



TOP 10 CHANGES IN THE NEW OPEN MEETING LAW

10. All persons serving on “public bodies” to receive Attorney General’s version of Open Meeting Law, regulations and educational materials. Town or City Clerk or designee shall maintain written certifications of receipt.
9. 48 hour notice – still required, but now cannot count Saturdays, Sundays or holidays. Example: Monday night meeting must be posted before Thursday night.
8. Notices must (1) include list of topics chair reasonably anticipates will be discussed, i.e., an agenda, and (2) be posted in or on municipal building to be visible to public *at all hours*.
7. Emails are expressly included in definition of “deliberation,” which is prohibited outside of open session; but distribution of agendas, scheduling information or reports to be discussed at future meetings is permitted.
6. Attendance by a quorum at a location is not a “meeting” if not intended to conduct business and no deliberation occurs – for example, attending a conference, social event, or a meeting of another municipal board. In addition, a meeting of a quasi-judicial board solely to make a decision required in an adjudicatory proceeding is not a “meeting”.
5. Minutes must contain more detailed information. In addition to date, place, time and matters discussed, they must include summaries of matters discussed, list of documents used, and all decisions made and actions taken, including a record of all votes (yeas, nays and abstentions).
4. 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.
3. Chair required to periodically review executive session minutes and determine if they should be released, or if purpose for executive session is still ongoing to keep minutes confidential.
2. Attorney General will assume broad interpretation and enforcement authority over Open Meeting Law; District Attorneys no longer involved.
1. Citizens making complaints of Open Meeting Law violations must file written complaint with the public body first. Then the body submits reply to complainant and Attorney General’s office.

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The Leader in Public Sector Law



**Reasons for Convening Executive Session
(M.G.L. c.30A, Sec. 21 - Effective July 1, 2010)**

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or discuss the discipline or dismissal of, or complaints or charges against, a public officer, employee, staff member or individual. *(See Rights of Individuals on reverse.)*
2. To conduct strategy sessions in preparation for negotiations with non-union personnel or to conduct collective bargaining sessions or contract negotiations with non-union 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 or strategy regarding security personnel or devices, e.g., a sting operation.
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 estate, 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 by a preliminary screening committee, if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants. This shall not apply to any meeting regarding applicants who have passed a prior preliminary screening.
9. To meet with a mediator regarding any litigation or decision; provided that (i) any decision to participate in mediation shall be made in open session and the parties disclosed and (ii) no action shall be taken with respect to the issues involved without deliberation and approval of the action at an open session.
10. To discuss trade secrets or confidential or proprietary information regarding activities by a governmental body as energy supplier, municipal aggregator or energy cooperative, if an open session will adversely affect conducting business relative to other entities making, selling or distributing energy.

For more information please contact Len Kopelman at 800-548-3522, ext. 1701 or lkopelman@k-plaw.com.

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Procedures for Convening Executive Session

1. The meeting must be convened in an open posted session, with executive session listed on the agenda when reasonably anticipated by the chair.
2. The chair states the purpose for the executive session, stating all subjects that may be revealed without compromising the purpose of the executive session.
3. A majority must vote in a recorded roll call to go into executive session.
4. The chair announces whether the meeting will reconvene in open session.
5. Accurate minutes and other records of the executive session must be maintained and all votes recorded by roll call.

Rights of Individuals

1. When a governmental body wishes to discuss: (a) the reputation, character, physical or mental health of an individual; or (b) the discipline or dismissal of or complaints or charges brought against a public officer, employee, staff member or individual, it must notify that person in writing at least 48 hours in advance of the meeting, not including Saturdays, Sundays or holidays.
2. Written notice may be waived by the individual.
3. The individual may request that the meeting be held in open session.
4. If an executive session is held, the individual has the right to be present for deliberations and to speak, and to have counsel or a representative of choice present for the purpose of giving advice but not for active participation.
5. The individual may have an independent record of the executive session created by audio recording or transcription, at the individual's expense.

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