

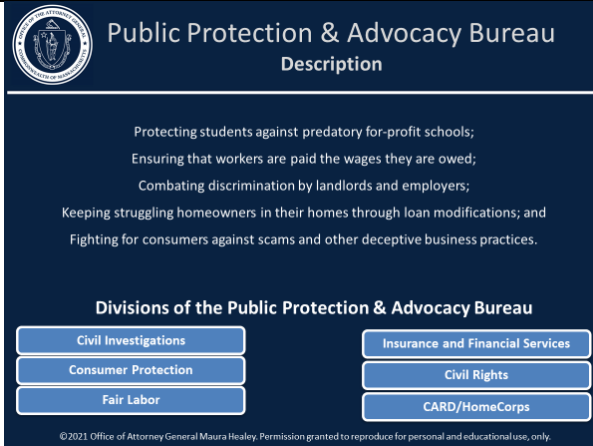


# Open Meeting Law Webinar Presentation Handout

Slide 1.	<div><div></div><div><h1>Open Meeting Law:</h1><p>Balancing Government Transparency with Government Efficiency</p></div></div> <div><hr/><hr/><hr/><hr/><hr/><hr/></div>	
Slide 2.	<div><div><h2>Who the AGO Serves &amp; How</h2></div><div><div><h3>Who: The Commonwealth</h3><div><div>Residents of the Commonwealth and their public interests</div><div>State departments, officers, and commissions</div><div>Groups of consumers</div></div></div><div><h3>How: Four Major Ways this Work is Executed</h3><div><div>Investigation</div><div>Enforcement</div><div>Prevention</div><div>Policy</div></div></div></div><div><small>© 2021 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.</small></div><div><hr/><hr/><hr/><hr/><hr/></div></div>	<h3><u>The Attorney General’s Office</u></h3> <p>The Attorney General represents:</p> <ul style="list-style-type: none"><li>• Residents of the Commonwealth and their public interest</li><li>• State departments, officers, and commissions</li><li>• Groups of consumers</li></ul>

# Open Meeting Law Webinar Presentation Handout

Slide 3.



**Public Protection & Advocacy Bureau**  
Description

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

**Divisions of the Public Protection & Advocacy Bureau**

Civil Investigations	Insurance and Financial Services
Consumer Protection	Civil Rights
Fair Labor	CARD/HomeCorps

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## Public Protection & Advocacy Bureau

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

Slide 4.



**Where the AGO is located**

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

**Central Massachusetts**  
10 Mechanic Street  
Worcester

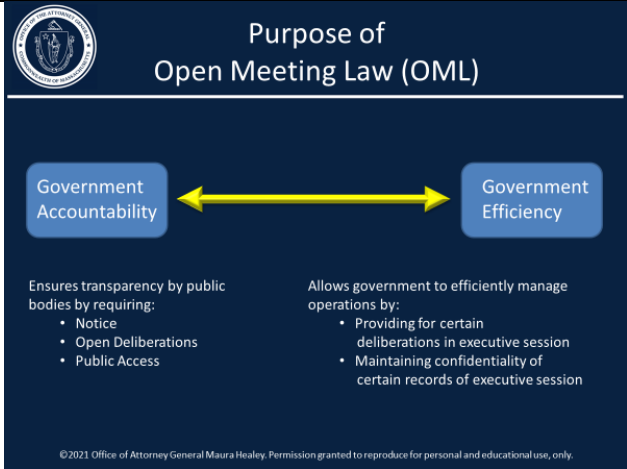

**Boston**  
One Ashburton Place  
and  
100 Cambridge Street

**Western Massachusetts**  
1350 Main Street  
Springfield


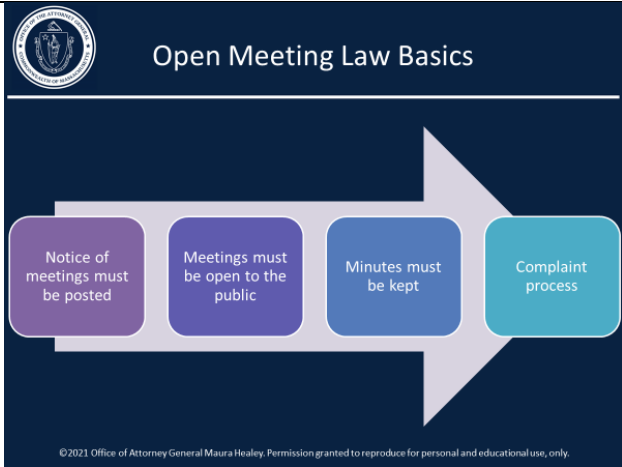
**Southeastern Massachusetts**  
105 William Street  
New Bedford

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# Open Meeting Law Webinar Presentation Handout

<p>Slide 5.</p>	<div data-bbox="297 193 920 659"><p>The diagram is titled "Purpose of Open Meeting Law (OML)". It features a central yellow double-headed arrow connecting two blue boxes: "Government Accountability" on the left and "Government Efficiency" on the right. Below "Government Accountability" is the text "Ensures transparency by public bodies by requiring:" followed by a bulleted list: "Notice", "Open Deliberations", and "Public Access". Below "Government Efficiency" is the text "Allows government to efficiently manage operations by:" followed by a bulleted list: "Providing for certain deliberations in executive session" and "Maintaining confidentiality of certain records of executive session". At the bottom, a small copyright notice reads: "© 2021 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only."</p></div> <div data-bbox="316 745 956 1008"><hr/><hr/><hr/><hr/><hr/><hr/><hr/><hr/></div>	<p><u>Purpose of Open Meeting Law</u></p> <ul style="list-style-type: none"><li>• Recognizes the necessary balance between government accountability and government efficiency.</li><li>• Ensures transparency by public bodies by requiring:<ul style="list-style-type: none"><li>• Notice</li><li>• Open Deliberations</li><li>• Public Access</li></ul></li><li>• Allows government to efficiently and effectively manage its operations by:<ul style="list-style-type: none"><li>• Providing for certain deliberations to take place in executive session</li><li>• Maintaining confidentiality of certain records of executive session</li></ul></li></ul>
<p>Slide 6.</p>	<div data-bbox="297 1054 893 1505"><p>The diagram is titled "Attorney General's Role". It features a central circle labeled "Division of Open Government". Surrounding this central circle are five other circles, each connected to the center by a double-headed arrow. The surrounding circles are: "Educate public officials and public bodies" (top), "Promulgate regulations" (top-right), "Provide guidance on OML requirements" (bottom-right), "Investigate OML complaints" (bottom-left), and "Make findings and bring enforcement actions" (top-left). At the bottom, a small copyright notice reads: "© 2021 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only."</p></div> <div data-bbox="316 1591 925 1749"><hr/><hr/><hr/><hr/><hr/><hr/></div>	<p><u>Attorney General's Role</u></p> <ul style="list-style-type: none"><li>• Educate / train public officials and members of public bodies</li><li>• Promulgate regulations</li><li>• Provide guidance on OML requirements<ul style="list-style-type: none"><li>○ Hotline / Email</li><li>○ Website</li></ul></li><li>• Address OML complaints</li><li>• Make findings and bring enforcement actions</li></ul>








# Open Meeting Law Webinar Presentation Handout

<p>Slide 7.</p>	<div data-bbox="297 207 906 663"><p><b>Certification</b></p><p><b>CERTIFICATE OF RECEIPT OF OPEN MEETING LAW MATERIALS</b></p><p>I, _____, who qualified for this office of _____, hereby purport to _____.</p><p>to G.L. c. 30A, § 30B, I hereby state that I have received copies of the following Open Meeting Law materials:</p><ol style="list-style-type: none"><li>(1) the Open Meeting Law, G.L. c. 30A, §§ 30B-30D;</li><li>(2) regulations promulgated by the Attorney General under G.L. c. 30A, § 30C, and</li><li>(3) educational materials promulgated by the Attorney General under G.L. c. 30A, § 30B, including the Open Meeting Law and its application.</li></ol><p>I have read and understood the requirements of the Open Meeting Law and the consequences of violating it. I further understand that the materials have received may be revised or updated from time to time, and that I have a continuing obligation to implement any changes to the Open Meeting Law during my term of office.</p><p>_____ (Signed)</p><p>_____ (Name of Public Body)</p><p>_____ (Date)</p><p><small>Revised to G.L. c. 30A, § 30B, I hereby state that I have received copies of the following Open Meeting Law materials, as the governing authority, officer or member, or other appropriate administrator of a state or regional body, or their designee.</small></p><p><small>©2021 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.</small></p></div> <p>Members must sign certification within two weeks of receipt:</p> <ul style="list-style-type: none"><li>• Read and understand requirements of the law and consequences for violating it</li><li>• Educational Materials:<ul style="list-style-type: none"><li>• OML Guide Book</li><li>• Last 5 Years of OML Determinations</li></ul></li></ul>	<p><u>OML Certification</u></p> <ul style="list-style-type: none"><li>• OML materials must be distributed to all public body members upon taking oath of office or, if none is required, before entering performance of office</li></ul> <p><u>Local Public Bodies:</u> Municipal clerk</p> <p><u>Regional, District, County or State Bodies:</u> Appointing authority, executive director, or other administrator or designee</p> <ul style="list-style-type: none"><li>• Members must sign certification within two weeks of receipt<ul style="list-style-type: none"><li>• Read and understand requirements of law and consequences for violating OML</li></ul></li></ul>
<p>Slide 8.</p>	<div data-bbox="297 1010 915 1474"><p><b>Open Meeting Law Basics</b></p><p>Notice of meetings must be posted</p><p>Meetings must be open to the public</p><p>Minutes must be kept</p><p>Complaint process</p><p><small>©2021 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.</small></p></div>	<p><u>Open Meeting Law Basics</u></p> <ol style="list-style-type: none"><li>1) Notice must be posted for all meetings</li><li>2) Meetings must be open to the public, unless the public body enters into executive session</li><li>3) Minutes must be kept for open and executive sessions</li><li>4) Complaint process</li></ol>

# Open Meeting Law Webinar Presentation Handout


<p>Slide 9.</p>	<div data-bbox="297 264 906 720"><h2>Public Body</h2><div><div>Definition</div><p>A multi-member board, commission, committee or sub-committee ... however created, elected, appointed or otherwise constituted, established to serve a public purpose ... subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.</p></div><div><div>Connelly exception</div><p>Where a public official creates a group to advise that public official on a decision that he or she has sole responsibility for, the group is not subject to the Open Meeting Law. See <u>Connelly v. School Committee of Hanover</u>, 409 Mass. 232 (1991)</p></div></div> <p>©2021 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.</p> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>
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# Open Meeting Law Webinar Presentation Handout


<p>Slide 11.</p>	<div data-bbox="298 197 899 646"><h2>Quorum and Deliberation</h2><p>"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."</p><p>© 2021 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.</p></div> <div data-bbox="321 697 925 928"><hr/><hr/><hr/><hr/><hr/><hr/><hr/></div>	<p><u>Deliberation:</u></p> <p>“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.”</p>
<p>Slide 12.</p>	<div data-bbox="298 968 899 1432"><h2>Deliberation</h2><p>Not deliberation:</p><div><ul style="list-style-type: none"><li>• Agenda</li><li>• Scheduling</li></ul></div><div><ul style="list-style-type: none"><li>• Reports or documents</li></ul></div><div><ul style="list-style-type: none"><li>• Subquorum, but not subcommittee</li></ul></div><div><ul style="list-style-type: none"><li>• Recess a Town Meeting for emergency</li></ul></div><p>© 2021 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.</p></div> <div data-bbox="321 1516 925 1705"><hr/><hr/><hr/><hr/><hr/><hr/><hr/></div>	<p><u>Not Deliberation:</u></p> <ul style="list-style-type: none"><li>• Agenda</li><li>• Scheduling</li><li>• Reports or Documents</li><li>• Subquorum but not subcommittee</li></ul> <p>Recess a Town Meeting for emergency</p>

# Open Meeting Law Webinar Presentation Handout

Slide 13.



## Social Media



- Communicator's intent in posting to a social media platform (Facebook, Twitter) is relevant; whether other members of the public body happen to see the communication is not determinative.
- Communication that is directed at members of the public, where no other member of the public body responds, and any viewing of posts by fellow members of the public body is incidental is generally not OML violation.
- Text messaging between a quorum of public body members, during or outside of a meeting, may constitute private deliberation.
- Public body member may subscribe to a listserv. However, where a quorum of the members of a public body subscribe to a listserv, the public body risks unlawful deliberation.
- Email discussion of a public body's operation, such as leadership of public body, is a matter of public business that should be reserved for an open meeting.
- Public body can share documents in online drop box, but limited to distribution of meeting agenda, scheduling information, and reports or documents to be discussed at meeting only if no opinion is expressed.

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## Social Media

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- Public body can share documents in online drop box, but limited to distribution of meeting agenda, scheduling information, and reports or documents to be discussed at meeting only if no opinion is expressed.

Slide 14.



## Meeting

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

Excludes:



On-site Inspections



State Quasi-Judicial Boards



Town Meetings (Tewksbury Town Meeting)



Events



Attendance at Meetings of other Public Bodies

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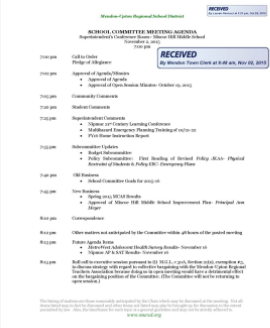

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## Meeting

- Excludes:
- On-site inspection
- State Quasi-Judicial Boards
- Town Meetings (Tewksbury Town Meeting)
- Events
- Attendance at Meetings of other Public Bodies


# Open Meeting Law Webinar Presentation Handout

<p>Slide 15.</p>	<div data-bbox="277 239 888 699">  <h3>An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency</h3> <p>The Act, signed into law on June 16, 2021, suspended two key provisions of the Open Meeting Law.</p> <ol style="list-style-type: none"> <li>1) Instead of providing physical access to a meeting location, public bodies may provide access through "adequate, alternative means."</li> <li>2) All public body members may participate in the meeting remotely.</li> </ol>  <p><small>©2021 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.</small></p> </div> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	<p><u>An Act Extending Certain COVID-19 Measures Adopted During the State of Emergency</u></p> <p>The Act, signed into law on June 16, 2021, suspended two key provisions of the Open Meeting Law.</p> <ul style="list-style-type: none"> <li>• Instead of providing physical access to a meeting location, public bodies may provide access through "adequate, alternative means."</li> <li>• All public body members may participate in the meeting remotely.</li> </ul>
<p>Slide 16.</p>	<div data-bbox="277 968 878 1419">  <h3>Meeting Notices</h3>   <p><small>©2021 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.</small></p> </div> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> <hr/>	<p>Meeting Notices</p> <p>Except in an emergency, a public body must post notice of meeting at least 48 hours in advance, excluding Saturdays, Sundays, and legal holidays.</p> <p>Notice must include:</p> <ul style="list-style-type: none"> <li>• Date of meeting</li> <li>• Time of meeting</li> <li>• Place of meeting</li> <li>• List of topics chair reasonably anticipates will be discussed at meeting.             <ul style="list-style-type: none"> <li>• Topics should give enough specificity so that the public will understand what will be discussed.</li> </ul> </li> <li>• Date and time notice was posted</li> </ul> <p>If the notice is revised, the revised notice must record the date and time the original notice was posted, as well as the date and time of the revision</p>



# Open Meeting Law Webinar Presentation Handout


Slide 17.



## Meeting Notices

### Emergency Meeting

Unexpected



Requires immediate action

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## Meeting Notices

- “Emergency” is a sudden, generally unexpected occurrence or set of circumstances demanding immediate action
- In an emergency, a public body shall post notice as soon as reasonably possible prior to a meeting


Slide 18.



## Meeting Notices: Local Public Bodies




File with Municipal Clerk



Bulletin Board

Or



Municipal Website

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## Meeting Notices: Local Public Bodies


- Local public bodies must file notice with the municipal clerk.
- Notice must be posted in a manner conspicuously visible to the public, including persons with disabilities, at all hours in or on the municipal building where the clerk's office is located
- Alternately, a municipality may adopt its website as the official location for notice posting
- Adoption of the website is made by the CEO of the municipality, usually the board of selectmen for a town or the mayor for a city


Even if an alternative posting method has been adopted, meeting notices must still be available in or around the clerk's office


# Open Meeting Law Webinar Presentation Handout

Slide 19.

 Meeting Notices: County, District and Regional Public Bodies

 Hampshire Council Of Government Board Of Councilors

 Plymouth Board of County Commissioners

 Amherst-Pelham Regional School Committee

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## Meeting Notices: County, District and Regional Public Bodies

- Regional or district public bodies must post notice in each city or town within the region or district in the manner prescribed for local public bodies, or post to a website
- For a regional school district, the secretary of the regional school district is the clerk of the school district and shall file the notice with the clerk of each city or town in the district, or post to a website
- County public bodies must post notice with the office of the county commissioner and a copy of the notice posted in a manner conspicuously visible to the public at all hours in a place or places designated by the county commissioners, or post to a website
- Notify Attorney General of website location, if using.

Slide 20.

 Meeting Notices: State Public Bodies

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

 William Francis Galvin  
Secretary of the Commonwealth of Massachusetts

Notify the Attorney General of the location of the website

Send a copy of the meeting notice to the Regulations Division of the Secretary of the Commonwealth's Office  
[regs@sec.state.ma.us](mailto:regs@sec.state.ma.us)

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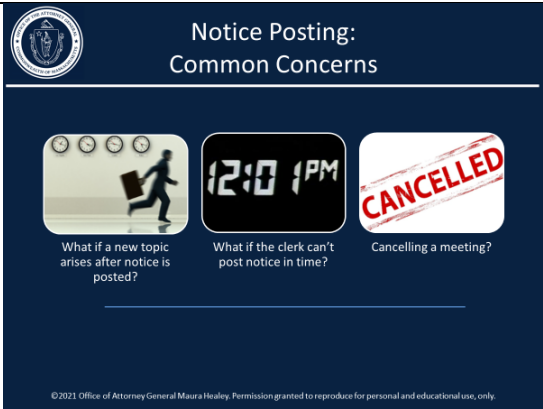
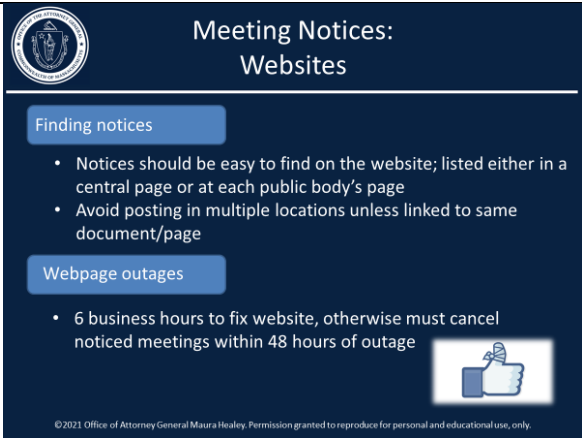
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## Meeting Notices: State Public Bodies

- Post to the public body's website or the website of its parent agency
- Notify the Attorney General of the location of the website where meeting notices will be posted
- Send a copy of each meeting notice to the Regulations Division of the Secretary of State's Office:  
[regs@sec.state.ma.us](mailto:regs@sec.state.ma.us)

# Open Meeting Law Webinar Presentation Handout

<p>Slide 21.</p>	<div data-bbox="263 224 802 630"></div>	<p><b>1). What if a new topic arises after notice is posted?</b></p> <p>Public bodies are encouraged to update the notice when made aware of new topic within the 48 hour period before the meeting. Chairs should not post notices so far in advance that there is a high likelihood that new topics will arise.</p> <p><b>2). What if the clerk can't post notice in time?</b></p> <p>Chairs are encouraged to work with municipal clerks to enable sufficient time for posting. Notice must be posted on time.</p> <p><b>3). Canceling a meeting?</b></p> <p>Meeting cancellations do not require 48 hours notice. Meetings that are continued, or cancelled and rescheduled, must comply with all notice requirements of the Open Meeting Law. Other laws may apply (such as notice for public hearings)</p>
<p>Slide 22.</p>	<div data-bbox="263 1031 841 1465"></div>	<p><u>Websites</u></p> <ul style="list-style-type: none"><li>• Notices should be easy to find of a website, located on a central page for all notices, or with the specific public body's page</li><li>• Avoid posting in multiple locations on a website unless all notices are the same or cross-linked</li><li>• If a website becomes unavailable, the website must be restored within 6 business hours of discovery of the outage; otherwise a meetings occurring within 48 hours of the outage must be cancelled and re-noticed</li></ul>

# Open Meeting Law Webinar Presentation Handout

Slide 23.



## Accessibility

Adequate, alternative access: Ability to clearly follow the proceedings of the public body while they are occurring

Reasonable efforts to accommodate crowds

Accessible to the disabled

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

The Attorney General's Civil Rights Division can assist -  
Contact the Civil Rights Division at (617)-963-2917

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## Accessibility

- Reasonable efforts to accommodate crowds
- Meetings must be accessible to the disabled
- Americans with Disabilities Act, Federal Rehabilitation Act of 1973, state constitutional provisions
- Civil Rights Division of the Attorney General's Office can assist
- Contact the Civil Rights Division at (617) 963-2939
- Security policies – Inform public if they need ID to enter building


Slide 24.



## Remote Participation

June 16, 2021, Act:

- No need to first “adopt” remote participation
- Any or all members of the public body may participate remotely
- No requirement that a quorum or the chair be physically present



All other requirements and procedures remain in effect

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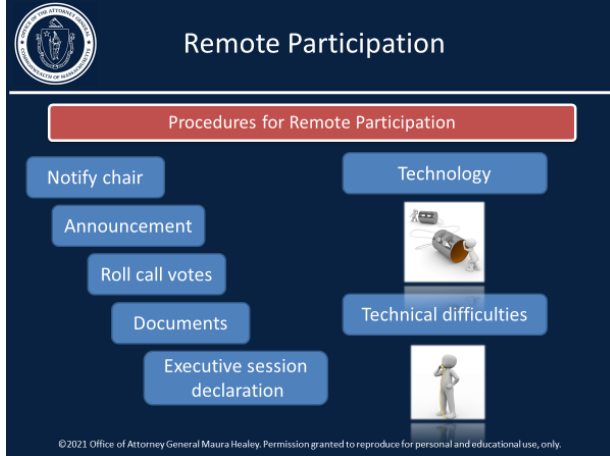
## Remote Participation

June 16, 2021, Act:

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- No requirement that a quorum or the chair be physically present

# Open Meeting Law Webinar Presentation Handout

Slide 25.



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## Remote Participation

Procedures for remote participation

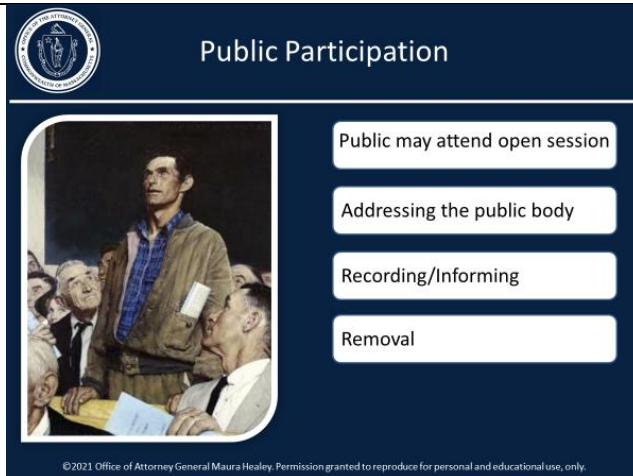
- Notify chair
- Announcement by chair
- Roll call votes
- Executive sessions
- Distribution of documents

Acceptable methods

- Telephone, internet, or satellite enabled audio or video conferencing
- Any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another
- Public body determines which method to use

Chair decides how to address technical difficulties

Slide 26.



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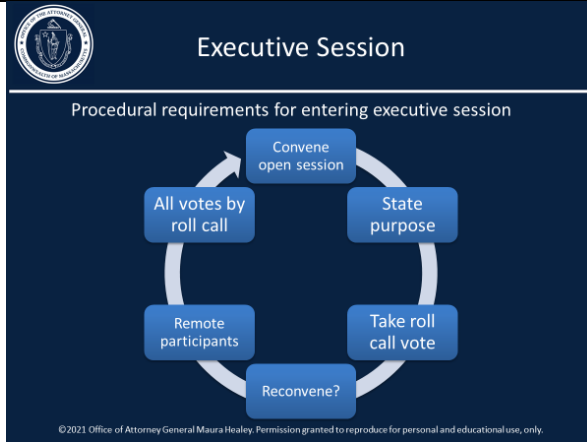
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## Public Participation

- Public may attend open session of meeting
- Public may not address public body without permission of chair or otherwise disrupt meeting
- Public may make audio or video recording of open session upon notification to chair and subject to reasonable requirements
- Chair must inform other attendees of recording at beginning of meeting
- If a person continues to disrupt a meeting after clear warning from the chair, 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 that person.

# Open Meeting Law Webinar Presentation Handout

Slide 27.



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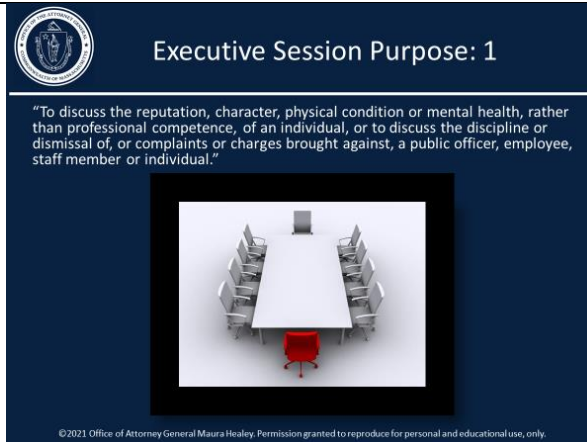
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## Executive Session Procedures

- Convene open session prior to going into executive session
- State publicly the purpose(s) for the executive session
- Conduct roll call vote to enter executive session and obtain a majority of members
- Announce whether open session will reconvene after
- Statement by remote participant(s) that no unauthorized person is present / able to hear discussion at remote location
- Maintain minutes and documents
- Discuss only matters for which executive session is lawfully called
- Conduct roll call votes of all votes taken during executive session

Slide 28.



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## Executive Session Purpose 1

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

If an executive session is held, such individual shall have the following rights:

- To be notified in writing at least 48 hours prior to the proposed executive session
- To request that the session be open
- To be present at such executive session during deliberations which involve that individual
- To have counsel or a representative present and attending for the purpose of advising the individual and not for the purpose of active participation in the executive session
- To speak on his or her own behalf
- To cause an independent record to be created by audio-recording or transcription, at the individual's expense



# Open Meeting Law Webinar Presentation Handout

Slide 29.

 **Executive Session Purpose: 2**

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



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## Executive Session Purpose 2

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

- When discussing the contract of nonunion personnel, presumption that professional competence of the individual has already been discussed in open session
- When negotiating a non-union contract in executive session, if the public body reaches an agreement, it must still vote to execute the agreement in open session following executive session
- A public body should identify the specific nonunion personnel with whom it is negotiating before entering executive session, unless public disclosure of that information would compromise the purpose for secrecy

Slide 30.

 **Executive Session Purpose: 3**

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



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## Executive Session Purpose 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."

- Chair must declare that deliberating during an open session would have a detrimental effect (public body must be able to demonstrate a reasonable basis for this claim if challenged)
- Litigation must be pending or be imminently threatened
- May approve final terms and execute a collective bargaining agreement in executive session; Should disclose in open session following execution
- A public body should identify the specific collective bargaining unit or litigation matter before entering executive session, unless public disclosure of that information would compromise the purpose for secrecy

# Open Meeting Law Webinar Presentation Handout

Slide 31.

 Executive Session Purpose: 4 & 5

4. Security personnel or devices

5. Criminal misconduct

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## Executive Session Purposes 4 & 5


Purpose 4: Security personnel or devices

Purpose 5: Criminal misconduct

Slide 32.

 Executive Session Purpose: 6

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



Wellfleet, MA

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## Executive Session Purpose 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.”

- Must be to consider purchase, sale, lease or value of real property
- Chair must declare that discussing during an open session would have a detrimental effect on negotiating position (public body must be able to demonstrate a reasonable basis for this claim if challenged)
- Generally, the public body should identify the specific piece of property it plans to discuss before entering executive session, unless disclosure of this information would compromise the purpose for secrecy




# Open Meeting Law Webinar Presentation Handout

Slide 33.

 Executive Session Purpose: 7

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



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## Executive Session Purpose 7

- "To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements."
- Must cite a statute that requires confidentiality or closed session
- The body should disclose information about matter to be discussed unless public disclosure would compromise the purpose for secrecy
  - While we generally defer to the judgment of public bodies on this issue, a body must be able to demonstrate a reasonable basis for this claim if challenged

Slide 34.

 Executive Session Purpose: 8

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



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## Executive Session Purpose 8

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

- Preliminary screening committee cannot include a quorum of the public body; may include people who are not members of the public body
- May only interview/screen candidates during a preliminary screening in executive session; once there are finalists, all additional screening must be conducted in open session
- Chair must declare that an open meeting will have a detrimental effect in obtaining qualified applicants

# Open Meeting Law Webinar Presentation Handout

Slide 35.



## Executive Session Purposes 9 & 10

9. Confer with mediator on litigation or decision



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



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Executive Session Purposes 9 &  
10

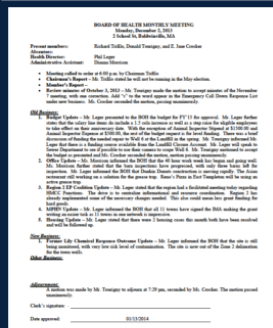
**Purpose 9: To confer with a mediator on a litigation matter or other decision**

**Purpose 10:** To protect trade secrets in the course of activities conducted by a public body as an energy supplier

Slide 36.



## Meeting Minutes



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

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## Meeting Minutes

- Minutes must state the date, time, place of the meeting, and list of members present or absent
- Minutes must also include:
  - A summary of discussion of each topic – not merely that discussion took place
  - Decisions made and actions taken, including a record of all votes - Secret ballots are prohibited
  - List of documents and other exhibits used by the body at the meeting, including by remote participants
  - Name(s) of any member who participated remotely

# Open Meeting Law Webinar Presentation Handout

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## Meeting Minutes

<u>Approving Minutes</u>	<u>Upon Request</u>
<ul style="list-style-type: none"><li>• Latest of 3 meetings or 30 days BUT whenever possible, approve at the next meeting</li><li>• Documents and exhibits used by public body must be retained by the public body but <u>do not</u> need to be physically stored with the meeting minutes</li></ul>	<ul style="list-style-type: none"><li>• Open session minutes provided within 10 days of request<ul style="list-style-type: none"><li>– Whether in draft or approved form</li></ul></li><li>• For all other records – Consult Supervisor of Records in the Secretary of State's Office</li></ul>

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## Meeting Minutes

- Meeting minutes shall be created and approved in a timely manner for both open and executive sessions
  - Within 3 meetings or 30 days, whichever is later
  - When possible, approve at the next meeting
- Documents and exhibits used by public body must be retained by the public body but do not need to be physically stored with the meeting minutes
- Minutes of open session must be made available within 10 days of a request, whether in draft or final form
- Executive session records must be disclosed once publication will no longer defeat the purpose for having entered into executive session, unless exempt from disclosure
- Consult records retention schedules

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## Executive Session Minutes

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

Public body must respond within 10 days to request for executive session minutes	Provide minutes if no longer exempt from disclosure; or	Review at next meeting or within 30 days, whichever comes first.
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## Executive Session Meeting Minutes

- Minutes must be reviewed periodically by the chair or public body to determine if the purpose for executive session remains; that determination must be announced during the next meeting and be included in the minutes
- Public body must respond within 10 days to a request for executive session minutes
- Provide minutes if no longer exempt from disclosure; or
- Undertake review at its next meeting or within 30 days, whichever comes first

# Open Meeting Law Webinar Presentation Handout

Slide 39.



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### Documents Used During an Open Meeting

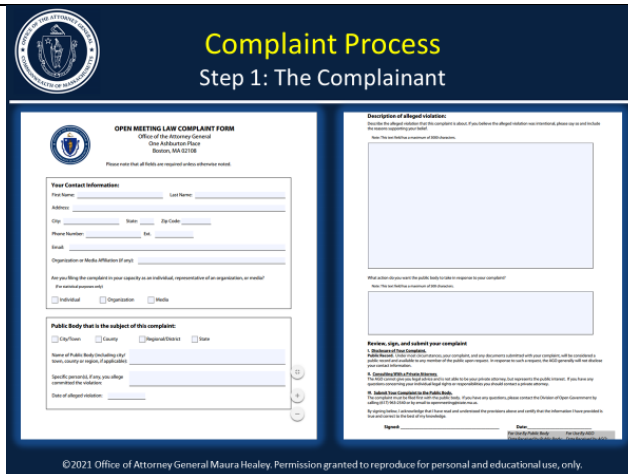
Documents used by a public body during an open meeting are public records.

Exempt from disclosure:

- Materials used in a performance evaluation of an individual bearing on his/her professional competence that were not created by members of the body for purposes of evaluation
- Materials used in deliberations about employment or appointment of individuals, including applications and supporting materials but excluding resumes, which must be disclosed

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Slide 40.



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## OML Complaint Process: Step 1

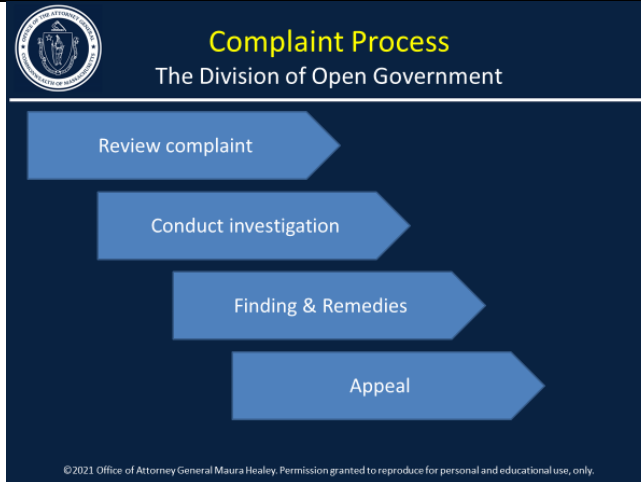
- Complaint shall be filed in writing with the public body within 30 days of the alleged violation, or if it could not reasonably have been known at the time, then within 30 days of the date the complainant reasonably should have discovered the alleged violation
- Complaint Form, found at the Division of Open Government website, completed and sent to chair of public body
- For local public bodies, copy also filed with municipal clerk

# Open Meeting Law Webinar Presentation Handout

<p>Slide 41.</p>	<div data-bbox="298 197 909 651"><h3>Complaint Process</h3><h4>Step 2: The Public Body</h4><p>Chair disseminates the complaint for response within 14 business days</p><p>May delegate responsibility for responding after public body review</p><p>Public body may request an extension of time to respond for good cause</p><p><small>© 2021 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.</small></p></div> <div data-bbox="318 739 1003 894"><hr/><hr/><hr/><hr/><hr/><hr/></div>	<p><u>OML Complaint Process: Step 2</u></p> <p>Chair must disseminate the complaint to the members of the public body; the public body has 14 business days in which to meet to review the complaint and respond; must inform the complainant and the Division of Open Government of any remedial action taken</p> <ul style="list-style-type: none"><li>• May delegate responsibility for responding after public body review</li><li>• Public body may request from the Director of the Division an extension of time to respond for good cause</li></ul>
<p>Slide 42.</p>	<div data-bbox="298 919 938 1398"><h3>Complaint Process</h3><h4>Step 3: The Attorney General's Office</h4><p>If the complainant is not satisfied with the resolution of the complaint by the public body, he/she may file the complaint with the Division 30 days after the complaint is filed with the public body</p><p>Complaints must be filed with the AGO within 90 days of the date of the original alleged violation or reasonable discovery of violation</p><ul style="list-style-type: none"><li>• The AGO will not review allegations that were not raised in the initial complaint filed with the public body</li><li>• Complaints filed with the Attorney General's Office, and documents submitted with the complaint, are considered a public record</li></ul><p><small>© 2021 Office of Attorney General Maura Healey. Permission granted to reproduce for personal and educational use, only.</small></p></div> <div data-bbox="318 1482 1003 1709"><hr/><hr/><hr/><hr/><hr/><hr/></div>	<p><u>OML Complaint Process: Step 3</u></p> <ul style="list-style-type: none"><li>• If the complainant is not satisfied with the resolution of the complaint by the public body, he/she may file the complaint with the Division of Open Government 30 days after the complaint is filed with the public body</li><li>• To be considered timely, complaints must be filed with the AGO within 90 days of the date of the original alleged violation</li><li>• The Attorney General's Office will not review allegations that were not raised in the initial complaint filed with the public body</li><li>• In most circumstances, complaints filed with the Attorney General's Office, and documents submitted with the complaint, are considered a public record</li></ul>

# Open Meeting Law Webinar Presentation Handout

Slide 43.



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## OML Complaint Process: AGO Review

- Acknowledgment
- Request for documents and interviews
- Has there been a violation?
- Was the violation intentional?
- Was the action taken by the public body adequate?
- Resolution
- Public body appeal

Slide 44.



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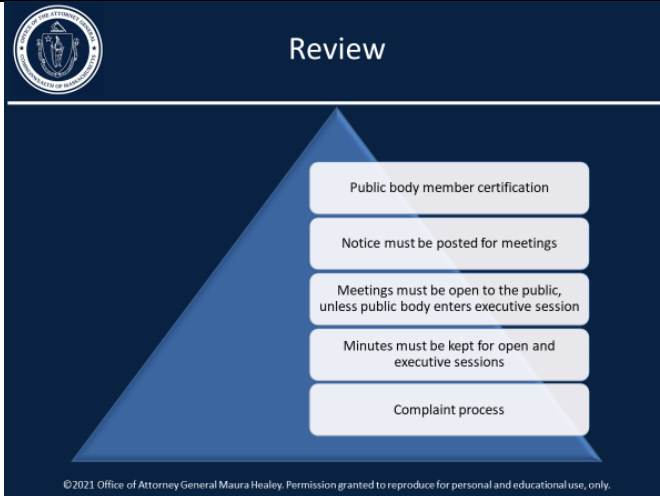
## Judicial Complaint Process

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



# Open Meeting Law Webinar Presentation Handout

Slide  
45.



Review

Public body member certification

Notice must be posted for meetings

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

Minutes must be kept for open and executive sessions

Complaint process

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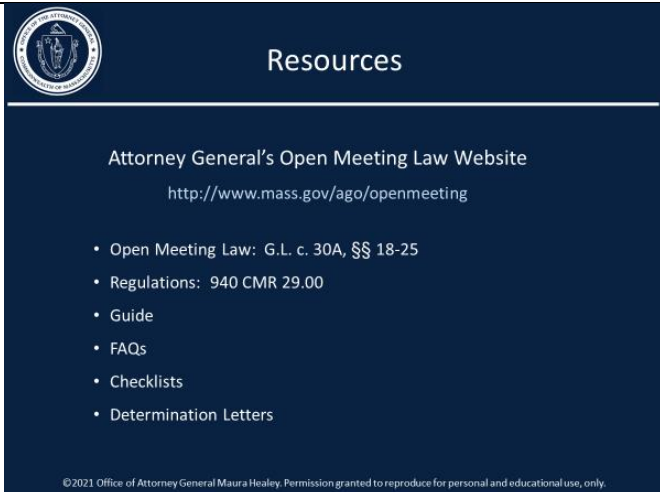
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## Review

- 1) Notice must be posted for meetings
  - 48 hours in advance, except for emergency
  - Include date, time, place, and sufficiently detailed list of topics chair reasonably anticipates will be discussed
- 2) Meetings must be open to the public, unless public body enters executive session
  - Discussion must fit within one of 10 purposes for executive session
- 3) Minutes must be kept for open and executive sessions
  - Must include summary of discussion for each topic
  - Must contain a list of documents & exhibits used at the meeting
- 4) Public body member certification
- 5) Complaint process
  - Must be filed with public body first

Alternative complaint process in Superior Court

Slide  
46.



Resources

Attorney General's Open Meeting Law Website

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

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

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## Resources

Attorney General's Open Meeting Law Website:

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

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

# Open Meeting Law Webinar Presentation Handout

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## Contact Information

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

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## Division Contact Info

Office of Attorney General  
Division of Open Government  
One Ashburton Place  
Boston, Massachusetts 02108

OML Email:

[openmeeting@mass.gov](mailto:openmeeting@mass.gov)

OML Hotline: (617) 963-2540

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## Contact Us

[www.mass.gov/ago](http://www.mass.gov/ago)

617-727-2200



File a Complaint with the Attorney General's Consumer Hotline  
617-727-8400

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## Attorney General's Office Contact Info

Website: [www.mass.gov/ago](http://www.mass.gov/ago)

Main Phone: 617-727-2200

Consumer hotline: 617-727-8400

File a consumer complaint:

[www.eform.state.ma.us](http://www.eform.state.ma.us)



# Open Meeting Law Webinar Presentation Handout

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## Resources

Have a Complaint or Question?

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### General Assistance

Consumer Hotline: (617) 727-8400  
<https://www.mass.gov/how-to/file-a-consumer-complaint>

### Specific Hotlines

HomeCorps (617) 573-5333  
Elder Hotline (888) 243-5337  
Fair Labor Division (617) 727-3465  
Civil Rights Division (617) 727-2200  
Medicaid Fraud Tipline (617) 963-2360  
Insurance Fraud Tipline (617) 537-5330  
Insurance & Health Care Consumer Helpline (888) 830-6277

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Slide 50.




## Thank You from the Attorney General

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Attorney General

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



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Attorney General  
Maura Healey thanks  
you for attending  
today's presentation!