



Open Meeting Law:

Balancing Government Transparency
with Government Efficiency



Who the AGO Serves & How

Who: The Commonwealth

Residents of the Commonwealth
and their public interests

State departments, officers, and
commissions

Groups of consumers

How: Four Major Ways this Work is Executed





Public Protection & Advocacy Bureau

Description

Protecting students against predatory for-profit schools;
Ensuring that workers are paid the wages they are owed;
Combating discrimination by landlords and employers;
Keeping struggling homeowners in their homes through loan modifications; and
Fighting for consumers against scams and other deceptive business practices.

Divisions of the Public Protection & Advocacy Bureau

Civil Investigations

Consumer Protection

Fair Labor

Insurance and Financial Services

Civil Rights

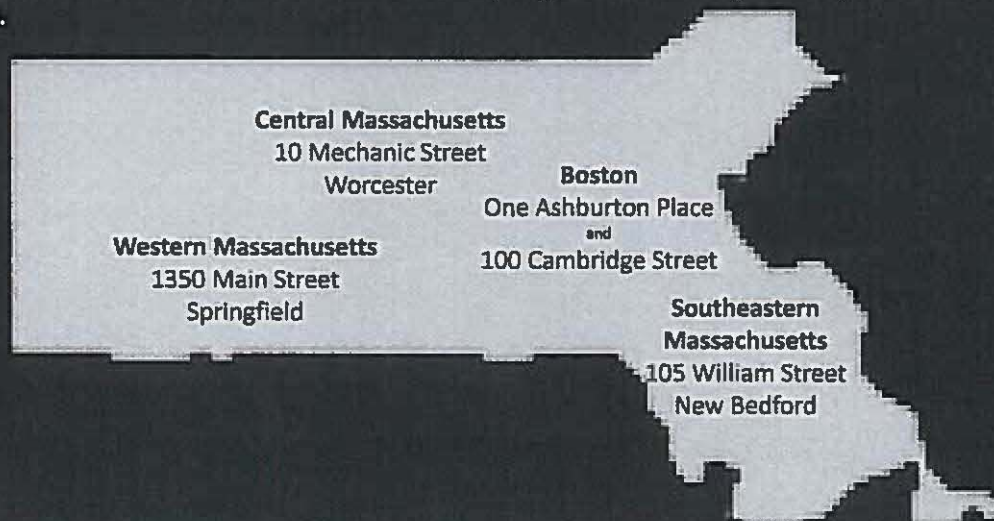
CARD/HomeCorps

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Where the AGO is located

Attorney General Maura Healey and her staff engage with every city and town of the Commonwealth. The Attorney General's Office also runs a statewide Consumer Advocacy and Response Division and supports over thirty regional local consumer and face to face mediation programs, which you may choose to contact.



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Purpose of Open Meeting Law (OML)

Government
Accountability



Government
Efficiency

Ensures transparency by public bodies by requiring:

- Notice
- Open Deliberations
- Public Access

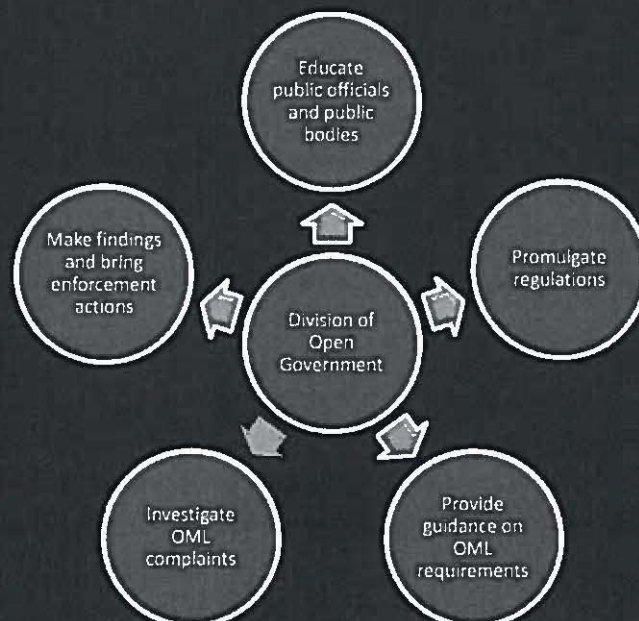
Allows government to efficiently manage operations by:

- Providing for certain deliberations in executive session
- Maintaining confidentiality of certain records of executive session

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Attorney General's Role



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Certification

CERTIFICATE OF RECEIPT OF OPEN MEETING LAW MATERIALS

I, _____ who qualified for the office of _____ (Name)

_____ on _____, certify pursuant to G.L.c. 30A, § 20B, that I have received copies of the following Open Meeting Law materials:

- 1) the Open Meeting Law, G.L.c. 30A, §§ 18-25;
- 2) regulations promulgated by the Attorney General under G.L.c. 30A, § 25; and
- 3) educational materials promulgated by the Attorney General under G.L.c. 30A, § 19(B), explaining the Open Meeting Law and its application.

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 in the Open Meeting Law during my term of office.

(Name)

Name of Public Body

(Date)

Pursuant to G.L.c. 30A, § 20B, an accurate copy of this certificate shall be retained according to the relevant records retention schedule. In the appointing authority, city or town clerk, or the executive director or other appropriate administrator of a state or regional body, or their designee.

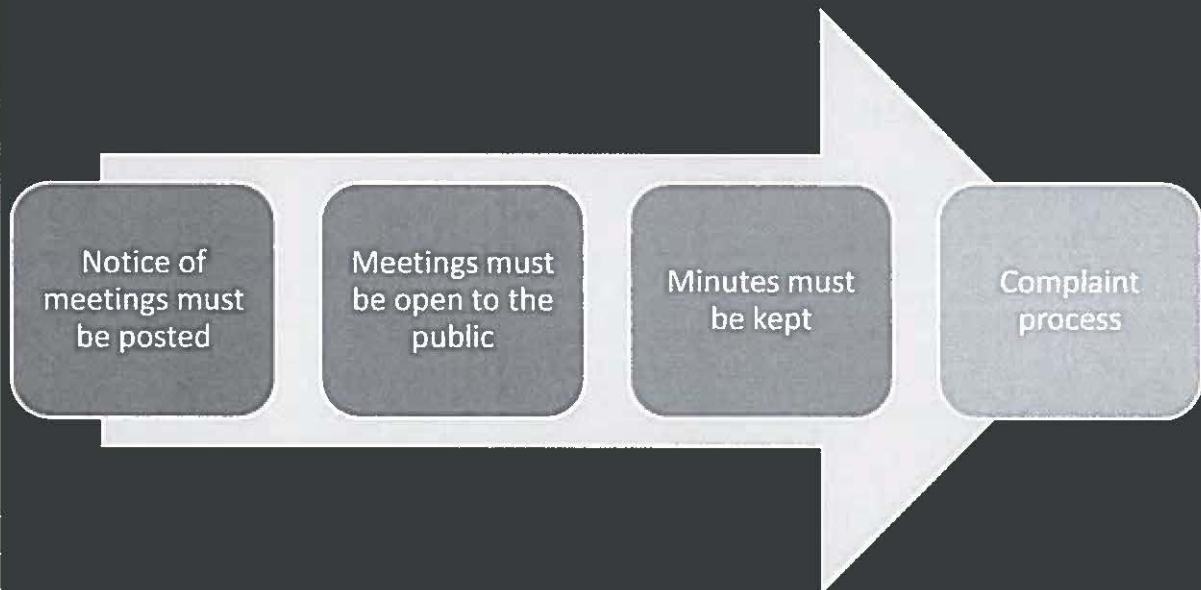
Members must sign certification within two weeks of receipt:

- Read and understand requirements of the law and consequences for violating it
- Educational Materials:
 - OML Guide Book
 - Last 5 Years of OML Determinations

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Open Meeting Law Basics



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Public Body

Definition

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

Connelly exception

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

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Exclusions

State Legislature



Massachusetts House of Representatives

Judicial Branch



Massachusetts Supreme Judicial Court

Not-for-Profit Organizations



The Greater Worcester Land Trust

Focus Groups



No Public Purpose



Constitutional Officers



Massachusetts Governor Charlie Baker

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Examples: Public Bodies

State:



University of Massachusetts Board of Trustees

Local:



Town of Brookline, MA Board of Selectmen

Regional:



Martha's
Vineyard
Airport
Commission

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Examples: NOT Public Bodies

State:



Regional:



Algonquin Regional High
School Boosters Club

Local:

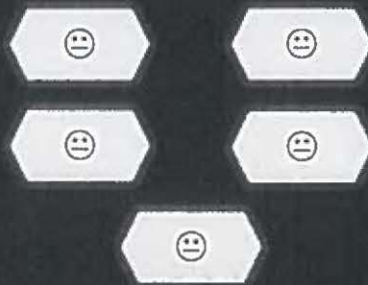


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Quorum and Deliberation

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



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Deliberation

Not deliberation:



- Agenda
- Scheduling



- Reports or documents



- Subquorum, but not subcommittee



- Recess a Town Meeting for emergency

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Meeting

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

Excludes:



On-site Inspections



State Quasi-Judicial Boards



Town Meetings (Tewksbury Town Meeting)



Events

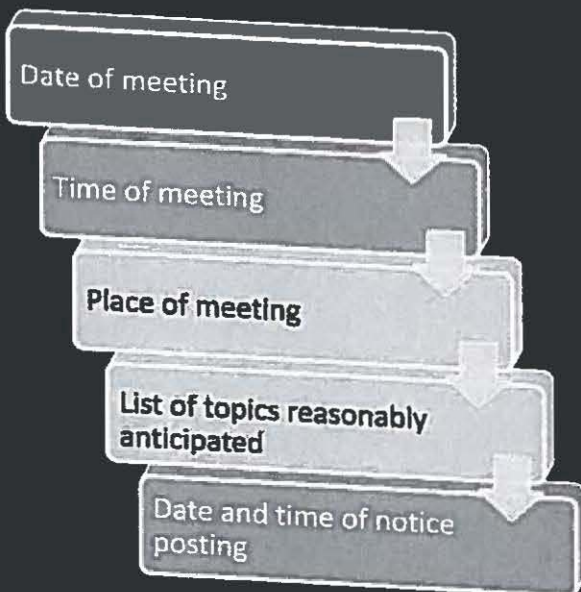
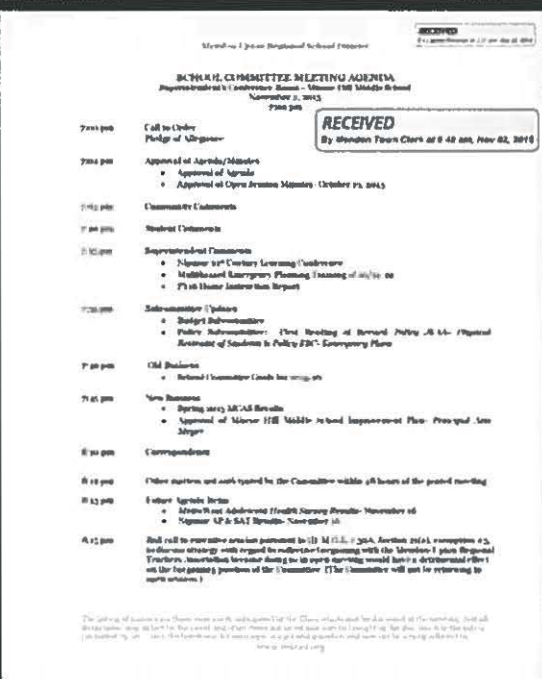


Attendance at Meetings of other Public Bodies

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Meeting Notices



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Meeting Notices

Emergency Meeting

Unexpected



Requires
immediate
action

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Meeting Notices: Local Public Bodies



File with Municipal Clerk

Or



Bulletin Board



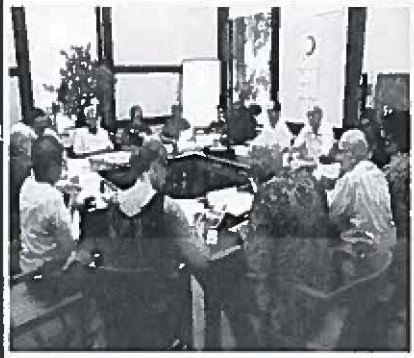
Municipal Website

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Meeting Notices: County, District and Regional Public Bodies

Hampshire
Council Of
Government
Board Of
Councilors



Plymouth Board of County
Commissioners



Amherst-Pelham
Regional School
Committee

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Meeting Notices: State Public Bodies

Post to the public body's
website or the website of its
parent agency



William Francis Galvin
Secretary of the Commonwealth
of Massachusetts

Notify the Attorney General
of the location of the
website

Send a copy of the meeting
notice to the Regulations
Division of the Secretary of
the Commonwealth's Office

regs@sec.state.ma.us

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Notice Posting: Common Concerns



What if a new topic arises after notice is posted?



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



Cancelling a meeting?

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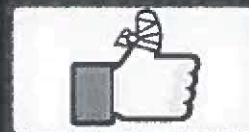
Meeting Notices: Websites

Finding notices

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

Webpage outages

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



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Accessibility

Reasonable efforts to accommodate crowds

Accessible to the disabled

Americans with Disabilities Act, federal Rehabilitation Act of 1973,
state constitutional provisions

The Attorney General's Civil Rights Division can assist -
Contact the Civil Rights Division at (617) 963-2939

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Remote Participation Authorization



Local Public Bodies

- Mayor or board of selectmen approval



County Public Bodies

- County commissioners must authorize



State/Regional Public Bodies

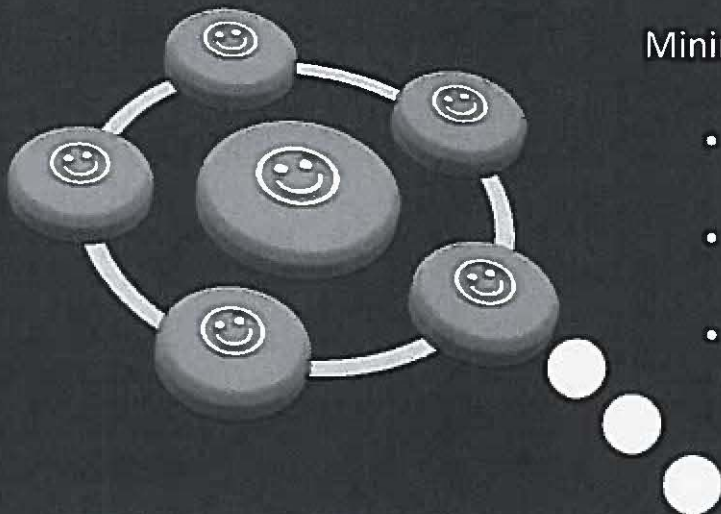
- Simple majority vote

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Remote Participation

Permissible reason for Remote Participation: physical attendance at the meeting must be unreasonably difficult.



Minimum Requirements:

- Clearly Audible
- Quorum Present
- Remote participants may vote

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Remote Participation

Procedures for Remote Participation

Notify chair

Announcement

Roll call votes

Documents

Executive session
declaration

Technical difficulties



Technology



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Public Participation



Public may attend open session

Addressing the public body

Recording/Informing

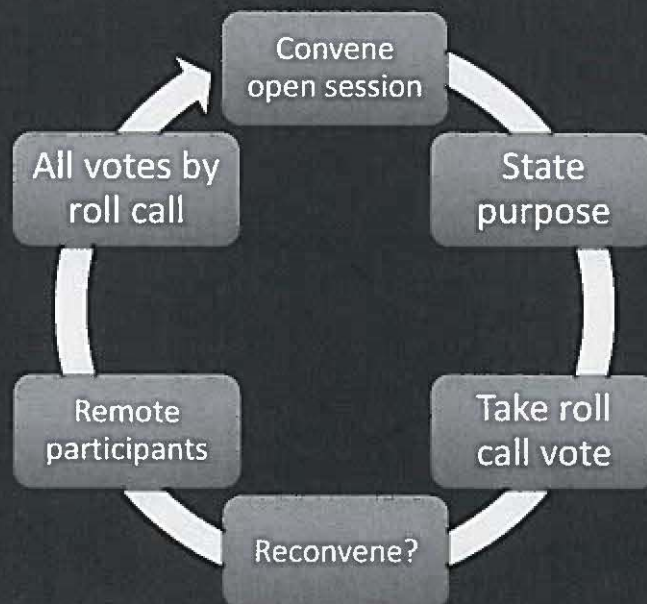
Removal

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Executive Session

Procedural requirements for entering executive session



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Executive Session Purpose: 1

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



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Executive Session Purpose: 2

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



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Executive Session Purpose: 3

"To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares."



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Executive Session Purpose: 4 & 5

4. Security personnel or devices



5. Criminal misconduct



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Executive Session Purpose: 6

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



Wellfleet, MA

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Executive Session Purpose: 7

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



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Executive Session Purpose: 8

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



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Executive Session Purposes 9 & 10

9. Confer with mediator on litigation or decision



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



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Meeting Minutes



- Minutes must state the date, time, place of the meeting, and list of members present or absent
- Minutes must include:
 - A summary of discussion of each topic
 - Decisions made and actions taken, including a record of all votes - Secret ballots prohibited
 - List of documents and other exhibits used by the body at the meeting, including by remote participants



Meeting Minutes

Approving Minutes

Upon Request

- Latest of 3 meetings or 30 days BUT whenever possible, approve at the next meeting
- Documents and exhibits used by public body must be retained by the public body but do not need to be physically stored with the meeting minutes
- Open session minutes provided within 10 days of request
 - Whether in draft or approved form
- For all other records – Consult Supervisor of Records in the Secretary of State’s Office



Executive Session Minutes

Minutes must be reviewed periodically by the chair or public body to determine if the purpose for executive session remains. The determination must be announced during the next meeting and be included in the minutes

Public body must respond within 10 days to request for executive session minutes

Provide minutes if no longer exempt from disclosure;
or

Review at next meeting or within 30 days, whichever comes first.

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Document Used at a Meeting

Documents used by a public body during an open meeting are public records!

But, the following materials are exempt from public disclosure:



Performance evaluations
NOT created by members
of the public body



Application materials,
other than resumes

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Complaint Process Step 1: The Complainant

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

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name _____ Last Name _____
Address _____
City _____ State _____ Zip Code _____
Phone Number _____ Ext. _____
E-Mail _____
Organization or Media Affiliation (if any) _____

Are you filing this complaint in your capacity as an individual, representative of a large number of others, or as an attorney-at-law?
 Individual Organization Attorney

Public Body that is the subject of this complaint:

City/Town County Regional District None

Name of Public Body (including if you think, county or region, if applicable) _____
 Name of person(s) if any who will be contacted by the attorney _____
 Date of a recent meeting _____

Description of alleged violation
 Describe the act and identify the individual(s) involved. If you believe the violation was caused by a person(s) who is not the person(s) supporting your complaint, please provide their name(s) and contact information.

What action do you want the public body to take in response to your complaint?
 (Note: This section may be a maximum of 1000 characters.)

Review, sign, and submit your complaint

I. Disclosure of Your Complaint
 Public Notice: When most complaints are received, and any document submitted with your complaint, will be reviewed by a public body and available to any member of the public upon request. In response to such a request, the public body will not disclose your contact information.

II. Consenting to be a Press Release
 The public body that you have chosen to file a complaint with may request that you consent to be interviewed for a press release. If you have any questions regarding your individual or organizational rights or responsibilities, please contact the Office of the Attorney General.

III. Submit Your Complaint to the Public Body
 The complaint must be filed with the public body. If you have any questions or need help, please contact the Office of the Attorney General at 1-800-352-7268 or by email at complaint@state.ma.us.

By signing below, I acknowledge that I have read and understand the provisions about how my information will be processed and will be in the best of my knowledge.

Signature _____ Date _____

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Complaint Process Step 2: The Public Body

Chair disseminates the complaint for response within 14 business days

May delegate responsibility for responding after public body review

Public body may request an extension of time to respond for good cause

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Complaint Process

Step 3: The Attorney General's Office

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

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

- The AGO will not review allegations that were not raised in the initial complaint filed with the public body
- Complaints filed with the Attorney General's Office, and documents submitted with the complaint, are considered a public record

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Complaint Process

The Division of Open Government

Review complaint

Conduct investigation

Finding

Appeal

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Remedies



Compel immediate and future compliance



Compel attendance at training



Release minutes



Other appropriate relief



Nullify action



Reinstate employee



\$1000 civil penalty

A public body found in violation of the OML must certify to the Attorney General its compliance with a remedial order.

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Judicial Complaint Process

Attorney General or 3 or more registered voters may initiate a civil action to enforce the Open Meeting Law



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Review

Notice must be posted for meetings

Meetings must be open to the public,
unless public body enters executive session

Minutes must be kept for open and
executive sessions

Public body member certification

Complaint process

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Resources

Attorney General's Open Meeting Law Website

<http://www.mass.gov/ago/openmeeting>

- Open Meeting Law: G.L. c. 30A, §§ 18-25
- Regulations: 940 CMR 29.00
- Guide
- FAQs
- Checklists
- Determination Letters

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Contact Information

Office of Attorney General
Division of Open Government
One Ashburton Place
Boston, Massachusetts 02108
openmeeting@state.ma.us
(617) 963-2540

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Contact Us

www.mass.gov/ago

617-727-2200



File a Complaint about an Unfair or Deceptive Trade Practice

617-727-8400

www.eform.ago.state.ma.us

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Resources

Have a Complaint or Question?

General Assistance

Consumer Hotline: (617) 727-8400

E-Complaint form: www.eform.ago.state.ma.us

Specific Hotlines

HomeCorps (617) 573-5333

Elder Hotline (888) 243-5337

Fair Labor Division (617) 727-3465

Civil Rights Division (617) 727-2200

Medicaid Fraud Tipline (617) 963-2360

Insurance Fraud Tipline (617) 537- 5330

Insurance & Health Care Consumer Helpline (888) 830-6277

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Thank You from the Attorney General

Attorney General

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



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