rules in the creation and maintenance of records relating to those meetings.

# Meeting Agenda

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Date

Start time

Physical location or Zoom information

Discussion Items

- That the Chair has knowledge of at the time of posting
- DETAILS of the items to be discussed

# Agendas

48 hours advanced notice

Don't count weekends and holidays

Don't wait until the 47<sup>th</sup> hour!

Subject Line: Agenda

Send to:

[townclerk@concordma.gov](mailto:townclerk@concordma.gov)



# Posting the Agenda

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Sooner is better! Forward to Town Clerk's Office as soon as the agenda is set by the Chair.

Filename: **YYYYMMDD\_agenda\_committee\_name**

If the agenda is updated

- Must be new information received after 48 hr deadline
- Note update on agenda

Send all agendas to [townclerk@concordma.gov](mailto:townclerk@concordma.gov)

# Your First Meeting and annually thereafter



## **Elect a Chair**

- Sets the agenda
- Runs the meeting
- Recognizes people to speak

## **Elect a Clerk**

- Responsible for taking notes and creating minutes
- Takes roll call votes for remote meetings

# Meeting Administration

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Quorum of the public body must be present at a posted meeting to deliberate

- Quorum is a simple majority of membership
- A sub quorum is not a public body
- Members of a public body at a social event don't represent a quorum of the public body because they are not conducting government business.
- Today's workshop is not considered an all boards meeting – no committee business will be discussed.

# What's the Difference?

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## SUB-QUORUM

Less than a majority

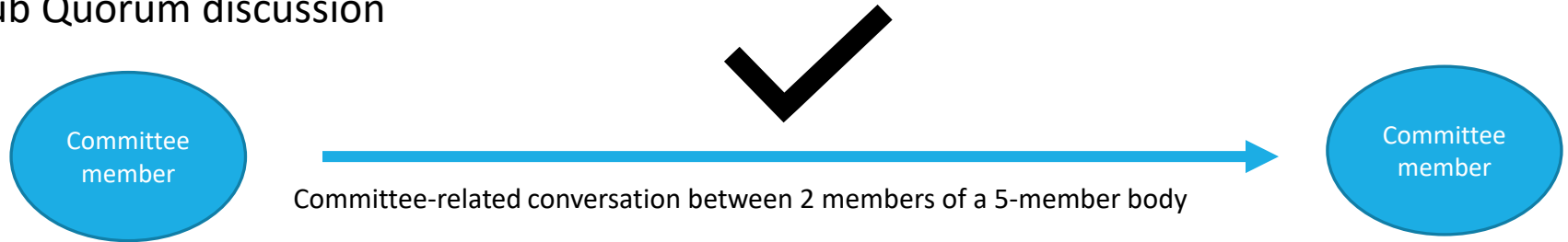
Not assigned to do committee work

## SUB COMMITTEE

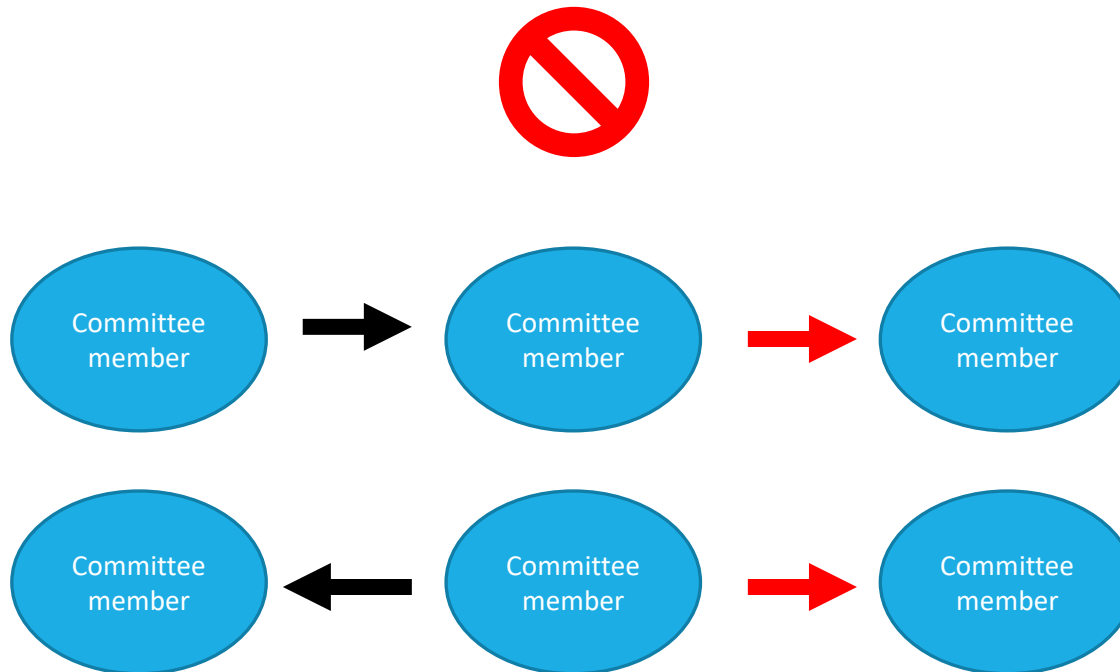
Two or more people designated by a public body to conduct committee business.

# Serial Communication

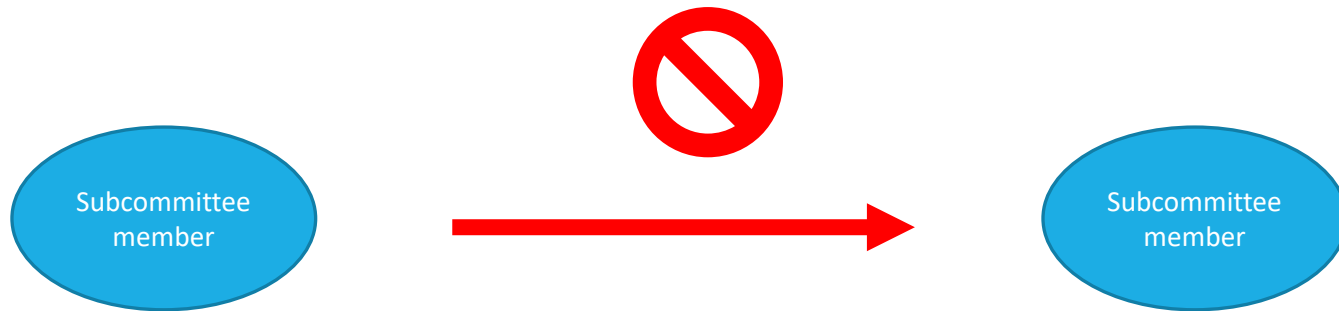
## Sub Quorum discussion



Same conversation cannot reach a third member of a 5-member committee



# Serial Communication applies to Subcommittees



For a 3-person subcommittee, there can be no discussion outside of a posted meeting

# Challenges of Committee Work

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All deliberation must happen at a posted meeting

- Executive Sessions are very limited in scope and must also be posted

All subcommittee deliberation must be posted

Editing a document is deliberation

Discussion, even asking questions with a quorum present at a site visit is considered deliberation

# Getting Committee work done

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Edit documents at a posted meeting

Submit all edits to town staff or one committee member who will then compile the edits that will then be shared at a future meeting.

Assign individuals to tasks to report back to the committee

Take notes at posted site visits to be discussed at a future meeting

Sub quorum at a site visit can ask questions and report back to the full committee at a future meeting

# Executive Session

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- Do you have a valid Reason?
- Include as much detail as you can without jeopardizing the reason for executive session
- List the reason in the agenda

# Remote Participation until April 2022

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Virtual meetings are permitted

Agenda must list how to access the meeting

A quorum must be present

ALL votes must be roll call votes

Virtual meetings are not required to be recorded

An announcement must be made if a meeting is being recorded

# Remote Participation Policy

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One member per meeting

Cannot be used to establish quorum

Cannot chair the meeting

Must let Chair know 48 hrs. in advance

ALL votes must be roll call votes

# Keep the meeting on track

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The Chair runs the meeting

Call the meeting to order

Follow your agenda

Take necessary action (vote, discussion only)

- Know your authority and responsibilities under your committee's charge

The Chair decides who to recognize

If you allow for public comment, don't be selective

- You may limit comment time

Decide when to allow for public comment

Don't take comments personally

# What's the Difference?

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## PUBLIC MEETING

Public does not have to be recognized to speak before a vote is taken or during a meeting.

## PUBLIC HEARING

The purpose of a hearing is for public input, not deliberation.

The committee closes the public hearing before proceeding with a vote.

# Meeting Minutes

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Official record of the meeting

Approve within 3 meetings or 30 days, whichever is later.

- Draft minutes due within 10 days of a public records request

Cannot share edits among each other outside of a meeting.

- One person may receive them, compile edits and share with others at the next meeting.

## Best Practice for Meeting Minutes

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Date, time, place, members present

Accurate summary of discussion

Record of all decisions made and actions taken  
– record of votes

List of documents & exhibits used by the public  
body during the meeting

Approve and share minutes in a timely manner

# Open Meeting Law Complaints

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Formal process

Within 30 days of violation

Made to the Board/Committee

14 business days to respond

# Open Meeting Law: Training Videos

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Video 1: Introduction and Definition

Video 2: Notice

Video 3: Accessibility / Remote Participation / Public Participation

Video 4: Executive Session

Video 5: Minutes

Video 6: Certification / Complaint process/Review/Resources/Contact

# Open Meeting Law Contact Information

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The Town Staff person for YOUR committee

## Town Clerk's Office

- Phone: 978-318-3080
- Email: [townclerk@concordma.gov](mailto:townclerk@concordma.gov)

## Division of Open Government

- Phone: 617-963-2540
- Email: [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us)
- Mail: Division of Open Government, Office of the Attorney General, One Ashburton Place, Boston, MA 02108
- Website: [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting)

# Committee-related public records

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## **Email**

- Committee-related email, even if it's sent from your private email is a public record.

## **Meeting notes**

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

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

- Must be kept for six months and then subject to regular records retention schedule

## **Exemptions**

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

An act relating to Public Records.

To comply with the Law-Chapter 439 <sup>Act of</sup> 1897 - this

book of records was begun.

1897  
Ch. 439.

Sec 1. Every such record x x x shall be of paper made of linen rags and new Cotton Clippings, well sized with animal sizing, and well finished, preference being given to paper of American Manufacture, marked in Water line with the name of the manufacturer.

Sec 2.

Every public board x x x shall designate some person, as Secretary who shall x x x

Record book kept by the Overseers of the Poor beginning in 1897.

# Public Records

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Committee Records belong to the Town

They are historical documents

Forward to the Town Archivist or department staff person who works with your committee

Minutes should be forwarded to the Town Clerk's Office

# Public Records Requests

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## **Let us know**

- Staff if applicable
- Town Clerk's Office

## **Records Access Officers Manage Responses**

- Every Department Head and Town Clerk
- Request log
- 10 calendar day deadline for initial response
- Failure to respond in a timely manner can be costly for the Town

## **Not all records are available**

- There are many exemptions that exist, but the claim must be valid

# Committee Work

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## **Public**

- Remember that committee business is public business
- Know how the Laws affect your conduct
- Committee charge is your mission
  - Policy Making, Regulatory, or Advisory

## **Historical**

- Committee records: minutes and reports are historical documents that will inform future generations of government actions

## **Cooperative**

- Work with appointing authority and Town staff

## **Essential**

- Provides the basis for decisions that shape the community

THANK YOU!

QUESTIONS?

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