This guide has been created to assist public bodies in compliance with the State’s Open Meeting Law. These local guidelines work in conjunction with Open Meeting Law and are designed to streamline the process in which public bodies interact with the Town Clerk’s Office as well as help them avoid Open Meeting Law complaints.

What is a Public Body?

On the municipal level, a public body is defined as an elected or appointed multiple-member board, commission, committee, working group or subcommittee within the town established to serve a public purpose. Public bodies are therefore required to post a Meeting Notice containing an agenda each time they meet to discuss matters related to their public purpose or within their jurisdiction.

Posting a Meeting Notice:

According to the commonly referred to, “Open Meeting Law,” M.G.L. Chapter 30A, Sections 18-25, all public bodies, must post a meeting notice and agenda, with the Town Clerk, at least 48-hours prior to all meetings. In calculating the 48-hour period prior to a meeting, Saturdays, Sundays and legal holidays are excluded. For example, a notice for a meeting to be held on Monday at 4 P.M. must be posted by the preceding Thursday, no later than 4 P.M. at the Town Clerk’s Office.

It is the responsibility of the public body or its designee to ensure that meetings are posted in a timely manner. Therefore, public bodies must provide the Town Clerk with meeting notices at least 48-hours in advance. The Town Clerk then posts notices on the official posting board as well as uploads them to the Town’s on-line calendar located on the main page of the website (www.sandwichmass.org).

The following guidelines shall be followed when posting a meeting notice:

1. Notices must be prepared on an 8 ½ in x 11 in sheet of white paper (additional sheets if necessary) with black ink and signed by the one who prepares the notice or the public body’s designee. (Sample attached)
2. Notices must contain the name of the public body, meeting date, meeting location address and meeting time. Be as specific as possible in terms of meeting location (i.e., identify the name or number of the room in which the meeting will be held, if available).
3. Notices must contain an agenda with a numbered list of topics the chair reasonably anticipates will be discussed. Agenda topics must be as detailed as possible as to inform the public in a reasonable manner of the business to be considered by the body at the meeting.

4. Notices should not contain placeholders such as; “old business” or “new business” unless these terms are used as a heading and the specific business is defined below.

5. Notices should not contain abbreviations. Prepare your agendas so that the public has a basic understanding of what topics will be discussed at the meeting.

6. A notice is not considered received by the Clerk’s Office until it is dated and time-stamped with the Clerk’s official marking device.

7. Notices may be submitted to the Clerk’s Office in person, via email or through the mail. If mailing, please ensure the notice will be received by the Clerk’s Office prior to the 48-hours deadline.

8. Notices sent via e-mail must adhere to the following conditions:
   a. They are prepared, printed out, signed and scanned into PDF format.
   b. Sent as an attachment to townclerk@sandwichmass.org.
   c. The notice is not considered posted until you receive a confirmation email from a staff member in the Clerk’s Office. (If you do not receive a confirmation within a reasonable time, please call the office to confirm receipt)

9. Faxed notices are not an acceptable method of posting.

Exceptions:

1. Emergency Meetings

The posting requirements for meeting notices do not apply to emergency meetings. Emergency is defined as “a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.” For example, a meeting of the Board of Health to take action with respect to a matter endangering the public health due to a sudden flooding of an area would be considered an emergency meeting. A meeting simply called in a hurry to take action prior to the expiration of a deadline would not qualify as an emergency meeting. The public body must still file notice for an emergency meeting but this can take place within the 48-hour window or even after the fact.

2. Executive Session Meetings

No executive session (a meeting closed to the public) may be held until the public body has convened in an open session, for which timely notice has been given, and a majority of its members has voted to go into executive session with a roll call vote. The procedures to be followed and the purposes for which an executive session may be held are specified in M.G.L. Chapter 30A, Section 21. (Please consult the attached executive sessions information sheet for further direction and a list of purposes.)
3. **Meeting Cancellations**

If a posted meeting needs to be cancelled, written notice must be provided to the Clerk’s Office at least 48-hours before the scheduled meeting. If such notice is not possible prior to the 48-hour time period, a copy of the cancellation must be posted on the door outside of the location where the meeting was originally scheduled and a copy submitted to the Clerk’s Office. (*Sample attached*)

**Meeting Minutes:**

Public bodies must produce written minutes in a timely manner of their meetings and submit them to the Town Clerk’s Office. State regulations require that meeting minutes generally be approved within the next three meetings or 30 days, whichever is later. Unapproved/draft minutes must still be made available to the public, upon request, within 10 (ten) days of such a request being made. Some public bodies meet infrequently and are unable to approve minutes within this timeframe; however, an attempt should be made to be as timely as possible.

The following guidelines should be followed when providing all minutes:

1. Minutes must include: the name of the public body, a list of those in attendance (*and absent members*), date of the meeting, time and place where the meeting was held.
2. Minutes must also contain a summary of the discussion and any actions taken including any subsequent votes. A verbatim or “word for word” transcript is not required.
3. E-mailed or faxed minutes will not be accepted. Signed originals only.
4. Copies of audio recordings (*where applicable. See Town of Sandwich By-laws, Section 2.97 Part 4, 1), d)* of the meeting must also accompany the minutes.
5. Any documents or evidence that was provided during the meeting must be retained by the public body and become part of the official record. A list of these materials must be included in the minutes. (*Do not submit these materials to the Clerk’s Office along with the minutes)*
6. Minutes must be taken for executive session, and approved in the same manner as open session minutes; however, executive session meeting minutes are only submitted to the Town Clerk’s office after the matter in which the session was called to address has been resolved, the purpose for the executive session has expired, and the body has voted to release the minutes.
7. The recording secretary or the chairman must sign the minutes.
Organization:

According to the Town of Sandwich By-Laws, Section 2.98: Each public body (elected or appointed) shall annually elect one of its members as Chairman. A member may hold the position of Chairman for no longer than two consecutive years except for the time served filling the unexpired term of the previous Chairman. Public bodies must report their new organizational structure to the Town Clerk’s Office. This action usually takes place in mid to late June each year.

Oaths of Office:

All elected or appointed members of any public body must be sworn in by the Town Clerk prior to their first meeting. Elected and appointed officials who were either re-elected or re-appointed, must also come to the Clerk’s Office to re-affirm their oath. Failure to be sworn in before the next regularly scheduled meeting will result in your vote being invalidated.

Resignations:

The resignation procedure and policy is both for elected and appointed Town officials. According to M.G.L. Chapter 41, Section 109, any member of a public body who intends to resign is required to file his or her intentions, in writing, with the Town Clerk. This can be done by a simple letter containing the following information:

1. Name of member;
2. Name of public body;
3. Date resignation goes into effect; and
4. Original signature.

A signed original letter is needed to make the resignation official. E-mails and verbal statements are not sufficient to fulfill the requirements set forth in M.G.L. Chapter 41, Section 109.
OFFICIAL MEETING NOTICE
TOWN OF SANDWICH
“Insert Name of Public Body”

Meeting Location: 130 Main Street, Sandwich, MA 02563
Meeting Date: July 1, 2019
Meeting Time: 7:00 PM

AGENDA

1. Call meeting to order

2. Pledge of Allegiance

3. Correspondence
   a. Letter from concerned citizen Jane Doe.
   b. Letter from the Board of Health regarding the Jones decision, 100 Main Street.

4. New Businesses
   a. Discussion on Smith project: File #167-80
   b. Vote on dispersing funds for the payment of office supplies

5. Old Business
   a. Further discussion on Sullivan proposal to create new green space at 150 Main Street.
   b. Follow up on upcoming open meeting law conference.

6. Public Hearing
   a. New construction at 145 Main Street: File #86-15

7. Executive Session – MGL c.30A, s21 (a) – The Chair declares that having an open session may have a detrimental effect upon the Town’s bargaining, litigation, or negotiation position, as applicable.
   Purpose #3: Litigation strategy John Doe v. Town of Sandwich.

8. Other matters not reasonably anticipated by the Chairman.

Signed: ________________________________

Name (print): ____________________________

Date: _______________
MEETING CANCELLED

Originally Scheduled for:

Meeting Location: 130 Main Street, Sandwich, MA 02563
Meeting Date: July 1, 2019
Meeting Time: 7:00 PM

Signed: ____________________________
Name (print): _______________________
Date: ______________

Date & Time Received by Town Clerk’s Office
Public Body Checklist for
Posting a Meeting Notice
Issued by the Attorney General’s Division of Open Government – September 25, 2017

Notice Contents

☐ The notice contains the date, time, and location of the meeting. G.L. c. 30A, § 20(b).

☐ If the meeting is a joint meeting of several public bodies, the names of all bodies meeting are listed at the top of the notice.

☐ The notice contains all of the topics that the chair reasonably anticipates will be discussed at the meeting. The topics are sufficiently specific to reasonably advise the public of the issues to be discussed at the meeting, including executive session topics. G.L. c. 30A § 20(b); 940 CMR 29.03(1)(b).

☐ The notice is printed in a legible, easily understandable format. G.L. c. 30A, § 20(b).

☐ The date and time that the notice is posted is conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d). If the notice is amended within 48 hours of a meeting, not including Saturdays, Sundays, and legal holidays, then the date and time that the meeting notice is amended must also be conspicuously recorded on or with the notice. 940 CMR 29.03(1)(d).

Notice Publication

☐ The notice is published at least 48 hours before the meeting, not including Saturdays, Sundays and legal holidays. G.L. c. 30A, § 20(b).

☐ The notice is posted with the proper authority:

  ☐ Local public bodies – Filed with the municipal clerk, who must post it in a location conspicuously visible to the public at all hours in or on the municipal building where the clerk’s office is located, or to the municipal website if adopted by the municipality as the official method of posting notices. G.L. c. 30A, § 20(c); 940 CMR 29.03.

  ☐ State public bodies – Posted to a website, and a copy sent to the Secretary of State’s Regulations Division. G.L. c. 30A, §20(c).

  ☐ Regional public bodies – Posted in every municipality within the region, unless the public body has adopted an alternative notice posting method. G.L. c. 30A, § 20(c); 940 CMR 29.03.

  ☐ County public bodies – Filed with the office of the county commissioners and a copy of the notice is publicly posted in a manner conspicuously visible to the public at all hours in such place or places as the county commissioners shall designate for the purpose, unless the county has adopted its website as the official method for posting notices. G.L. c. 30A, § 20(c); 940 CMR 29.03.

Note that this checklist is intended as an educational guide, and does not constitute proof of compliance with the Open Meeting Law. These checklists are updated periodically, so please check that you are using the most current version. For questions, please contact the Attorney General’s Division of Open Government at 617-963-2540 or via email at openmeeting@state.ma.us. For more information on the Open Meeting Law, please visit www.mass.gov/ago/openmeeting.
Public Body Checklist for Entering Into Executive Session
Issued by the Attorney General’s Division of Open Government – March 12, 2013

☐ Executive session listed as a topic for discussion on meeting notice, including as much detail about the purpose for the executive session as possible without compromising the purpose for which it is called. See G.L. c. 30A, § 20(b); 940 CMR 29.03(1)(b).

☐ Public body convened in open session first. G.L. c. 30A, § 21(b)(1).

☐ Chair publicly announced the purpose for executive session, citing one or more of the 10 purposes found at G.L. c. 30A, § 21(a).

☐ Chair stated all subjects that may be revealed without compromising the purpose for which the executive session was called. G.L. c. 30A, § 21(b)(3). For example, the Chair identified the party a public body may be negotiating with or the litigation matter the public body will be discussing.

☐ Chair stated whether the public body will adjourn from the executive session, or will reconvene in open session after the executive session. G.L. c. 30A, § 21(b)(4).

☐ For Executive Session Purposes 3, 6, and 8:
  ○ Chair publicly stated the having the discussion in open session would have a detrimental effect on the public body’s negotiating position, bargaining position, litigating position, or ability to obtain qualified applicants. G.L. c. 30A, §§ 21(a)(3), (6), (8).

☐ A majority of members of the body voted by roll-call to enter into executive session. G.L. c. 30A, § 21(b)(2).

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Public Body Checklist for
Creating and Approving Meeting Minutes
Issued by the Attorney General’s Division of Open Government – September 25, 2017

☐ Minutes must accurately set forth the date, time, place of the meeting, and a list of the members present or absent. G.L. c. 30A, § 22(a).

☐ Minutes must include an accurate summary of the discussion of each subject. See G.L. c. 30A, § 22(a). The summary does not need to be a transcript, but should provide enough detail so that a member of the public who did not attend the meeting could read the minutes and understand what occurred and how the public body arrived at its decisions.

☐ The minutes must include a record of all the decisions made and the actions taken at each meeting, including a record of all votes. G.L. c. 30A, § 22(a).

☐ The minutes must include a list of all of the documents and other exhibits used by the public body during the meeting. G.L. c. 30A, § 22(a). Documents and exhibits used at the meeting are part of the official record of the session, but do not need to be physically attached to the minutes. See G.L. c. 30A, §§ 22(d), (e).

☐ If one or more public body members participated remotely in the meeting, the minutes must include the name(s) of the individual(s) participating remotely. 940 CMR 29.10(7)(b).

☐ If one or more public body members participated remotely in the meeting, the minutes must record all votes as roll call votes. 940 CMR 29.10(7)(c).

☐ Executive session minutes must record all votes as roll call votes. G.L. c. 30A, § 22(b).

☐ The minutes must be approved in a timely manner. G.L. c. 30A, § 22(c). A “timely manner” will generally be considered to be within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay. 940 CMR 29.11(2).

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Public Body Checklist for
Preliminary Screening Committees
Issued by the Attorney General’s Division of Open Government—March 10, 2017

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

☐ The preliminary screening committee need not contain any members of the parent public body, but, if it does, it must contain less than a quorum. Other individuals may also be members of the preliminary screening committee.

☐ Before entering executive session, the chair must declare that an open meeting will have a detrimental effect in obtaining qualified candidates, and this statement should then be reflected in the meeting minutes. G.L. c. 30A, § 21(a)(8).

☐ The preliminary screening committee may perform the initial work of considering and interviewing applicants in executive session. Once there are finalists—meaning at least two individuals to proceed onto the next level of consideration—those finalists must be considered in open session. See OML 2016-105.

☐ The preliminary screening committee may not enter executive session to prepare questions to ask candidates. See OML 2016-105. Such discussions must occur in open session.

☐ The preliminary screening committee must create and approve minutes of all meetings, including executive sessions. G.L. c. 30A, § 22(a).

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

While all meetings of public bodies must be open to the public, certain topics may be discussed in executive, or closed, session. Before going into an executive session, the chair of the public body must:

- 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, he or she must state at the start of the executive session that no other person is present and/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 and must take a roll call vote of all votes taken and may only discuss matters for which the executive session was called.

The Ten Purposes for Executive Session

The law states ten specific Purposes for which an executive session may be held, and emphasizes that these are the only purposes for which a public body may enter executive session.

The ten Purposes for which a public body may vote to hold an executive session are:

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties.

This Purpose is designed to protect the rights and reputation of individuals. Nevertheless, it appears that 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 on the part of an individual who is the subject of the discussion. The individual’s right to choose to have this discussion in an open meeting 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;

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

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 with a union in executive session, but should promptly disclose the agreement in open session following its execution.

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;

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 or specify 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: 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. Also, unlike Purpose 5, 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. 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;

Under this Purpose, as with the collective bargaining and litigation Purpose, an executive session may only be held 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.

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, however it may include 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 fewer 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 that has been provided under the following circumstances:

a. 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 G.L. c. 164 § 1F;

b. in the course of activities conducted as a municipal aggregator under G.L. c. 164 § 124; or

c. in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to G.L. c. 164 § 136; and

d. 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.
THE COMMONWEALTH OF MASSACHUSETTS
OPEN MEETING LAW, G.L. c. 30A, §§18-25

* * *

This version of the law is current as of April 7, 2015.

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

* * *

Section 18: [DEFINITIONS]

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

"Deliberation", an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that "deliberation" shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed.

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

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

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

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

(a) an on-site inspection of a project or program, so long as the members do not deliberate;
(b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;
(c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;
(d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or
(e) a session of a town meeting convened under section 9 of chapter 39 which would include the attendance by a quorum of a public body at any such session.
“Minutes”, the written report of a meeting created by a public body required by subsection (a) of section 22 and section 5A of chapter 66.

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

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

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

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

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

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

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

(b) The attorney general shall create and distribute educational materials and provide training to public bodies in order to foster awareness and compliance with the open meeting law. Open meeting law training may include, but shall not be limited to, instruction in:
(1) the general background of the legal requirements for the open meeting law;
(2) applicability of sections 18 to 25, inclusive, to governmental bodies;
(3) the role of the attorney general in enforcing the open meeting law; and
(4) penalties and other consequences for failure to comply with this chapter.

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

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

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

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

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

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

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

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

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

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

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

(e) A local commission on disability may by majority vote of the commissioners at a regular meeting permit remote participation applicable to a specific meeting or generally to all of the commission’s meetings; provided, however, that the commission shall comply with all other requirements of law and regulation.

(f) After notifying the chair of the public body, any person may make a video or audio recording of an open session of a meeting of a public body, or may transmit the meeting through any medium, subject to reasonable requirements of the chair as to the number, placement and operation of equipment used so as not to interfere with the conduct of the meeting. At the beginning of the meeting the chair shall inform other attendees of any recordings.

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

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

Section 21. [EXECUTIVE SESSIONS]

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

1. To discuss the reputation, character, physical condition or mental health, rather than professional
   competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought
   against, a public officer, employee, staff member or individual. The individual to be discussed in such
   executive session shall be notified in writing by the public body at least 48 hours prior to the proposed
   executive session; provided, however, that notification may be waived upon written agreement of the parties.
   A public body shall hold an open session if the individual involved requests that the session be open. If an
   executive session is held, such individual shall have the following rights:

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

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

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct
   collective bargaining sessions or contract negotiations with nonunion personnel;
3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a
detrimental effect on the bargaining or litigating position of the public body and the chair so declares;
4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;
5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;
6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open
   meeting may have a detrimental effect on the negotiating position of the public body;
7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid
   requirements;
8. To consider or interview applicants for employment or appointment by a preliminary screening committee
   if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants;
provided, however, that this clause shall not apply to any meeting, including meetings of a preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening; 

9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:

   (i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
   (ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session; or

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information provided in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to section 1F of chapter 164, in the course of activities conducted as a municipal aggregator under section 134 of said chapter 164 or in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to section 136 of said chapter 164, when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

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

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

Section 22. [Meeting Minutes; Records]

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

   (b) No vote taken at an open session shall be by secret ballot. Any vote taken at an executive session shall be recorded by roll call and entered into the minutes.
(c) Minutes of all open sessions shall be created and approved in a timely manner. The minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days.

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

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

(f) The minutes of any executive session, the notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the session, may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer; provided, however, that the executive session was held in compliance with section 21.

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

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

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

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

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

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

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

(c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely
manner, whether there has been a violation of the open meeting law. The attorney general may, and before
imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a
determination that a violation has occurred, the attorney general shall determine whether the public body, 1
or more of the members, or both, are responsible and whether the violation was intentional or unintentional.
Upon the finding of a violation, the attorney general may issue an order to:

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) Each such notice shall: (1) state the time and place for the taking of testimony or the examination and the name and address of each person to be examined, if known and, if the name is not known, a general description sufficient to identify him or the particular class or group to which he belongs; (2) state the statute and section thereof, the alleged violation of which is under investigation and the general subject matter of the investigation; (3) describe the class or classes of documentary material to be produced thereunder with reasonable specificity, so as fairly to indicate the material demanded; (4) prescribe a return date within which the documentary material is to be produced; and (5) identify the members of the attorney general’s staff to whom such documentary material is to be made available for inspection and copying.

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

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

(g) At any time prior to the date specified in the notice, or within 21 days after the notice has been served, whichever period is shorter, the court may, upon motion for good cause shown, extend such reporting date or modify or set aside such demand or grant a protective order in accordance with the standards set forth in Rule 26(c) of the Massachusetts Rules of Civil Procedure. The motion may be filed in the superior court of the county in which the person served resides or has his usual place of business or in Suffolk county. This section shall not be applicable to any criminal proceeding nor shall information obtained under the authority of this section be admissible in evidence in any criminal prosecution for substantially identical transactions.
Section 25. [REGULATIONS, LETTER RULINGS, ADVISORY OPINIONS]

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

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