

## Office of the Town Clerk

Town of Chelmsford

50 Billerica Road  
Chelmsford, MA 01824  
978 250 5205

Dear Official:

Congratulations!

Through your generous service, you are providing value to Chelmsford by fostering greater community attachment and enhancing the vibrancy of our Town. You are about to take on a very important role within the Town of Chelmsford. Boards, committees, and commissions serve as planning, implementation, and in some cases, regulatory bodies of the Town of Chelmsford. The volunteer members who serve on these boards and committees are an essential part of running an effective and efficient municipal government. This handbook has been developed to help you understand your role and responsibilities as a board or committee member.

You will be working with people who, like yourself, have volunteered to address specific areas of note or concern, and bring back to the Select Board – or perhaps Town Meeting – recommendations for a course of action and/or solution that is best for the Town. It is important that the good of the Town, present and future, be of primary consideration in your deliberations. It is also important to remember that you represent the entire Town, not just one segment of the Town.

Within this packet, you will find information pertaining to your role in local government, including overviews of the appointment process and meeting requirements, summaries of the Massachusetts Open Meeting and Conflict-of-Interest Laws, as well as various Town conduct policies. Upon signing your appointment letter, you acknowledge receipt of all documents included in this packet. I strongly urge you to become familiar with the contents of these documents. **Please note: All board and committee members are required to complete Conflict-of-Interest training every two years. The link to the training can be found on page 9 of this handbook.**

Please reach out if I may be of assistance, and again, thank you for your service.

Sincerely,

Patricia E. Dzuris

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# 1. Committee Membership

## 1A. Appointment

All Board and Committee vacancies are publicized on the Town’s website. Individuals interested in being appointed are asked to complete a Committee Application Form on the Town’s website at <https://fs27.formsite.com/2Ylw7U/ypmtjsryho/index.html>. All appointments made by the Town Manager and/or Select Board are reviewed and confirmed by majority vote at a regular public meeting of the Select Board. A listing of current Chelmsford Boards and Committees is included below. Descriptions of the Board/Committee charges are available at <https://www.townofchelmsford.us/988/Board-Committee-Descriptions>.

Individuals appointed to a Board or Committee receive written notification of appointment. Once notified, appointed individuals must come to the Town Clerk’s Office to be sworn in and receive the Board and Committee orientation packet. This packet includes copies of the Summary of Conflict-of-Interest Law, Massachusetts Open Meeting Law, Town Harassment and Conduct Policies, and the Select Board’s Open Meeting and Minutes Policies and Vision and Values Statement.

## 1B. Duration of Appointments

Terms for most committees are set for a 3-year term. Exceptions include the Personnel Board and Housing Advisory Board, which are appointed for 2-year terms, and the Parade Committee and Holiday Decorating Committee, which are appointed for 1-year terms. Appointments to fill vacancies will cover the remaining term of the vacated position. Additional ad-hoc committees may be formed as needed and the duration of those appointments may vary.

<b>Board/Committee</b>	<b>Appointing Authority</b>	<b>Board/Committee</b>	<b>Appointing Authority</b>
<b>Age-Friendly Implementation Committee</b>	Town Manager	<b>Finance Committee</b>	Moderator
<b>Agricultural Commission</b>	Select Board	<b>Historic District Commission</b>	Town Manager
<b>Arts &amp; Technology Education Fund Committee</b>	Town Manager	<b>Historical Commission</b>	Town Manager
<b>Bicycle &amp; Pedestrian Advisory Committee</b>	Town Manager	<b>Holiday Decorating Committee</b>	Town Manager
<b>Board of Appeals (Zoning)</b>	Town Manager	<b>Housing Advisory Board</b>	Select Board
<b>Board of Assessors</b>	Town Manager	<b>Housing Authority</b>	Elected
<b>Board of Health</b>	Elected	<b>Library Trustees</b>	Elected
<b>Board of Registrars</b>	Select Board	<b>Military Community Covenant Task Force</b>	Select Board
<b>Capital Planning Committee</b>	Town Manager	<b>Moderator</b>	Elected
<b>CCA/Town Hall Advisory Committee</b>	Town Manager	<b>North Town Hall Advisory Committee</b>	Town Manager
<b>Cemetery Commission</b>	Elected	<b>Parade Committee</b>	Town Manager
<b>Center Village Master Plan Implementation Committee</b>	Select Board	<b>Permanent Building Committee</b>	Town Manager
<b>Clean Energy &amp; Sustainability Committee</b>	Select Board	<b>Personnel Board</b>	Select Board
<b>Commission on Disabilities</b>	Town Manager	<b>Planning Board</b>	Elected

<b>Community Action Program Committee</b>	Town Manager	<b>Public Records Advisory Committee</b>	Town Manager
<b>Board/Committee</b>	<b>Appointing Authority</b>	<b>Board/Committee</b>	<b>Appointing Authority</b>
<b>Community Preservation Fund Committee</b>	Town Manager	<b>Recycling Committee</b>	Town Manager
<b>Conservation Commission</b>	Town Manager	<b>Roberts Field Advisory Committee</b>	Town Manager
<b>Council on Aging Board</b>	Town Manager	<b>School Committee</b>	Elected
<b>Cultural Council</b>	Town Manager	<b>Select Board</b>	Elected
<b>Diversity, Equity, and Inclusion Committee</b>	Select Board	<b>Tree Committee</b>	Town Manager
<b>Dog Park Advisory Committee</b>	Town Manager	<b>Vinal Square Strategic Action Plan Committee</b>	Town Manager

### 1C. Reappointment

A Committee member is under no obligation to accept reappointment, nor is the appointing authority obligated to offer such reappointment. However, Board, Committee and Commission members may be appointed for a specified term and may be reappointed for successive terms through a reappointment process. At the end of their term, Board and Committee members will be given the opportunity to indicate their intention to be reappointed for another term. Reappointments for Town Manager and Select Board-appointed positions will be presented to the Select Board for confirmation. Board and committee members who were elected to their positions are not eligible for reappointment and would be required to run for re-election at the end of their term, should they want to serve for a subsequent term.

### 1D. Resignation and Revocation of Appointment

A Board, Committee or Commission member who is no longer able to serve should resign promptly so that the vacancy may be filled as soon as possible. Any resignation should be submitted in writing to the Town Clerk's Office with a copy to the appointing authority and the chair of the Committee.

Pursuant to Section 106-6 of the Town of Chelmsford Bylaws, whenever an appointment is revoked, the appointing authority is required to provide written notice of the revocation, including the specific reason(s) for revocation within 48 hours by registered mail to the affected individual at their last known address. This only applies to revocation, and not to a decision against reappointment at the expiration of a fixed term.

### 1E. Committee Leadership

**Annual Reorganization:** Boards, Committees, and Commissions shall annually, upon the first meeting of the new fiscal year or following the election for boards with elected positions, elect a Chair, Vice Chair, and a Clerk. Newly formed Boards, Committees or Commissions should elect these officers at their first meeting. It is the responsibility of the chair to notify the Town Clerk's Office at [townclerk@chelmsfordma.gov](mailto:townclerk@chelmsfordma.gov) **and** the appointing authority of changes in officers.

**CHAIR:** The chair is responsible for the fair facilitation of meetings. The chair presides at all meetings, decides questions of order, calls special meetings, and signs official documents that require the chair's signature. The chair has the same rights as other members to offer resolutions, make or second motions, discuss questions and vote thereon. However, the chair must be mindful in offering amendments to motions and in discussing resolutions of the chair's role in facilitating a full range of opinion from the committee and, in a public hearing,

from the public. The chair sets the tone of meetings and should be respectful of individuals coming before their committee and fellow members.

**VICE-CHAIR.** The vice chair acts for the chair whenever the latter is absent from meetings and performs other necessary duties.

**CLERK.** The clerk is responsible for taking and transcribing the committee's minutes, recording any amendments, and submitting the approved minutes to the Town Clerk's Office for posting.

## 2. Meetings

### 2A. Meetings and Deliberations

Town boards should follow basic guidelines for running a public meeting provided in Appendix A, in all procedural matters for meeting format and decorum.

A public meeting occurs at any time a quorum of the Town board or committee members gets together to discuss or consider any public business or policy over which the board/committee has some jurisdiction or advisory duties. Quorum is one more than half of the assigned members. No quorum of a Town board/committee shall meet outside a properly posted meeting for the purpose of deciding on or deliberating toward a decision on any matter.

E-mail exchanges between or among a quorum of members of a public body discussing matters within that body's jurisdiction may constitute deliberation, even if the e-mail sender does not request a response. Emails between members to schedule a meeting, distribute agendas, and/or distribute reports or documents is allowed, provided that no member expresses an opinion on any of the topics contained in the agenda, report(s), or other matters falling within that body's jurisdiction.

Determining whether a communication constitutes a meeting subject to Open Meeting Law can be done by the following questions:

1. Is the communication between or among members of a public body;
2. If so, does the communication constitute 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?

No votes taken in open session shall be by secret ballot. All meetings of Town boards/committees shall be open to the public and any person shall be permitted to attend any meeting except under those circumstances listed in section 2G regarding meeting in Executive Session.

Unless otherwise stated, the Open Meeting Law requirements and procedures apply to all types of meetings including special meetings, workshops, emergency meetings, sub-committee meetings and public hearings.

Deliberations and votes held in private sessions, commonly called Executive Sessions, are allowed only under strict circumstances as outlined in the Open Meeting Law. Executive Sessions may only be held after convening in an open, public session.

### 2B. Open Meeting Law

A summary of the contents of the Open Meeting Law follows below, however, a complete copy of the Open Meeting Law guide created by the Attorney General's Office can be found in Appendix B.

**Purpose:** 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.

With certain exceptions, all meetings of a public body must be open to the public.

There are five (5) exceptions to the definition of a meeting under the Open Meeting Law.

1. Members of a public body may conduct an onsite inspection of a project or program; however, they cannot deliberate at such gatherings;
2. Members of a public body may attend a conference, training program, or event; however, they cannot 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 cannot 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 are not subject to the Open Meeting Law

## 2C. Location

Every committee should establish a regular meeting schedule to suit the needs and convenience of its members, subject to change if needed. Meetings must be scheduled, however, in public locations. Committee leadership is responsible for reserving their own meeting spaces. Reservations for Town-owned facilities, including meeting rooms, can be made online here <https://www.townofchelmsford.us/194/Facility-Field-Use>.

Public bodies are subject to all applicable state and federal laws that govern accessibility for people with disabilities. These laws include the Americans with Disabilities Act, the federal Rehabilitation Act of 1973, and state constitutional provisions.

Remote participation conducted using a teleconference platform such as Microsoft Teams or Zoom are currently allowed per the temporary provisions of the Open Meeting Law. This extension is valid through March 31, 2025. Any public body using remote participation during a meeting must ensure that the following requirements are met:

1. A quorum of the body, including the chair, must be physically present at the meeting location;
2. Members of the public body who participate remotely and all persons 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.

Please note, the Open Meeting Law has always provided allowances for remote participation. Following the Covid-19 pandemic of 2020, the Governor's Office issued emergency provisions to the Open Meeting Law to allow for fully remote meetings without a required quorum of members to be present at a physical meeting location. As of the date of the creation of this manual, these temporary provisions are set to expire on March 31, 2025.

Procedures for remote meeting participation, including executive sessions, can be found in the Attorney General's Open Meeting Law Guide in Appendix B of this manual.

## 2D. Posting of Meetings

All Boards and Committees are required to provide the public with notice of its meeting a minimum of 48 hours in advance, **excluding weekends and holidays**. The meeting notice must contain all topics that the Chair reasonably anticipates, and the date, time, and location of the meeting. A checklist of notice contents for

posting a meeting can be found in Appendix C and a template for meeting agendas can be found at <https://www.townofchelmsford.us/DocumentCenter/View/1303/Agenda-Template?bidId>. All meeting notices must be submitted electronically as a PDF or Word document to the Town Clerk’s Office at [townclerk@chelmsfordma.gov](mailto:townclerk@chelmsfordma.gov), who will post the meeting. The Town’s website is the official posting location, though meeting notices are also posted to a secondary physical meeting board in the Town Offices. It is the responsibility of committee leadership to verify that their meeting has been posted to the Town’s website by checking the Meeting Calendar on the homepage. Board and Committee members can also sign up for email and text notifications on the Town’s website.

A checklist for submitting agendas can be found in Appendix C of this handbook.

**PLEASE NOTE:** Committee leadership needs to submit the meeting notice to the Town Clerk’s Office with sufficient time for the Clerk’s Office to post the meeting prior to the 48-hour deadline. **EMAILING YOUR NOTICE TO THE CLERK’S OFFICE 48 HOURS IN ADVANCE OF THE MEETING DOES NOT EQUATE MEETING THE 48-HOUR POSTING DEADLINE—a meeting is not considered posted until the Town Clerk time stamps and posts it to the website.** Please ensure that the meeting notice is sent well in advance of the deadline to reduce the chance of unexpected delays impacting your meeting session. The sample meeting schedule below will help you to ensure your agenda is received with sufficient time to post. **Additionally, pursuant to Sections 106-8 & 2-12e of the Town of Chelmsford Bylaw, no boards or committees shall conduct a meeting during the election hours of a municipal or state election occurring within the Town during the hours in which live voting is taking place on Election Day; nor shall any board or committee schedule a meeting to be held during the time the Town Meeting is in session.**

Meeting Day	Meeting Time	Agenda Due to Town Clerk
Monday	Evening	Thursday before 1:00 PM
Tuesday	Evening	Friday before 11:00 AM
Wednesday	Evening	Monday before 1:00 PM
Thursday	Evening	Tuesday before 1:00 PM
Friday	Evening	Wednesday before 1:00 PM
Meeting Day	Meeting Time	Agenda Due to Town Clerk
Monday	Morning	Wednesday before 1:00 PM
Tuesday	Morning	Thursday before 1:00 PM
Wednesday	Morning	Friday before 11:00 AM
Thursday	Morning	Monday before 1:00 PM
Friday	Morning	Tuesday before 1:00 PM

## 2E. Meeting Minutes

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:

1. Date, time, place/location, address of the meeting;
2. Names of members present or absent. Names of guests present, where applicable;
3. Decisions made and actions taken, including a record of all votes;
4. A summary of the discussions on each subject;
5. List of all documents and exhibits used at the meeting

The minutes, documents and exhibits are public records and are part of the official record of the meeting. The law requires that existing minutes be made available to the public within 10 days upon request, whether they have been approved or remain in draft form. This also applies to meeting documents and exhibits. Minutes must be filed with the Town Clerk and can be submitted via email as a PDF or Word document to [townclerk@chelmsfordma.gov](mailto:townclerk@chelmsfordma.gov).

The Chelmsford Select Board has created a Meeting Minutes Policy to assist committee members with the creation and filing of minutes. This policy can be found in Appendix D of this handbook. A checklist for creating and approving minutes can be found in Appendix C of this handbook.

## 2F. Public Participation

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. An individual may not address the committee without the permission of the chair. Individuals may not disrupt a meeting and all members of the public audience shall remain silent, if requested by the chair. If, after a clear warning, a disruptive individual continues to disrupt the meeting, the chair may order the person to leave and may authorize a constable or other officer to remove the individual if they refuse.

Any member of the public may make an audio or video recording of an open session; however, they must first notify the chair and must comply with reasonable requirements from the chair so as not to interfere with the meeting. The chair is required to inform the other attendees of the recording at the beginning of the meeting.

## 2G. Executive Session

An Executive Session is closed to the public, but the committee must first convene in an Open Session for which notice has been posted. A majority of the members must vote, by roll-call vote entered into the minutes, in favor of a motion to go into executive session. The motion must specify the reason and state whether the open session will reconvene following executive session. All votes taken in executive session are recorded by roll call and become a part of the record of that session. Topics discussed in executive session are confidential. Attendees do not discuss these matters with anyone. Accurate records and minutes must be maintained and are only to be released to the public once the purpose for the executive session no longer exists.

Deliberations and votes held in executive session are only allowed under strict circumstances outlined in the Open Meeting Law. The “10 Purposes for an Executive Session,” with detail for the purposes along with suggested motions for entering executive session can be found in the Attorney General’s Open Meeting Law Guide found in Appendix B of this packet. A checklist for entering executive session can be found in Appendix C of this Handbook.

## 2H. Missed Meetings and The Mullin Rule

On October 23, 2006, Chelmsford Town Meeting voted to adopt the provisions of G. L. c. 39, s. 23D, An Act Further Regulating Meetings of Municipal Boards. The statute resolves the problem of the so-called “Mullin Rule”. The Mullin Rule, arising out of the Appeals Court’s decision in Mullin v. Planning Board of Brewster, 17 Mass. App. 139 (1983), holds that a member of an adjudicatory body must attend all sessions of a hearing to be eligible to vote. Over time, this has necessitated that hearings be continued without testimony due to member absences, resulting in delayed proceedings. C. 39, s. 23D provides a mechanism to overcome member absences by allowing a member who has missed one session of a hearing to become familiar with the testimony and still be eligible to vote.

In order to take advantage of c. 39, s. 23D, the member who misses a session of a hearing can still vote as long as they:

1. Examines the evidence presented at the missed session. Evidence consists of at least one of the following:
  - Video tape
  - Audio tape
  - Transcript/minutes
2. And certifies in writing that he/she has examined the evidence presented at the missed session.

More than one member may miss one session. Members are also advised to examine other evidence that was submitted, such as legal briefs, photographs, or other written material.

Further information about the adoption of this provision can be found in the minutes from the Fall 2006 Town Meeting.

Please note: The Mullin Rule applies to adjudicatory bodies responsible for regulatory decisions. These bodies include, Board of Assessors, Board of Health, Conservation Commission, Planning Board, Select Board, and Zoning Board of Appeals.

### 3. Conduct of Committees and Public Officials

#### 3A. Conflict of Interest

In addition to the Open Meeting Law, the conduct of public officials is subject to the Conflict-of-Interest Law, MGL Chapter 268A. The Conflict-of-Interest Law strictly regulates the activities and ethical conduct of public officials, including committee members, *during and after their service* to the Town. The purpose of the law is to ensure that public officials' financial interests and personal relationships do not conflict with their public obligations. The law is broad and expansive to prevent an official from becoming involved in a situation that becomes an actual conflict or creates the appearance of conflict. Committee members must not accept gifts, privileges, or employment as a result of acting in a capacity as a public official, as outlined by the Conflict-of-Interest Law. Recognizing and properly responding to a conflict of interest is a key element to maintaining the public's confidence in government and in the integrity of the work we do as public officials.

A full summary of the Conflict-of-Interest law is found in Appendix E of this Handbook. Additionally, the State Ethics Commission requires all Board and Committee Members complete online conflict of interest law training **every two years**. Acknowledgement of receipt of the Conflict-of-Interest Law summary is required annually. You must register and log in to the State Ethics Commission Online Training Program to acknowledge receipt of the Yearly Conflict of Interest Law Summary and to comply with the State Ethics Conflict of Interest Law Education Requirements. The online training program can be accessed through:

<https://massethicstraining.skillburst.com/>

If you have questions, please review the Education and Training Guidelines available on the Commission's website, [www.mass.gov/ethics](http://www.mass.gov/ethics). The guidelines provide helpful information about who is required to comply with these statutory requirements, record-keeping requirements, and the process to exempt certain municipal positions from these requirements.

#### 3B. Discriminatory Harassment and Sexual Harassment Policies

The Town of Chelmsford does not tolerate incivility and other negative conduct that affects workplace conditions and interferes unreasonably with an individual's job performance. The Town of Chelmsford insists upon and highly values a working environment that is free of harassment of any type, including discriminatory and sexual harassment.

Discriminatory harassment consists of unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law.

Sexual harassment consists of sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when 1. Submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly as a term or condition of employment or as a basis for employment decisions; or, 2. Such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual's work performance by creating an intimidating, hostile, humiliating, or sexually offensive work environment.

Please see Appendix F for the full Discriminatory and Sexual Harassment Policies.

### **3C. Professional Code of Conduct and Select Board's Vision and Values**

In addition to the Town of Chelmsford's dedication to a harassment-free workplace, Town employees, including Board and Committee members, are expected to act honestly, conscientiously, reasonably, and in good faith at all times with regard to their responsibilities, the interests of the Town and the welfare of its residents.

Failure to behave in a manner consistent with the standards of conduct and policies included therein may result in disciplinary action being initiated against the offender. The Town shall utilize a fair and equitable process in reviewing the alleged violation of these standards and policies and shall discipline the offender, if called for, in a manner appropriate given the alleged violation.

In the interest of promoting a welcoming community environment, the Select Board has created a Vision and Values statement. The Vision and Values statement outlines the principles employees are encouraged to exemplify while performing their duties to further the mission of the Town. A copy of this the Professional Code of Conduct and the Vision and Values statement can be found in Appendix H.

# APPENDIX A

## Basic Guidelines on How to Run a Public Meeting

- The Chair runs the meeting. If the Chair is absent, the Vice Chair will run the meeting.
- The Chair calls the meeting to order by stating the time, date, and name of committee for the record.
- The Chair brings up each agenda item for action or discussion.
- The Chair calls for a motion on any action items on the agenda needing a vote of the board or committee.
- Any committee member may make a motion on the agenda item. The Vice Chair might be tasked with making the motions for each agenda item for efficiency and continuity.
- The Chair calls for a second on the motion.
- Any committee member may second a motion on an agenda item. The Clerk or Secretary might be tasked with seconding the motions for each agenda item for efficiency and continuity.
- After a motion has been made and seconded, the Chair will call for a vote of all the members present.
- The Clerk or Secretary records the motion, who made it, who seconded it and the results of the vote for each agenda item requiring a vote.
- After all posted agenda items have been dealt with, the Chair asks for a motion to adjourn the meeting.
- Any committee member may make a motion to adjourn, a second is not required.
- The Clerk or Secretary records the time that the meeting was adjourned.

## Roberts Rules of Order – Simplified

(Not required but may be used for more formal meetings)

### Guiding Principles of Roberts Rules:

- Everyone has the right to participate in discussion if they wish, before anyone may speak a second time.
- Everyone has the right to know what is going on at all times. Only urgent matters may interrupt a speaker.
- Only one thing (motion) can be discussed at a time.

A **motion** is the topic under discussion (e.g., “I move that we add a coffee break to this meeting”). After being recognized by the chair, any member can introduce a motion when no other motion is on the table. A motion requires a second to be considered. If there is no second, the matter is not considered. Each motion must be disposed of (passed, defeated, tabled, referred to committee, or postponed indefinitely).

### How to do things:

You want to bring up a new idea before the group.

After recognition by the chair, present your motion. A second is required for the motion to go to the floor for discussion, or consideration.

You want to change some of the wording in a motion under discussion.

After recognition by the chair, move to amend by

- adding words,
- striking words or
- striking and inserting words.

You like the idea of a motion being discussed, but you need to reword it beyond simple word changes.

Move to substitute your motion for the original motion. If it is seconded, discussion will continue on both motions and eventually the body will vote on which motion they prefer.

You want more study and/or investigation given to the idea being discussed.

Move to refer to a committee. Try to be specific as to the charge to the committee.

You want more time personally to study the proposal being discussed. Move to postpone to a definite time or date.

You are tired of the current discussion.

Move to limit debate to a set period of time or to a set number of speakers. Requires a 2/3<sup>rd</sup>s vote.

You have heard enough discussion.

Move to close the debate. Also referred to as calling the question. This cuts off discussion and brings the assembly to a vote on the pending question only. Requires a 2/3<sup>rd</sup>s vote.

You want to postpone a motion until some later time.

Move to table the motion. The motion may be taken from the table after 1 item of business has been conducted. If the motion is not taken from the table by the end of the next meeting, it is dead. To kill a motion at the time it is tabled requires a 2/3<sup>rd</sup>s vote. A majority is required to table a motion without killing it.

You believe the discussion has drifted away from the agenda and want to bring it back.

“Call for orders of the day” or “Call to return to original agenda item”

You want to take a short break.

Move to recess for a set period of time.

You want to end the meeting. Move to adjourn.

You are confused about a procedure being used and want clarification.

Without recognition, call for "Point of Information" or "Point of Parliamentary Inquiry." Then, state your question and attempt to clarify the situation.

You have changed your mind about something that was voted on earlier in the meeting for which you were on the winning side.

Move to reconsider. If the majority agrees, the motion comes back on the floor as though the vote had not occurred.

You want to change an action voted on at an earlier meeting.

Move to rescind. If previous written notice is given, a simple majority is required. If no notice is given, a 2/3<sup>rd</sup>s vote is required.

**Unanimous Consent:**

If a matter is considered relatively minor or opposition is not expected, a call for unanimous consent may be requested. If the request is made by others, the chair will repeat the request and then pause for objections. If none are heard, the motion passes.

**• You may INTERRUPT a speaker for these reasons only:**

- to get information about business –point of information to get information about rules– parliamentary inquiry
- if you can't hear, safety reasons, comfort, etc. –question of privilege or if you see a breach of the rules –point of order
- if you disagree with the chair's ruling –appeal or if you disagree with a call for Unanimous Consent –object

Quick Reference					
	Must Be Seconded	Open for Discussion	Can be Amended	Vote Count Required to Pass	May Be Reconsidered or Rescinded
Main Motion	√	√	√	Majority	√
Amend Motion	√	√		Majority	√
Kill a Motion	√			Majority	√
Limit Debate	√		√	2/3 <sup>rd</sup> s	√
Close Discussion	√			2/3 <sup>rd</sup> s	√
Recess	√		√	Majority	
Adjourn (End meeting)	√			Majority	
Refer to Committee	√	√	√	Majority	√
Postpone to a later time	√	√	√	Majority	√
Table	√			Majority	
Postpone Indefinitely	√	√	√	Majority	√



# APPENDIX B

# Open Meeting Law Guide



COMMONWEALTH OF MASSACHUSETTS  
**OFFICE OF ATTORNEY GENERAL**  
**MAURA HEALEY**

JANUARY 2018

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](http://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 a large initial "M" and a long, sweeping underline.

Maura Healey  
Massachusetts Attorney General

# *Attorney General's Open Meeting Law Guide*

## Overview

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### Purpose of the Law

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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

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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

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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

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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](http://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

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### What meetings are covered by the Open Meeting Law?

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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?

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While there is no comprehensive list of public bodies, any multi-member board, commission, committee or subcommittee within the executive or legislative branches 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 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.<sup>2</sup>

### What constitutes a deliberation?

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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 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.

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<sup>2</sup> See Connelly v. School Committee of Hanover, 409 Mass. 232 (1991)

### What matters are within the jurisdiction of the public body?

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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?

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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

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### What are the requirements for posting notice of meetings?

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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?

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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?

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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

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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.<sup>3</sup> The Attorney General’s Disability Rights Project is available to answer questions about accessibility and may be reached at (617) 963-2939.

## What information must meeting notices contain?

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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.

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<sup>3</sup> 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.

## Executive Session

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### When can a public body meet in executive session?

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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

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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.

- 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

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### May a member of a public body participate remotely?

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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?

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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?

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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

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### What public participation in meetings must be allowed?

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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

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### What records of public meetings must be kept?

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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/arcrmu/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

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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

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### What is the Attorney General's role in enforcing the Open Meeting Law?

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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?

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### *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](http://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. 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](http://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

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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.

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

# APPENDIX C

## Public Body Checklist for Posting a Meeting Notice

### 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](mailto:openmeeting@state.ma.us). For more information on the Open Meeting Law, please visit [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting).**

# APPENDIX C

## Public Body Checklist for Entering into Executive Session

- 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).

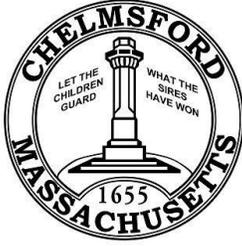
**Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. These checklists are updated periodically, so please check that you are using the most current version. For questions, please contact the Attorney General's Division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

# APPENDIX C

## Public Body Checklist for Creating and Approving Meeting Minutes

- 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 CMR29.10(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. 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](mailto:openmeeting@state.ma.us). For more information on the Open Meeting Law, please visit [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting).**



# APPENDIX D

## CHELMSFORD SELECT BOARD

Town Offices

50 Billerica Road

Chelmsford, MA 01824-2777

(978) 250-5202

### OPEN MEETING AND MINUTES POLICIES 11-1 POLICY ON POSTING MEETING NOTICES, AGENDAS AND MINUTES

The Town Manager is responsible to manage the distribution and compliance with this section of the Policy for all appointed and elected town officials.

#### Posting a Meeting

Meeting Notices and Agendas must be posted forty-eight (48) hours in advance of the meeting excluding Saturdays, Sundays, and legal holidays in accordance with the Open Meeting Law.

Please keep in mind the Town Clerk's hours of operation and make necessary arrangements to be sure your posting is made in an adequate amount of time. The Town Clerk requires that agendas be sent no later than 1:00 pm on the day it is required to be posted. Call the Town Clerk's Office for accommodation if the requested deadline cannot be met.

Meeting Postings must contain the following information:

- The name of the public body that is meeting
- The date and time of the meeting
- Where the meeting is being held (location, room, address)
- A list of topics that are reasonably expected to be discussed at the meeting in sufficient details to advise the public of the general issues to be discussed. Any revisions to the posting should be made as soon as possible, and no later than one hour prior to the meeting.

24 hour / 7 day a week Access

The Open Meeting Law requires twenty-four (24) hour / seven (7) day a week access to meeting schedules and agendas. Each meeting will be posted online on the Official Meeting Calendar at [www.chelmsfordma.gov](http://www.chelmsfordma.gov).

## **Receiving and Filing Postings & Agendas**

Although you may use any of the following means to communicate your postings with the Town Clerk's Office, email is the preferred method.

- Email: [townclerk@chelmsfordma.gov](mailto:townclerk@chelmsfordma.gov)
- In Person: Town Clerks Office – Town Hall, 50 Billerica Road

PLEASE DO NOT email postings to a specific staff person in the Town Clerk's Office. Email to [townclerk@ChelmsfordMA.Gov](mailto:townclerk@ChelmsfordMA.Gov) as that account is shared by all Town Clerk's Office staff. You should check the website to be sure your meeting was posted correctly. If your meeting was not posted correctly, please contact the Town Clerk's Office as soon as possible.

## **Public Hearings**

If you are a member of a public body such as the Select Board, Planning Board, Board of Health, Zoning Board of Appeals, or Conservation Commission (etc.), periodically you will be required to hold a public hearing in accordance with Massachusetts General Law. In most cases where notice of a public hearing is required, notice shall be given by publication in a newspaper of general circulation in the town for a specified period of time. It is also necessary to post such notice in a conspicuous place in the Town Hall for a specified period of time. For specifics, please reference the specific governing statute. Written notices, the initiation of the hearing and the written conclusions of the public hearing may have strict legal time limitations that vary with the character of each board.

### **Cancelled, Postponed, or Relocated Meetings.**

If a meeting is cancelled or moved to another location, the Town Clerk shall be informed, so that the Official Meeting Calendar may be revised. It is suggested that a sign be posted on the meeting room door and on the entrance door to the building informing the public of the changes.

## **Meeting Minutes**

Importance of the Record- Many matters before public bodies are reviewable by a court on an appeal. In many of these matters, the appeal is based on the record developed before the public body. Thus, it is very important to adequately develop a record which is going to reflect accurately what went on and most importantly, support your decision.

Public bodies shall create and maintain accurate minutes of all meetings, including executive sessions. Minutes are not intended to be a transcript of the meeting, but rather an accurate recording of the meeting logistics, topics discussed, and actions taken by the public body.

Meeting Minutes as set forth by law must include the following information:

- State the date, time, (location, room, address)
- List all members present and all members absent
- Summarize each topic discussed by the public body

- Exact wording of all motions, including who made and seconded the motion
- The decisions made and actions taken, including a record of all votes. (Votes in executive session must be recorded in the minutes by a roll call)
- A list of documents and other exhibits used by the body at the meeting and where such exhibits or documents may be reviewed by the public.

### **List of Documents and other Exhibits**

Documents, emails, and other exhibits, such as photographs, recordings, or maps (etc.), used by the body at an open meeting or executive session shall be part of the record of the session.

While public bodies are required to retain these records in accordance with records retention laws, the documents and exhibits listed in the minutes need not be physically stored with the minutes. Care should be taken to ensure these documents and/or exhibits are properly filed to facilitate retrieval as required.

### **Public Record**

The records of all public body non-executive session meetings minutes are public and permanent records and 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.

Meeting notes and Draft minutes are considered public record until official Minutes are produced and voted on. Any secretarial notes, if not destroyed once the official minutes are accepted, are considered a public document under the public records law.

### **Once Minutes are Accepted by Public Body Vote**

Upon confirming that the final minutes document reflects what was approved, the public body designee responsible for the minutes shall email the final minutes in Word or PDF format to [townclerk@chelmsfordma.gov](mailto:townclerk@chelmsfordma.gov) for posting on the town website.

### **Timely Fashion**

Chapter 30A, section 22C of the Open Meeting Law requires minutes to be produced in a timely fashion. For public bodies which meet monthly or more frequently, the goal is to have minutes drafted, approved, and releasability determined within the requirement of 30 days or three public body public body meetings, whichever is later unless the public body can show good cause for further delay. Public bodies, which meet less frequently, shall designate a representative from the public body to review and approve the minutes.

The law does, however, state that in the event someone requests minutes from a meeting, such minutes must be provided to them within 10 days.

## **Executive Session Minutes**

Minutes from an executive session may be withheld if the lawful purpose for conducting an executive session would be defeated. Such minutes should be withheld from public disclosure unless and until the reason for convening the executive session no longer exists. However, they should be approved by the public body in a timely manner.

The public body chair or other appropriate designee shall, from time to time, but in no circumstances less frequently than every six (6) months, review the purpose for having entered into executive session to determine whether continued non-disclosure of minutes is warranted.

Such reviews shall be documented and should not be unreasonably delayed in that there is a policy for release of executive session documents as soon as the reasons for executive privilege have lapsed. If the Chair or other designee determines that continued non-disclosure is no longer warranted, the full Board shall review such minutes and either confirm the decision or determine that continued non-disclosure remains warranted. This review and determination must be included as a topic discussed in the minutes of said meeting. Once disclosure would no longer defeat the lawful purpose for the executive session, the minutes must be disclosed unless they are otherwise exempt from the Public Records Law, G.L. c. 4 §7, cl. 26 or are subject to attorney-client privilege. Case law has dictated that public bodies are entitled to attorney-client privilege, but the Attorney General has offered an opinion that the privilege is not absolute.

Town Counsel should be contacted to determine whether the privilege applies. Members of public bodies must refrain from disclosing any matter discussed within an executive session unless and until the executive session minutes are released.

After review of executive session minutes has been conducted, the public body shall make an announcement at its next open session as to which executive session minutes were determined to be subject to release, and which executive session minutes were determined to require continued nondisclosure.

# Appendix E

## Summary of the Conflict-of-Interest Law for Municipal Employees

**Revised November 14, 2016**

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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.**

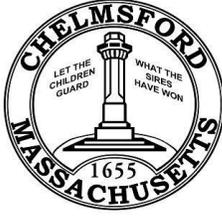
Partners of municipal employees and former municipal employees are also subject to restrictions under the conflict of interest law. If a municipal employee participated in a matter, or if he has official responsibility for a matter, then his partner may not act on behalf of anyone other than the municipality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



# Appendix F

## Town of Chelmsford

### Discriminatory Harassment Policy

It is the policy of the Town of Chelmsford to promote a workplace that is free of discriminatory harassment (“harassment”) of any type, including sexual harassment. Discriminatory harassment consists of unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law. This policy refers to, but is not limited to, discrimination or harassment in the following areas;

1. Age (40 and above),
2. Race, color, or National Origin
3. Maternity leave,
4. Genetics, or Disability
5. Sex, or Sexual Orientation
6. Religion,
7. Criminal record (applications only),
8. Active military status

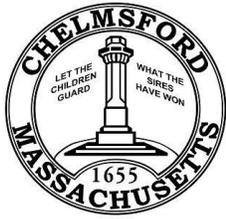
Our Town will not tolerate harassing conduct that affects employment conditions, that interferes unreasonably with an individual’s performance, or that creates an intimidating, hostile, or offensive work environment. Harassment includes, but is not limited to:

1. Display or circulation of written materials or pictures that are degrading to a person or group as previously described.
2. Verbal abuse, slurs, derogatory comments, or insults about, directed at, or made in the presence of an individual or group as previously described.

Harassment of employees occurring in the workplace, in connection with work-related travel, and/or work-sponsored events will not be tolerated. Further, any retaliation against an individual who has formally or informally complained about discrimination or has cooperated with an investigation of a discrimination complaint is prohibited. Because the Town takes allegations of harassment seriously, we will respond promptly to complaints of harassment. Where it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action is necessary, including disciplinary action where appropriate.

When an employee or persons having dealings with Town departments believes that they have been subjected to harassment, they must document, to the best of their ability, the exact circumstances of the alleged offense(s). Employees claiming harassment should be willing and able to substantiate their claim. The employee should communicate these circumstances to their Department Head, the Town Manager, the Board of Selectmen or to Human Resources. If possible, resolution of the problem should occur at this level. If not, the legal provision governing grievances concerning sexual harassment are outlined in Title VII of the 1964 Civil Rights Act. A copy of this Act is on file at the Town Manager's Office.

Harassment investigations will be conducted on a confidential basis, and retaliation against an employee for filing a complaint will not be tolerated and could lead to disciplinary actions. Any behavior that is considered harassment is a serious offense and will result in severe disciplinary action and/or termination against both the offender and any Department Head who fails to take appropriate actions to stop such activity when it is or should be known to them. The Department Head is responsible for all offensive conduct of which the Department has knowledge. Furthermore, the Town of Chelmsford is liable if immediate corrective action is not taken once the transgression is known.



# Appendix F

## Town of Chelmsford

### Sexual Harassment Policy

#### Introduction

It is the goal of the Town of Chelmsford to promote a workplace that is free of sexual harassment. Sexual harassment of employees occurring in the workplace or in other settings in which employees may find themselves in connection with their employment is unlawful and will not be tolerated by this organization. Further, any retaliation against an individual who has complained about sexual harassment or retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is similarly unlawful and will not be tolerated. To achieve our goal of providing a workplace free from sexual harassment, the conduct that is described in this policy will not be tolerated and we have provided a procedure by which inappropriate conduct will be dealt with, if encountered by employees.

This Policy may apply to conduct that occurs between co-workers that takes place outside the workplace (including, but not limited to, online conduct or conduct utilizing the internet or other electronic media), or during non-work hours. When the conduct complained of occurs outside of the workplace or during non-work hours, the Town of Chelmsford may consider the following and other factors in assessing whether the conduct constitutes conduct in violation of this Policy;

- whether the event at which the conduct occurred is linked to the workplace in any way, such as at a Town of Chelmsford sponsored function;
- whether the conduct occurred during work hours;
- the context of conduct that occurs outside of normal work hours and whether there is any connection to the workplace;
- the severity of the alleged outside-of-work conduct;
- the work relationship of the complainant and alleged harasser, which includes whether the alleged harasser is a supervisor and whether the alleged harasser and complainant come into contact with one another on the job;
- whether the conduct adversely affected the terms and conditions of the complainant's employment or impacted the complainant's work environment.

Because the Town of Chelmsford takes allegations of unlawful discrimination and harassment seriously, we will respond promptly to complaints and where it is determined that such inappropriate conduct has occurred, we will act promptly to eliminate the conduct and impose such corrective action as is necessary, including disciplinary action where appropriate.

Please note that while this Policy sets forth our goals of promoting a workplace that is free of sexual harassment, the Policy is not designed or intended to limit our authority to discipline or take remedial action for workplace conduct which we deem unacceptable, regardless of whether that conduct satisfies the legal definitions of discrimination or harassment.

### Definition of Sexual Harassment

In Massachusetts, the legal definition for sexual harassment is this:

“Sexual harassment” means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

- (a) submission to or rejection of such advances, requests or conduct is made either explicitly or implicitly a term or condition of employment or as a basis for employment decisions; or,
- (b) such advances, requests or conduct have the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, humiliating or sexually offensive work environment.

Under these definitions, direct or implied requests by a supervisor for sexual favors in exchange for actual or promised job benefits such as favorable reviews, salary increases, promotions, increased benefits, or continued employment constitutes sexual harassment.

The legal definition of sexual harassment is broad and in addition to the above examples, other sexually-oriented conduct, whether it is intended or not, that is unwelcome and has the effect of creating a work place environment that is hostile, offensive, intimidating, or humiliating to male or female workers may also constitute sexual harassment. This can include conduct that is aimed at a person’s sexual orientation or gender identity.

While it is not possible to list all those additional circumstances that may constitute sexual harassment, the following are some examples of conduct, which if unwelcome, may constitute sexual harassment depending upon the totality of the circumstances including the severity of the conduct and its pervasiveness:

- Unwelcome sexual advances – whether they involve physical touching or not;
- Sexual epithets, jokes, written, or oral references to sexual conduct, gossip regarding one’s sex life; comment on an individual’s body, comment about an individual’s sexual activity, deficiencies, or prowess;
- Displaying sexually suggestive objects, pictures, cartoons;
- Unwelcome leering, whistling, brushing against the body, sexual gestures, suggestive or insulting comments;
- Inquiries into one’s sexual experiences, and, Discussion of one’s sexual activities

All employees should take special note that, as stated above, retaliation against an individual who has complained about sexual harassment, and retaliation against individuals for cooperating with an investigation of a sexual harassment complaint is unlawful and will not be tolerated by this organization.

### Complaints of Sexual Harassment

If any of our employees believes that they have been subjected to sexual harassment, it is our policy to provide the employee with the right to file a complaint with our organization. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting:

- Jeanne Parziale, Human Resources Director is designated the Town Offices Sexual Harassment Grievance Officer. She can be reached at 978250-5288 or [jparziale@chelmsfordma.gov](mailto:jparziale@chelmsfordma.gov)
- John Sousa, Finance Director, Alternate Sexual Harassment Grievance Officer. He can be reached at 978-244-3390 or [jsousa@chelmsfordma.gov](mailto:jsousa@chelmsfordma.gov)
- Dr. Jay Lang, Chelmsford Public Schools Superintendent is designated the Schools' Sexual Harassment Grievance Officer. He can be reached at 978251-5100 x6916 or [langj@chelmsford.k12.ma.us](mailto:langj@chelmsford.k12.ma.us).
- Cheryl Kirkpatrick, Director of Personnel and Professional Learning, Alternate Grievance Officer. She can be reached at 978-251-5100 x6904 or [kirkpatrickc@chelmsford.k12.ma.us](mailto:kirkpatrickc@chelmsford.k12.ma.us).

These persons are also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

### Sexual Harassment Investigation

When we receive the complaint we will promptly investigate the allegation in a fair and expeditious manner. The investigation will be conducted in such a way as to maintain confidentiality to the extent practicable under the circumstances. Our investigation will include a private interview with the person filing the complaint and with witnesses. We will also interview the person alleged to have committed sexual harassment. When we have completed our investigation, we will, to the extent appropriate inform the person filing the complaint and the person alleged to have committed the conduct of the results of that investigation.

If it is determined that inappropriate conduct has occurred, we will act promptly to eliminate the offending conduct, and where appropriate we will also impose disciplinary action.

## Disciplinary Action

If it is determined that inappropriate conduct has been committed by one of our employees, we will take such action as is appropriate under the circumstances. Such actions may include: counseling, informal or formal reprimands, written or verbal warnings, suspension, reduction in pay, reduction in duties, transfers, and other formal sanctions including termination from employment.

## State and Federal Remedies

In addition to the above, if you believe you have been subjected to sexual harassment, you may file a formal complaint with either or both of the government agencies set forth below. Using our complaint process does not prohibit you from filing a complaint with these agencies. Each of the agencies has a short time period for filing a claim (EEOC – 300 days; MCAD – 300 days).

1. The United States Equal Employment Opportunity Commission  
John F. Kennedy Federal Building  
475 Government Center  
Boston, MA 02203  
Phone: 800-669-4000  
TTY: 800-669-6820
2. The Massachusetts Commission Against Discrimination

### **Boston Office**

One Ashburton Place  
Sixth Floor, Room 601  
Boston, MA 02108  
Phone: 617-994-6000  
TTY: 617-994-6196

### **Springfield Office**

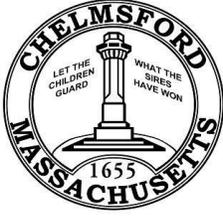
436 Dwight Street  
Second Floor, Room 220  
Springfield, MA 01103  
Phone: 413-739-2145

### **Worcester Office**

Worcester City Hall  
455 Main Street, Room 100  
Worcester, MA 01608  
508-799-8010  
508-799-8490 – FAX

### **New Bedford Office**

800 Purchase St., Rm. 501  
New Bedford, MA 02740  
508-990-2390  
508-990-4260 – FAX



# Appendix H

## Town of Chelmsford

### Professional Conduct Policy

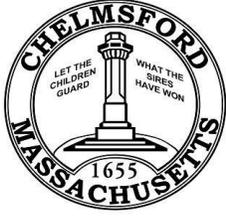
Town employees are expected to act honestly, conscientiously, reasonably and in good faith at all times with regard to their responsibilities, the interests of the Town and the welfare of its residents.

Employees have an obligation to be present at work as required and to be absent from the workplace only with proper authorization; to carry out their duties in an efficient and competent manner, and maintain specified standards of performance; to comply with reasonable employer instructions and policies and to work as directed; to respect the privacy of individuals and use confidential information only for the purposes for which it was intended; to neither use, nor allow the use of Town property, resources, or funds for other than authorized purposes; to incur no liability on the part of the Town without proper authorization; and, to maintain all qualifications necessary for the performance of their duties legally and efficiently.

The intent of this policy is to ensure that: 1) employees meet the Town's legitimate expectations in the areas of performance and behavior; 2) employees whose performance or behaviors are deficient are provided with the necessary assistance to meet the Town's expectations; and 3) disciplinary action initiated against an employee is fair and appropriate.

Failure to behave in a manner consistent with the standards of conduct and policies included herein may result in disciplinary action being initiated against the offending employee. The Town shall utilize a fair and equitable process in reviewing an employee's alleged violation of these standards and policies and shall discipline the employee, if called for, in a manner appropriate given the alleged violation.

This policy applies to all paid, appointed employees in the Town service other than those positions under the supervision and control of the School Committee. Employees subject to Massachusetts Civil Service Laws and/or collective bargaining agreements are subject only to those provisions in this order which are not specifically regulated by Civil Service Laws or collective bargaining agreements.



# Vision and Values

As Adopted by the Select Board on July 27, 2020

## VISION:

The Town of Chelmsford will be a livable, inclusive, diverse, welcoming, multigenerational community. Mindful of our historic past, we are adaptive and responsive to our dynamic environment. Our residents enjoy excellence in education, access to open space, and a vibrant, sustainable quality of life.

## VALUES:

- ★ Inclusiveness and Diversity
- ★ Stewardship
- ★ Civic and Community Engagement
- ★ Fiscal Responsibility
- ★ Transparency, Honesty, and Integrity
- ★ Respect and Empathy
- ★ Innovation, Adaptability and Creativity
- ★ Accountability
- ★ Sustainability