



2017

Appointed & Elected Officials Handbook

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4/27/17

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TOWN OF WEST BOYLSTON COMMITTEE HANDBOOK PREFACE

This handbook provides a brief description of elected and appointed officials' duties, which may be well known to many, but are less familiar to others. Your contributions of time and consideration of the many issues and problems confronting the Town are greatly appreciated. Through service to the community you will have a unique opportunity to get to know the workings of the Town from an insider's viewpoint. It can be a rewarding and informative experience.

The Selectmen and Town Administrator, in carrying out their duties as prescribed by law and by the votes of Town Meeting, expend considerable time and effort to make logical appointments to the various committees of the Town by appointing qualified and interested West Boylston residents who are broadly representative of the Town. During your appointment you will be working with many new people who, like yourself, have volunteered to address specific problems and to bring back to the Selectmen or perhaps Town Meeting your recommendation for a course of action or solution that is best for the Town. State statutes outline the powers and duties of many Boards. The Bylaws adopted by Town Meeting, and the policies and charges to committees adopted by the Board of Selectmen further define the work of others.

It is important that you remember the best interests of the Town, present or future, be considered. It is equally important to remember that you represent the entire Town, and not only one segment. Single approach solutions to problems may be the best option for your committee, but may not be in the best interest of the Town in the broader sense. All plausible solutions need to be explored with many factors in mind. Your decision may have impact on other programs or plans.

The Annual Town Report and General Bylaws are excellent sources of information regarding the duties and responsibilities of individual boards and committees. These items are available at the Town Clerk's Office. In addition, Town Hall staff is a valuable resource and willing to be of assistance.

The Board of Selectmen, Town Administrator and Town Clerk wish to thank you for giving of your time and effort in the improvement of our community. We hope you find this handbook informative and useful.

Notices:

To all appointees, volunteers, elected officials and vendors of the Town of West Boylston;

- The Town has written policies to promote a workplace free of sexual harassment and supports and fosters a culture of zero tolerance towards fraud in all its forms. Policies are located within this document;
- In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age, or disability.
- To file a complaint of discrimination, write to;

USDA, Director Office of Civil Rights 1400 Independence Ave. S.W. Washington, D.C. 20250-9410

Or call 800.795.3272 (voice) or 202.720.6382 (TDD). USDA is an equal opportunity provided employer and lender.

2017 Town of West Boylston Elected and Appointed Officials Guidelines

CONDUCT OF MEMBERS OF MUNICIPAL BOARDS, COMMITTEE, AND COMMISSIONS

Conduct of members of Municipal Boards, Committee, and Commissions, as well as employees is regulated by the provisions of Chapter 268A of the Massachusetts General Laws, and enforced by the Massachusetts Ethics Commission. The statute assigns personal responsibility to regular and special municipal employees (including elected and appointed volunteers) in five general areas, as follows:

- A. Community Responsibility*
- B. Responsibility to Municipal Administration*
- C. Relationship to other Board Members*
- D. Prohibited Conduct*
- E. Mandatory Training*

COMMUNITY RESPONSIBILITY

A member of any Board, Committee or Commission in his/her relations with the community shall:

1. Realize that his/her basic function is to make policy, not administer it, unless otherwise empowered by state and/or local law.
2. Realize that he/she is one of a team and should abide by, and carry out, all board decisions once they are made.
3. Be well informed concerning the duties of a board member on both local and state levels.
4. Remember that he/she represents the entire community at all times.
5. Accept the appointment as a means of unselfish service, and not for the purpose of personal or political benefit from his/her board activities.
6. In making all decisions relative to individual appointments, he or she shall avoid political patronage by judging all candidates on merit, experience and qualifications only.
7. Avoid voting on any manner in which the individual member has a conflict of interest, as defined under the Massachusetts Conflict of Interest Law, G.L. c. 268A.

RESPONSIBILITY TO MUNICIPAL ADMINISTRATION

A member of any Board, Committee or Commission, in his/her relations with administrative officers of the Town, shall:

7. Endeavor to establish sound, clearly defined policies that will direct and support the administration for the benefit of the people in the community.
8. Recognize and support the administrative chain of command and refuse to act on complaints as an individual outside the administration.
9. Direct all questions or concerns to the Appointing Authority. However, an initial contact with the Town Administrator will expedite any necessary action and will deal most directly with an issue, which needs to be clarified, changed or corrected.

Please remember, however, that the Town Administrator and Board of Selectmen do not have control over issues dealing with elected officials or committees/individuals appointed by the Moderator.

RELATIONSHIP TO OTHER BOARD, COMMISSION OR COMMITTEE MEMBERS

A member of any Board, Commission or Committee, in his/her relations with fellow board members, shall:

1. Recognize that action at an official legal meeting is binding and that he/she alone cannot bind the Board outside of such meeting.
2. Not to make statements or promises of how he/she will vote on matters that come before the Board until he/she has had an opportunity to hear the pros and cons of the issue during a board meeting.
3. Uphold the intent of Executive Session and respect the privileged communication that exists in Executive Session.
4. Make decisions only after all facts on a question have been presented and discussed.
5. Treat with respect the rights of all members of the board, despite differences of opinion.

PROHIBITED CONDUCT

A member of any Board, Committee or Commission, in accordance with Massachusetts General Law, Chapter 268A, shall:

1. Not accept gifts or other consideration or engage in any business or professional activity which might appear to impair his/her independence of judgment in the exercise of his/her official duties.
2. Not improperly disclose confidential information acquired by him/her in the course of his/her official duties, and not use such information to further his/her personal interests.
3. Not use or attempt to use his/her official position to secure unwarranted privileges or exemptions for himself/herself or others.
4. Not by his/her conduct give reasonable basis for the impression that any person can improperly influence him/her or unduly enjoy his/her favor in the performance of his/her official duties, or that he/she is unduly affected by the kinship, rank, position or influence of any party or person.
5. Not pursue a course of conduct which will raise suspicion among the public that he/she is likely to be engaged in acts that are in violation of his/her trust.
6. Not participate in any matter before the Board, Commission, or Committee in which he/she has a direct financial interest, or an immediate family member has a direct financial interest.

ETHICS TRAINING

CONFLICT OF INTEREST LAW

In addition to the Open Meeting Law, the conduct of public officials is subject to the Conflict of Interest Law. The State Ethics Commission maintains a website which details all aspects of the Law. That site may be accessed at <http://www.mass.gov/ethics/>. Members of boards and committees are considered "Special Municipal Employees," and Chapter 268A of the General Laws governs their conduct. Board and committee members should familiarize themselves with the general rules, as they may face civil and criminal penalties for taking prohibited actions. Many aspects of the law are complicated, and there are often exemptions to the general rules. Board members who have any concerns about potential conflict should consult with the Town

Clerk or Town Manager, who will relay the question to Town Counsel if warranted. Alternatively, board members may seek legal advice from the Ethics Commission.

In general:

- Board members may *not* ask for or accept *anything* (regardless of its value), if it is offered in exchange for an agreement to perform or not perform an official act.
- Board members may *not* ask for or accept anything worth \$50 or more from anyone with whom they have official dealings.
- Board members may *not* hire, promote, supervise, or otherwise participate in the employment of their immediate family or their spouse's immediate family.
- Board members may *not* take any type of official action which will affect the financial interests of their immediate family or their spouse's immediate family.
- Board members may *not* take any official action affecting their own financial interest, or the financial interest of a business partner, private employer, or any organization for which they serve as an officer, director or trustee.
- Unless they qualify for an exemption, board member may *not* have a paid position with the Town.
- Except under special circumstances, board members may *not* have a financial interest in a contract with the Town.
- Board members may *not* represent anyone but the Town in any matter in which the Town has an interest.
- Board members may not *ever* disclose confidential information, data, or material which they gained or learned as a public employee.
- Unless they make a proper, public disclosure—including all the relevant facts—board members may *not* take any action that could create an appearance of impropriety, or could cause an impartial observer to believe their official actions are tainted with bias or favoritism.
- Board members may *not* use their official position to obtain unwarranted privileges, or any type of special treatment, for themselves or for anyone else.
- Board members may *not* use public resources for political or private purposes.
- Board members may *not*, after leaving public service, take a job involving public contracts or any other particular matter in which they participated as a public employee.

FINANCIAL CONFLICTS

The law assumes that objectivity and integrity could be compromised if you act on matters in which you have a financial interest. Any “particular matter” that comes before a committee or board in which a business partner or family member is associated should be regarded as a potential conflict, and the committee member is encouraged to leave the meeting during any discussion and subsequent vote that follows. A “particular

matter” includes almost any proceeding, application, decision, special permit, or other determination of the committee or board. If in doubt, consult with the Town Clerk or Town Manager. Special rules may be applicable.

MISUSE OF POSITION

No unwarranted privilege should be sought or used if the reasons for the privilege or offer come as a result of serving in an official Town capacity. In addition, no Town equipment or facilities should be used for personal gain.

REVOLVING DOOR RESTRICTIONS

Using friendships, associations, or confidential information obtained or formed while serving in local government to obtain special consideration or privilege after leaving the office or appointed position is prohibited.

TEST INSTRUCTIONS

- o Use Chrome not Internet Explorer as your web browser
- o Click this link <http://www.mass.gov/ethics/>.
- o Disable your Pop-Up Blockers
- o Click “Online Training Programs”
- o Scroll down and click on “Municipal Employee Online Training Program”
- o Type in name and position
- o At the end save and print the certificate and email it to the town clerk.

***Disclaimer:** The information presented in the program provides general information about the conflict of interest law and the compliance requirements. The information in this program is not designed to be a substitute for legal advice and should not be viewed as constituting legal advice. If you encounter a conflict of interest situation, you are urged to contact the Ethics Commission’s Legal Division at 617-371-9500 to obtain advice. The following are instructions and tips if you are having trouble downloading the link;*

If you have any questions regarding the conflict of interest law training programs or the requirements for completion, please contact the Town Clerk’s Office at 774-261-2021, or the Commission’s Public Education and Communications Division Chief David Giannotti at 617-371-9505 or dgiannotti@eth.state.ma.us.

You may also find the State Ethics Commission’s website helpful, at <http://www.mass.gov/ethics>
Email- kim.hopewell@westboylston-ma.gov and enovia@westboylston-ma.gov

If you have a question concerning a potential conflict, you should contact the Town Clerk.

Municipal Employee Definition-

A "Municipal employee " is a person performing services for or holding an office, position, employment or membership in a municipal agency, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation, on a full, regular, part-time, intermittent, or consultant basis, but excluding (1) elected members of a town meeting and (2) members of a charter commission established under Article LXXXIX of the Amendments to the

ORIENTATION

OATH OF OFFICE

All elected and appointed members of a board or commission of the town and every elected or appointed town officer must, before entering upon his official duties, be sworn to the faithful performance thereof [41:107].

The appointed individual receives formal written notification of his or her appointment from the appointing agency. The individual shall then appear before the Town Clerk to take their Oath of Office before taking his or her seat on a committee or board.

Why is this important?

If litigation results from some action taken by a board, the case may be lost if all board members involved in the action have not taken the required oath.

Permanent committee appointments are generally for three year terms or as designated by the Annual Town Election Vote or appointment papers. Vacancies on elected boards do not apply. Citizens who assist committees are not official committee members and, as such, have no vote in committee proceedings.

Also, upon appointment, each committee member shall receive from the Town Clerk's Office an informational packet with a copy of this "Committee Handbook" which shall include: the copies of the Open Meeting Law, 940 CMR 29.0, Chapter 268A and Mandatory Ethics testing.

It is the responsibility of the committee chair to provide for the orientation of new members to familiarize the individuals with the work of the committee, current projects, and town government operations in general as they may impact the committee's work.

REAPPOINTMENT

Reappointment is based on an evaluation by the appointing authority of the citizen's contribution to the committee, the desirability of widespread involvement and the changing needs of the committee and the Town. It is the policy of the Board of Selectmen, wherever possible, to limit one-year term appointments to 5 consecutive terms, and 3-year appointments to two consecutive terms. A committee member is under no obligation to accept reappointment, nor is the appointing authority obligated to offer reappointment.

RESIDENCY

In most instances, committee members should be residents of the Town of West Boylston. There may be occasional exceptions when an individual's unique skills or experience support the appointment of a non-resident and would be beneficial to the committee's work.

In the event a committee member becomes a resident of another community, the member or the committee chair shall promptly notify the appointing authority.

All Elected officials must RESIDE and be a REGISTERED VOTER in the Town of West Boylston.

TERM OF OFFICE

Unless prescribed by statute, Town Meeting vote, or specific committee charge, three years shall be the standard term of office.

All terms of office shall be set on a staggered basis in the interest of fostering continuity of knowledge and experience on all committees. The appointing authority shall determine the year in which a given term expires at the time of appointment.

Exception: Ad-hoc committees appointed for a specific responsibility, at which time the charge to the committee should include a specific time frame for submission of the committee's final report and dissolution of the committee.

All Committees are authorized to set up "ad-hoc" subcommittees for specific purposes, with the permission of the appointing authorities.

ORGANIZATION OF BOARDS–DUTIES OF OFFICERS

1) Election of Officers

Annually, every board, committee, or commission shall vote to select a chairman, vice-chairman and clerk. The new chairman shall notify the appointing authority and the Town Clerk of the names of officers. The Board of Selectmen strongly recommends that board and committee chairmanships rotate on a regular basis.

2) Duties of Officers

The following are basic duties of officers; boards are encouraged to modify these duties to suit their own particular needs.

3) Chairman

- Presides at all meetings, decides questions of order;
- Calls meeting dates and times;
- Ensures that meetings and agendas are properly posted in accordance with the Open Meeting Law;
- Sets agenda topics;
- Ensures that minutes of meetings are taken, transcribed, approved and posted on the Town's website;
- Represents the board before the appointing authority, other Town bodies and the public, as required;
- Ensures that members are kept informed of meetings;
- Ensures that all members have taken the oath of office and have acknowledged receipt of information from the Town Clerk with regard to the Open Meeting Law and Conflict of Interest Law;
- Ensures that all members have acknowledged receipt and are familiar with this Board and Committee Handbook;
- Ensures that a summary of the board's actions of the previous year are submitted to the Office of the Town Administrator for inclusion in the Annual Town Report; and
- Exercises control over public meetings and hearings, ensures that the proper decorum is maintained and that such meetings and hearings are conducted in an orderly and appropriate manner.

4) Vice-Chairman

- Acts as Chairman in the absence of the Chair.

5) Clerk/Secretary

- Ensures that minutes of every meeting are taken, prepared and filed with the Town Clerk in a timely manner, in accordance with the Open Meeting Law and the Town Bylaws;
- Ensures that copies of documents and other exhibits used during meetings are provided and referenced in a list to be included as addenda to the approved meeting minutes, in accordance with the Open Meeting Law; and
- In the absence of paid staff, performs any other clerical or administrative duties, as required.

Many committees such as the Conservation Commission, the Historical Commission, Planning Board, Zoning Board of Appeals, Council on Aging, Board of Assessors, Board of Health and Cultural Council have duties and responsibilities established by state law. Other Committees have charges prepared by the Board of Selectmen who appoint prospective members to the Committee.

It is in the overall best interest of the Town for each such board or committee to function in a manner which is consistent with general policies coordinated or promulgated by the Board of Selectmen and or Town Administrator.

Other committees serve as advisors to the Town in the performance of their duties to the public, and have powers and duties as delegated to them in their individual charges. Such committees shall represent the Town in dealing with regional and state planning agencies to the extent requested by the appointing authority. When doing so, they shall take positions, which have been endorsed by the Town, and they shall keep Town Officials fully informed concerning all such liaison activities.

ADOPTION OF RULES AND REGULATIONS

State law permits some committees, such as the Board of Health, Conservation Commission, Planning Board, and Zoning Board of Appeals, to adopt rules and regulations, and the procedures set forth in state law should be observed when adopting such rules and regulations. Other Committees' Rules and Regulations (including fees) must be adopted by the Board of Selectmen. As a general principle, the board or committee should advertise and hold a public hearing relative to the proposed rules and regulations prior to adoption. Any such rules and regulations be advertised two (2) weeks (14 days) prior to the meeting on the proposed changes in a local newspaper. Please check with the Town Clerk's Office for further details/clarification.

PARTICIPATION IN TOWN GOVERNMENT

Effective Town government requires strong and informed citizen participation. The work of every board or committee is interdependent with that of others. To foster informed decision making, the Board of Selectmen believes it appropriate that every committee have as full representation as possible of its membership at the following regular governmental functions:

- Board or Committee Meetings
- Finance Committee Hearings on Budgets
- Planning Board Hearings on Warrant Articles
- Selectmen's Meetings

TOWN MEETING

The objective is not to enforce uniformity or adherence to a majority view, but to assure understanding of all issues relating to the work of the committee on which an individual serves, and on Town government in general. Broad participation is essential to maintenance of an Open Town Meeting, which, otherwise, could be dominated by those having only a limited range of special interests.

COMMITTEE LEADERSHIP

Unless otherwise specified by Town Meeting Vote, the Chairman and other (usually Vice Chairman and Clerk) officers of every board, committee or commission are chosen by the voting members of the committee. The name of the Chairman should be made known to the Office of the Selectmen to enhance communication with the group.

If appointments are made by another elected board other than the Selectmen, the members' names must also be given to the Selectmen's Office so that all members will be acknowledged in the Annual Town Report.

RESIGNATIONS / FILLING OF VACANCIES

A committee member who is no longer able to serve, or moves out of Town, should resign promptly so that the vacancy may be filled as soon as possible. Repeated non-attendance at meetings, or other failure to discharge the duties of office, is grounds for removal from office. Any resignation must be submitted in writing to the Committee Chairman, and appointing authority, the Town Clerk and the Board of Selectmen. Formal notification ensures that vacancies are filled promptly. If a vacancy occurs on an elected Board, the remaining committee members should, within one month of the vacancy, give the Board of Selectmen written notice of the vacancy, in accordance with G.L. c. 41, § 11. The remaining committee members may recommend individuals who have demonstrated an interest in the work of the committee for consideration as a replacement member. They will be considered along with others who have expressed an interest and have filed a Town Committee Volunteer Application. The statute requires that the Board of Selectmen, together with the remaining elected members of the committee, convene a joint open meeting within two weeks of the written notice of vacancy, and by majority roll call vote, appoint a registered voter of the Town to fill the vacancy. In the absence of a written notice of vacancy provided by the Committee to the Board of Selectmen, the Selectmen may fill the vacancy within the time frame provided under G.L. c. 41, § 11.

The Town Administrator makes a special effort to seek out roughly equal numbers of women and men as candidates for appointments over which he has the authority, and makes appointments in accordance with the Massachusetts Equal Rights Amendment which states that "Equality under the law shall not be denied or abridged because of sex, race, color, creed, or national origin."

- o Recommendations from town organizations or individuals;
- o Suggestions from committee with vacancy;
- o Suggestions by prospective appointee;
- o Research of skills available in town; and
- o Individual responses to publicity regarding vacancies.

Each committee or board is expected to:

- o Encourage individuals to complete letters of interest to be appointed to a board or committee
- o State the qualifications they are looking for in appointments.

- o Make suggestions on potential members

Committees should not make any representation to candidates concerning the likelihood of appointment nor provide their suggestions with any rank order, but may invite prospective members to attend meetings to familiarize themselves with the work of the committee.

REMOVAL FROM OFFICE

The Selectmen by majority vote may investigate the affairs of any committee or board member appointed by the Board of Selectmen or by the Town Administrator. The Selectmen shall have access to any or all records, which they deem necessary for this purpose. The Selectmen may remove, after a hearing, any Committee, or Board member thereof.

The Town Administrator has similar powers of investigation and removal with cause for Committees and Board appointed by the Town Administrator.

DISSOLUTION OF ANY COMMITTEE

Upon the dissolution of any committee, either by action of the appointing authority, or pursuant to an expiration date provided in the committee charge, all records, documents, correspondence and files concerning the committee's work should be organized in a reasonable and understandable manner and turned over to the Town Clerk for appropriate filing and archival storage.

RELATIONSHIP TO OTHER BOARD, COMMISSION OR COMMITTEE MEMBERS

A member of any Board, Commission or Committee, in his/her relations with fellow board members, shall:

- 1) Recognize that action at an official legal meeting is binding and that he/she alone cannot bind the Board outside of such meeting.
- 2) Not make statements or promises of how he/she will vote on matters that come before the Board until he/she has had an opportunity to hear the pros and cons of the issue during a board meeting.
- 3) Uphold the intent of Executive Session and respect the privileged communication that exists in Executive Session.
- 4) Make decisions only after all facts on a question have been presented and discussed.
- 5) Treat with respect the rights of all members of the board, despite differences of opinion.

USE OF TOWN BUILDINGS

Every committee should establish a regular meeting schedule to suit the needs and convenience of the members; however, they must be scheduled in *public locations* and accessible to the disabled. Space is generally available at Town Hall. If you wish to schedule a meeting for Town Hall it must be done through the Municipal Assistant to the Board of Selectmen office by calling 774.261.4012. Some coordination with other boards and committees for space may be necessary.

The Committee or Board utilizing the meeting room is responsible for insuring that the lights are turned off when the meeting is finished. The last Committee or Board to leave the building should also insure that any remaining lights are turned off and that all doors are locked.

Where a staff member is assigned to a particular Committee, the staff member is responsible for insuring that the doors are unlocked and later re-locked.

When the Town Hall is used for special committee related events, the Town Administrator's Office will be notified in advance of such an event but it is the responsibility of the Committee/user to clean the room upon completion of the event.

POSTING REQUIREMENTS

Posting method for the municipality and the meeting notice satisfies all the other requirements of the Open Meeting Law:

- 1) it is posted with the Town Clerk's Office at least 48 hours in advance of the public meeting, excluding Saturdays, Sundays and legal holidays;
 - 2) it is displayed in a legible, easily understandable format;
 - 3) it contains the date, time and place of the meeting;
 - 4) it lists the topics that the Chair reasonably anticipates will be discussed at the meeting with sufficient specificity to advise the public of the issues the public body will discuss; and
 - 5) the date and time that the notice was posted is conspicuously recorded on the notice.
- Public bodies are encouraged to coordinate with the municipal clerk, or the person designated by agreement with the municipal clerk, to ensure that meeting notices are filed sufficiently in advance of the meeting to allow the municipal clerk or the designee to post the meeting 48 hours in advance.

For example, if a Board of Selectmen plans to meet on a Monday night at 6:00 p.m. but the municipal clerk's office closes at 1:00 on Thursday, the Chair of the Board should plan to submit the notice for filing and posting in advance of 1:00 to allow the municipal clerk ample time to post the meeting notice. It is the public body's responsibility to ensure that the meeting notice is received for posting by the municipal clerk or the clerk's designee.

*****Take note of the office hours of the Town Clerk to ensure your meeting is timely posted. G.L. c. 30A, § 20(b).**

May a public body consider a topic at a meeting that was not listed in the meeting notice?

Yes, if it is a topic that the chair did not reasonably anticipate 48 hours before the meeting. If a meeting topic is proposed after the meeting notice is posted, the public body is encouraged to update its posting to provide the public with as much notice as possible of what subjects will be discussed during a meeting. Although a public body may consider a topic that was not listed in the meeting notice if unanticipated, the Attorney General strongly encourages public bodies to postpone discussion and

action on topics that are controversial or may be of particular interest to the public if those topics were not listed in the meeting notice

Posting Emergency Meetings

The filing and posting requirements for meeting notices do not apply to emergency meetings. Emergency is defined in *30A § 18* 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.

Meeting Cancellations

In order to support a uniform procedure upon cancellation of Committee or Board meetings due to inclement weather or any other unforeseen event, outlined below is a procedure for notifying the public.

The decision to cancel a meeting is up to the individual Committee or Board. Should it be necessary to cancel a meeting due to inclement weather or any other unforeseen event, the Committee Chair or the assigned staff person should notify the Town Clerk’s Office of the cancellation, or if time allows, send a written notice to the Town Clerk’s Office. The Chairman or staff person should arrange for the posting of a cancellation notice, as well as a posting a note on the entrance to Town Hall.

Proper format for posting a meeting agenda

An agenda is a written plan of topics that will be addressed in a meeting, presentation or event. Regardless of the venue in which the agenda will be utilized, it is important that the agenda contain certain information.

SAMPLE AGENDA OUTLINE

Town of West Boylston



Meeting Posting in Accordance with the provisions of M.G.L. 30A §§ 18-25

AGENDA

MEETING DATE: _____ TIME: _____

If Applicable please fill in:

Executive Session: START TIME: _____ END TIME: _____ Re-open to Public? If yes state approx.
time: _____

SUBJECT of Executive Session: _____

Board or Committee Name

Location

Room

Name: _____

AGENDA

- **Open meeting** (Chairman calls meeting to order)
- **Roll Call** (record names of members in attendance or absent)
- **Other Attendees** (Chairman should recognize other additional officials present & list names)
- Review/Approve Past Meeting Minutes (list months & dates)
- Reports
- Appointments
- **Public Session** (sign-in-sheet)-Chairman must recognize public before speaking & no action or discussion of issues may be entertained at this time-issues may be rescheduled to a future agenda if action needed or requested.
- **New Business** (newsletter, pamphlets, meeting forms & procedures)
- **Unforeseen Issues** (no action to be taken on these items unless emergency in nature)
- **Announcement/Correspondence** (includes letters, e-mails, phone calls received/sent)
- **Next Posted Meeting Date** (unless otherwise notified)
- **Adjournment** (Chairman must entertain a motion to close meeting)

The Completed form must be converted to a pdf and e-mailed to the Town Clerk's Office for proper posting. Email to the Town Clerk and Asst. Town Clerk; kim.hopewell@westboylston-ma.gov and enovia@westboylston-ma.gov

**As noted, the posting is required to include those matters that the chair reasonably anticipates will be discussed at the upcoming meeting. If something else comes to the attention of the chair after the posting deadline but before the meeting, and that matter was not something the chair should have reasonably anticipated, the Attorney General has indicated that the chair is required to update the meeting notice with the additional item or items as soon as possible, to the extent feasible.*

A copy of the meeting notice will be kept on file with the Town Clerk for one year. This will provide proof that the notice was not only filed but also posted in case a question of compliance with the notice requirements of the Open Meeting Law is raised at a later time.

(Except in unforeseen or emergency circumstances, any matter presented for consideration of the Board by a member of the public shall neither be acted upon, nor a decision made the night of the presentation. A scheduled time on a future agenda may be necessary, at the Board's discretion.)

PUBLIC HEARINGS

Posting Public Hearing Postings

If you serve on the Board of Selectmen, Planning Board, Zoning Board of Appeals, Conservation Commission, Historical Commission, or the Board of Health, occasionally you will be required to hold a public hearing in accordance with Massachusetts General Laws. Hearings are held for the purpose of gathering information from which your board or committee can draw a conclusion. Written notices, the initiation of the hearing, and the written conclusions of a hearing may have strict legal time limitations that vary with the nature of the hearing and the Board. Several procedures are common to all hearings.

The Chairman or other designated person should run the hearing and state the guidelines and time allowances—if restricted—before any testimony is given. All questions should be directed to the chair who in turn may ask for a response from the floor. We suggest that each board/committee develop written guidelines that:

1. Ground rules, time limits, directing all questions to chair, etc. are set;
2. During deliberations, findings of fact are noted;
3. Decision is written using notes of discussion, fact and findings;
4. Decision is filed in appropriate places.

SAMPLE STEPS FOR CONDUCTING A PUBLIC HEARING:

1. Open Public Hearing
2. The Chairman will announce the nature and purpose of the hearing, identify the particular matter, and recite the notice given.
3. Order of Presentation
 - a. Presentation by Proposer
 - b. Receipt of recommendations from any Town agency or officer
 - c. Questions from Board Members
 - d. Statements by members of the public
4. Close Public Hearing
5. Deliberate on Findings and Merit
6. Entertain Motions to render a decision or take the matter under advisement, announcing the intended date of decision.

An important aspect of the hearing process is that a decision must be based on the testimony and evidence submitted at the hearing or if written, entered into the record at the hearing. The decision must be based on facts and cannot be arbitrary. Hearsay and emotions are not evidential and should not impact the final decision.

A board member serving on a hearing panel must be neutral without having formed an opinion in advance. The purpose of the hearing is to determine all facts. Once fact finding is complete, the board can begin to develop a basis for an opinion based on those facts that have been identified and outlined. Any board member who is pre-disposed to a decision must consider recusing himself or herself from the hearing.

DELIBERATION AND ELECTRONIC COMMUNICATIONS (New as of March 10, 2017)

May A Public Body Member Communicate With Other Public Body Members Over Email?

Yes, but only in limited circumstances. A member of a public body may email other public body members on matters within jurisdiction of a public body so long as the email does not reach a quorum of the public body. Communications between and among a quorum of a public body on matters within the jurisdiction of the public body must occur during a noticed meeting. G.L. c. 30A, §§ 18, 20. A public body member may lawfully email a quorum of the public body only to discuss scheduling a meeting, distribute a meeting agenda, or to distribute reports or documents to be discussed at a meeting, provided that no opinion of a member of the public body is expressed. See G.L. c. 30A, § 18.

May Members Of A Public Body Communicate With The Public Through Social Media Platforms Such As Facebook, Twitter, And Webpages?

Yes, members of public bodies may communicate with members of the public through any social media platform. However, members of public bodies must be careful not to engage in deliberation with the other members of the public body through such communications. If a member of a public body communicates directly with a quorum of the public body over social media platforms such as Facebook or Twitter, that communication may violate the Open Meeting Law. Public body members should proceed with caution when communicating via these platforms.

May Members Of Public Bodies Who Are Physically Present At A Meeting Use Electronic Messaging, Such As Text Messaging Or Email, To Communicate With Members Of The Public During That Meeting?

The Open Meeting Law does not address this issue. The Open Meeting Law encourages government transparency; however, the best practice is for public body members to avoid the use of electronic devices during meetings to discuss matters within the jurisdiction of the public body if those electronic communications are not shared with members of the public attending the meeting.

Meetings and Deliberations

The Open Meeting Law (OML) defines deliberation as “an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.” Distributing a meeting agenda, scheduling or procedural information, or reports or documents that may be discussed at the meeting will not constitute deliberation, so long as the material does not express the opinion of a member of the public body. E-mail exchanges between or among a quorum of members of a public body discussing matters within the body’s jurisdiction may constitute deliberation, even where the sender of the email does not ask for a response from the

recipients.

To be a deliberation, the communication must involve a quorum of the public body. A quorum is usually a majority of the members of a public body. Thus, a communication among less than a quorum of the members of a public body will not be a deliberation, unless there are multiple communications among the members of the public body that would together be a communication among a quorum of members. Courts have held that the Open Meeting Law applies when members of a public body communicate in a manner that seeks to evade the application of the law.

Thus, in some circumstances, communications between two members of a public body, when taken together with other communications, may be a deliberation.

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

1. Members of a public body may conduct an onsite inspection of a project or program; however, they cannot deliberate at such gatherings;
2. Members of a public body may attend a conference, training program or event; however, they cannot deliberate at such gatherings;
3. Members of a public body may attend a meeting of another public body provided that they communicate only by open participation; however, they cannot deliberate at such gatherings;
4. Meetings of quasi-judicial boards or commissions held solely to make decisions in an adjudicatory proceeding are not subject to the Open Meeting Law; and,
5. Town Meetings are not subject to the Open Meeting Law.

VOTING

Quorum

A quorum for a meeting of any Town board shall be a majority of the maximum complement of the board. No action of a Town board shall be valid and binding unless taken or ratified by an affirmative vote of the majority of the members, unless another quantum of vote is allowed or required by the Massachusetts General Laws.

Rule of Necessity

Under certain circumstances the members of the board may invoke the "Rule of Necessity" to allow disqualified members to act. The Rule of Necessity provides that a board may invoke this rule for a member(s) who would be disqualified from participating on a specific Town board action, (e.g., because of a conflict of interest) to participate because of a lack of a quorum needed to take action.

The Rule of Necessity may be invoked should the following three conditions exist:

- o one or more members of a Town board or commission are disqualified from acting on a matter before the board due to a conflict of interest; and

- thereby the disqualified member(s) would deprive the board of the number of members required to take an affirmative vote; and
- that there is no other board empowered to hear the matter.

When in doubt....DON'T

Call the Ethics Commission 617.371.9500

Deadlines

All Committees should be cognizant of the following deadlines:

1. In general, a Town Board does not have a budget unless one is authorized by Town Meeting. If a board anticipates a need to expend funds, it can request a budget for the next fiscal year. For the purposes of enabling the Town Administrator to make up the annual estimate of expenditures, all board shall, upon his/her written request, furnish all information in his/her possession and submit to the Town Administrator, in writing, a detailed estimate of the appropriations required for the efficient and proper conduct of the board during the next fiscal year.
2. Budgets are prepared by department heads with committee review and input on matters relating to policy. The department head submits a proposed budget to the Town Administrator.
3. All Committees are required to write an Annual Report for use in the Town Report. These are due in early January.
4. Draft Warrant Articles are to be discussed with the Town Administrator and filed in the appropriate time frame.

MINUTES

Importance of the Record

Many matters before boards and committees are reviewable by a court on an appeal. In many of these matters, the appeal is based on the record developed before the board or committee. Thus it is very important to adequately develop a record which is going to reflect accurately what went on and most importantly, support your decision. The record can consist of testimony and exhibits

State Law addressed the keeping of minutes in Chapters 66 § 5A ii and Chapter 30A §§ 22(a)iii 22(c)iv These sections of law require that all boards, keep accurate written records of its public meetings. All committees, commissions, boards, sub-committees and ad-hoc committees shall appoint a clerk/secretary who will be responsible for posting meeting notices, taking minutes of all meetings, and serving as records custodian.

All minutes are considered a permanent record and must be maintained and stored appropriately. (Contact the Town Clerk regarding the Municipal Record Retention Schedule as it relates to other records your board or committee maintains)

The records of each meeting are public records, and a copy of all non-Executive Session minutes must be available for public inspection. Records of any Executive Session remain closed to the public only as long as publication may defeat the purposes of the Executive Session. The law requires the minutes set forth shall include the following information:

Papers presented at a meeting or hearing should be marked as being received on that date, timed and initialed. If there is a matter involving a lot of documents coming in, such as a hearing, it is helpful to make a document list and assign each a document number.

The board may ask the presenter to supply the board with a legal size copy of the presentation for easier storage of multiple documents

Minutes may include summaries of discussions and a schedule of future meetings. Once minutes are accepted by committee vote, they become the official record of the meeting and a permanent public record. Any secretarial notes, if not destroyed once the official minutes are accepted, are considered a public document under the public records law.

In most instances, Committee minutes should be reviewed and approved within six weeks of the original meeting date. Minutes may be approved only at an open meeting at which a quorum of members is present, by majority vote upon a motion made and seconded. The clerk, or if there is no clerk the chairman of the committee should sign the minutes and indicate on the minutes the date of the meeting at which the minutes were accepted and file a copy of the approved minutes with the Town Clerk immediately upon approval.

For Committees which meet monthly or more frequently, the minutes shall be reviewed and approved not later than the next regular meeting following the one being reported. Committees, which meet less frequently, shall adopt a procedure, which will assure approval within one month of the original meeting date.

Draft Minutes

Draft minutes may be sent to members for review prior to a later meeting at which they are to be voted upon. Deliberation regarding the contents of the draft minutes of an open meeting must occur at a subsequent open meeting, not by e-mail or telephone (other than to point out scrivener's errors such as wrong date, time or place, wrong person named as present or absent, spelling errors.)

Draft minutes of all open sessions and electronic tapes must be made available upon request, under the public records as defined under the provisions of Chapter 66 §§ 10 (a-c)v. (see endnotes)

Approved Minutes

Once the minutes are approved (accepted) by the committee, the draft minutes may be discarded.

All Boards, Committees and Commissions **MUST SUBMIT** the approved minutes and postings to the Town Clerk's Office for filing and public access in **both an electronic format and printed copy**.

The Town Clerk will catalogue, store and archive filed decisions and minutes for review and research.

Amending Approved Minutes

Approved minutes may be amended, provided prior notice has been given to committee members by inclusion as an item on an agenda distributed prior to the meeting; approved minutes may be amended

at a meeting at which a quorum is present, by majority vote; the members voting on the amendment need not have been present at the original meeting or at the meeting at which the minutes were previously approved, and need not have been members of the committee at that time.

The prior approved minutes, with the changes that have been voted shown by “redlining” or by handwritten marginal notes, and the date of the amendment, should be filed with the Town Clerk.

Documents used at a Public Meeting

Documents used by a public body at a meeting may be retained separately from the minutes. It is important to retain other documents that will be helpful to the town and or committee member in future years. Once used by the public body at a meeting, the documents become part of the official record and therefore must be maintained in accordance with the public record retention schedule issued by the Secretary of State. In particular, it is important to retain supporting documents and correspondence for events or decisions that are of major significance to the committee or town. These documents should be turned over periodically to the Town Clerk for placement in the Town Archives.

Committee Meetings

A meeting of a committee occurs any time a majority quorum of the Committee (or a subcommittee) members get together to discuss or consider any public business or policy over which the Committee has some jurisdiction or advisory authority. Meetings must be held in a place, which is open to the public. The Selectmen urge Committees to meet in a Town building.

A regular meeting time and location should be established. While the frequency of the meetings will depend on the nature and workload of the Committee, most Committees will meet at least once a month.

With the exception of Executive Sessions, all Committee meetings by law are open to the public including the press. Committees are expected to operate within both the letter and spirit of the law in this regard, e.g., public discussions should be audible and handouts made available whenever possible and feasible if they are integral to the discussion. The conditions under which a Committee can go into Executive Session are explained in the Open Meeting Law.

SAMPLE MEETING MINUTES OUTLINE

Town of West Boylston

MINUTES



Meeting Minutes
Board/Committee Name
Date

Members Present/Not Present-

Meeting called to Order-

Approve Minutes-

Meeting Motions/Actions and Summary of Discussion-

List of Documents and Other Exhibits used at the Meeting and will be available for review at the office of-

Exhibit 1 _____

Exhibit 2 _____

Exhibit 3 _____

Next Meeting-

Date

Time/Rm. #

Physical Location

Meeting Adjourned

Respectfully Submitted,

Signature

Minutes approved on _____

Minutes of all open meetings shall be created and approved in a timely manner. The Minutes of an open meeting, if they exist and whether approved or in draft form, shall be made available upon request to any person within ten days.” G.L.c.30A §22 (c). All minutes shall be properly named and submitted to the Town Clerk in a pdf format.

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 the 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.

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 any questions relative to executive session, please consult the Town Administrator

NAMING THE ELECTRONIC FILE

In order for all boards to be consistent in the manner in which the file is named, please use the following format in naming your minutes and decisions;

yyyy.mm.dd - **Name of Committee- Agenda or Minutes**

Example;

For a June 10, 2017 meeting/agenda of the Conservation Committee the file name will be as follows;

2017.06.10-ConCom-Min.pdf

2017.06.10-ConCom-Agenda.pdf

YOU MUST E-MAIL your minutes and agendas in a pdf format to the Town Clerk's Office Copy both the Town Clerk and the Asst. Town Clerk; kim.hopewell@westboylston-ma.gov and enovia@westboylston-ma.gov

PUBLIC RECORDS LAW / PUBLIC RECORDS REQUESTS

The Massachusetts Public Records Law (G.L. c. 4, § 7, cl 26; G.L. c. 66, § 10vi) provides right of access to public records, broadly defined to include all documentary materials made or received by any town official or employee, except eleven specific exemptions such as personnel and medical files, proposals and bids, and appraisals of property. All minutes, informational data, memoranda and circulating materials of any Town board or committee are usually public information. The committee should consult the Town Clerk's office if questions arise concerning the public records status of documents.

SUMMARY- Public Records Law

In effect as of January 1, 2017

- Creates a new position entitled **Records Access Officer (RAO)**.
 - A. Municipality must designate one or more RAO's.
 - B. RAO is responsible for coordinating responses to public records requests.
 - C. RAO **must establish guidelines** to assist requestors in making informed requests and post said guidelines on the municipal website by July 1, 2017.
 - D. RAO's appropriate contact information must be posted on the municipal website.
- **Requests** must be in writing and made to the RAO by hand delivery, first class mail or email.
 - A. **Within 10 business days** after receipt of request, RAO must either:
 - 1. **Allow inspection or provide a copy** of the public record, if the record is reasonably described, in possession of the municipality and a reasonable fee is paid; or
 - 2. Indicate that the municipality (1) **does not intend to allow inspection or provide a copy** and include reason why it cannot comply or if there is an exemption, or (2) it cannot comply within the 10 business day period deadline due to burden **(municipalities may be allowed an additional 15 business days to comply)**. This response must be made in writing via first class mail or email
 - B. Municipality may petition the Supervisor of Public Records for **additional time** beyond the 25 day period.
 - C. The requester **cannot be required to state the reasons for the request**, except to determine if it is for a commercial purpose or to evaluate a fee waiver.

- **Reasonable Fees** may be charged unless the record is freely available for public inspection.
 - A. Copies are limited to **5 cents per page**, for black and white copies.
 - B. Employee time can be charged if the time exceeds 2 hours (i.e. search, retrieval, segregation, redaction and production) and is limited to the hourly rate of the lowest paid employee capable of performing the task limited to \$25.00 per hour.
 - C. Fees may be charged only if RAO responds within the 10 business days.
- **Electronic Records** – Records must be produced electronically, unless records are not stored electronically or the requester is unable to receive/access electronic records.
 - A. Records must be provided in a format desired by the requestor, to the extent feasible.
 - B. Municipal RAO's must post commonly available electronic records on the **municipal website**, to the extent feasible.
- RAO must **keep track of the information** related to requests and said information is to be collected by the Secretary of the Commonwealth annually and published on its website and reported to the Clerks of the House of Representatives and Senate.
- **Remedies** provided under new law include:
 - A. Requestor may petition the Supervisor of Public Records for a decision if municipality does not comply or provides a response in violation of the Public Records Law.
 - B. Requestor may seek judicial review of the decision of the Supervisor of Public Records.
 - C. If a civil action is commenced in Superior Court:
 - 1. An injunction may be issued;
 - 2. Reasonable Attorney's fees and costs may be awarded
- **Storage of Public Records:** an electronic system or database must provide data in a commonly available electronic format to provide maximum public access.
- **Personal email addresses** of government employees and family members are included in Exemptions to public records.

FINANCE MATTERS AND YOUR COMMITTEE

In general, an individual committee does not have a budget unless one is authorized by Town Meeting or at the time of its formation. If a committee anticipates a need to expend funds, it can request a budget for the next fiscal year through the Town Administrator, or if funds are needed during the fiscal year the Town Administrator should also be contacted. Unless a committee has funds specifically appropriated to it, the committee should not spend or commit to the spending of any funds without first obtaining guidance from the Town Administrator and the Town Accountant.

If your board or committee already has an established budget, prior to November 1, you will receive a budget package from the Town Administrator. The budget package will include directions for filing, time the budget forms must be filed, and other pertinent information. Your committee's annual operating budget form should be filled out and returned to the Town Administrator as instructed in the budget package. Your board or committee will be asked to meet with the Town Administrator, Finance Committee and Board of Selectmen to discuss your budget request before the warrant for the Annual Town Meeting goes to press. These meetings usually take place during the months of January and February. Under Article VI of the Town's General By-Law, the Finance Committee shall consider and make recommendations on all articles of a financial nature, including any articles involving or affecting expenditures, appropriations, debt, budgets, estimates, purchases or sales of property.

Submission and Payment of Bills

After a vote of approval bills should be signed by a majority of the members of the committee and submitted to the Town Accountant's office for processing and payment. All requests for payment of bills must be given to the Town Accountant on a bill schedule provided by the Accountant and all appropriate receipts must be attached. There are very strict laws for collecting, accounting and expending public money. Any questions regarding expenditures should be directed to the Town Accountant or Town Administrator.

Turning In Receipts

If your board or committee charges a fee for any of your services or programs, that money must be kept in a secure place and then turned over to the Town Treasurer with a duplicate accounting of the receipts given to the Town Accountant. To eliminate security problems and facilitate a positive cash flow, plan to turn in whatever money you have on a weekly basis or sooner if the amount exceeds \$100.00.

Purchases / Public Bidding Requirements

All purchasing must be done in compliance with Massachusetts Public Procurement Law (G.L. c.30B). Committee expenditures will usually not be large enough to require formal bidding; however, the following are general guidelines.

Purchases for amounts less than \$10,000.00 do not require formal bids. Good business practices should be followed.

Purchases for amounts between \$10,000.00 and \$25,000.00 require three price quotes and the lowest responsive price quote accepted. The quotes can either be telephone or written quotes.

Purchases estimated to cost in excess of \$25,000.00 requires formal bidding procedures.

The provisions of G.L. c. 30B apply to the acquisition and disposal of real property, and other procurement laws apply to public works contracts and public construction contracts (G.L. c. 30, § 39M).

The Town Administrator's office should be contacted for assistance and guidance for all purchasing and bidding.

Town Reports

All appointed committees are expected to file an annual report of committee operation which will appear in the Annual Town Report. The report should detail committee membership; including changes, and explain the

major accomplishments of the committee over the calendar year and highlight plans for the ensuing year. The report is due the first part of January and should be submitted to the Town Administrator's Office.

Town Meeting

A General Committee article is always included in the warrant for the Annual Town Meeting. Any committee wishing to make a verbal report of its activities to the Town Meeting may do so under this article. The Moderator should be informed in advance of any such intended reports. A copy of the report must be given to the Town Clerk in writing prior to the Town Meeting.

Written reports to the Town Meeting may be distributed by placing sufficient copies on the table outside the door of the meeting place.

SEXUAL HARASSMENT POLICY

I. Purpose:

It is the goal of our town to promote a workplace that is free of discriminatory harassment (“harassment”) or any type, including sexual harassment. Discriminatory harassment consists of unwelcome conduct, whether verbal or physical, that is based on a characteristic protected by law, such as gender, race, color, national origin, ancestry, religion, age, disability, genetics, military status, sexual orientation, or participation in discrimination complaint related activities (retaliation). Our town will not tolerate harassing conduct that affects employment conditions, that interferes unreasonably with an individual’s performance, or that creates an intimidating, hostile, or offensive work environment

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

Whether the event at which the conduct occurred is linked to the workplace in any way, such as at a Town sponsored function;

- Whether the conduct occurred during work hours;
- The context of conduct that occurs outside of normal work hours and whether there is any connection to the workplace;
- The severity of the alleged outside-of-work conduct;
- The work relationship of the complainant and the alleged harasser, which includes whether the harasser is a supervisor and whether the alleged harasser and complainant come into contact with one another on the job;
- Whether the conduct adversely affected the terms and conditions of the complainant’s employment or impacted the complainant’s work environment.

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

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

Policy:

II. Definition of Sexual Harassment

In Massachusetts, the legal definition for sexual harassment is this: “sexual harassment” means sexual advances, requests for sexual favors, and verbal or physical conduct of a sexual nature when:

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

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

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

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

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

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

III Complaints of Sexual Harassment or Discrimination

If any of our employees believes that he or she has been subjected to sexual harassment or discrimination, the employee has the right to file a complaint with our organization. This may be done in writing or orally.

If you would like to file a complaint you may do so by contacting Town Administrator, Municipal Office Building, 140 Worcester Street, West Boylston, Massachusetts 01583, (774) 261-4012. The Town Administrator is also available to discuss any concerns you may have and to provide information to you about our policy on sexual harassment and our complaint process.

IV Complaint Investigation

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

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

V. Retaliation

Any retaliation against an individual who has formally or informally complained about discrimination (including harassment), or has cooperated with an investigation of a complaint is prohibited.

Retaliation can be overt or subtle. Retaliation may include, but is not limited to, treating a complainant or witness differently, more harshly or in a hostile manner; physical interference with movement such as blocking a path; derogatory comments or action which would tend to have a chilling effect on the other complainants; sudden investigations of the complainant's private life, or; sudden strict enforcement of work rules. Retaliation in any form will not be tolerated.

VI. Disciplinary Action

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

VII. State and Federal Remedies

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

THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION (“EEOC”)

John F. Kennedy Federal Building
475 Government Center Boston, MA 02203

Phone: 800-669-4000 TTT: 800-669-6820

THE MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION (“MCAD”)

Boston Office: One Ashburton Place Sixth Floor, Room 601
Boston, Massachusetts 02108
(617) 994-6000 TTY: 617-994-6196

Springfield Office:

436 Dwight Street Second floor, Room 220
Springfield, Massachusetts 01103

(413) 739-2145

Worcester office:

Worcester City Hall
455 Main Street, Room 100
Worcester, MA 01608

(508) 799-8010 (508) 799-8490 – FAX

New Bedford office:

800 Purchase Street, Room 501
New Bedford, MA 02740

(508) 990-2390 (508) 990-4260 – FAX

POLICY ON FRAUD PREVENTION AND DETECTION

Purpose:

The Board of Selectmen and Town Administrator agree to establish procedures to follow for fraud prevention and detection.

Policy:

Background

This Town of West Boylston Fraud Prevention and Detection Policy (Policy) is established to facilitate the development of controls, which will aid in the prevention and detection of fraud against the Town of West Boylston (Town). It is the intent of the Town to promote consistent organizational behavior by providing guidelines and assigning responsibility for the development of controls and conduct of investigations. Furthermore, the purpose of this document is to confirm that the Town supports and fosters a culture of zero tolerance towards fraud in all of its forms.

Authority

This Policy derives its authority from Section 3 of MGL Ch. 23 of 1995, which states: The executive power of the town shall be vested in the Board of Selectmen who shall serve as the chief policymaking board of the town.

Applicability

This Policy applies to the Board of Selectmen, the School Committee and all other elected Town officials; their appointees; all employees of the Town of West Boylston, including all enterprise operations and all members of its Boards, Committees or Commissions.

This policy also applies to any other person's "acting on behalf of the Town", vendors and contractors, consultants, volunteers, temporary and casual employees and grant sub-recipients.

Scope

This Policy applies to any suspected fraud, abuse, or similar irregularity against the Town.

Objective

This Policy is set forth to communicate the Town's intentions regarding prevention, reporting and investigating suspected fraud, abuse and similar irregularities. The Town desires to create an environment in which employees and/or citizens can report any suspicions of fraud.

Further, this policy is set forth to communicate the Town's desire to protect the assets, resources and reputation of West Boylston. It is through this policy that the Town also seeks to protect all officials, employees and associated parties from false or erroneous allegations by providing them with sufficient knowledge and training relative to the Town's fraud prevention policies and procedures to ensure that they fully understand the culture of the environment they are operating within. This Policy provides management with specific guidelines and responsibilities regarding appropriate actions in conducting investigations of alleged fraud and similar improprieties.

Definitions

Abuse refers to, but is not limited to:

- Improper or misuse of authority,
- Improper or misuse of Town property, equipment, materials, records or other resources,
- Waste of public funds, or
- Any similar or related irregularity.

Abuse can occur in financial or non-financial settings. When considering if an event or action might be construed as being abusive, one should consider if it would pass public scrutiny.

Any Other Persons “Acting on behalf of the Town” shall mean all persons responsible for or to the municipal government and/or the Town’s enterprises placed in that position by some official relationship with the Town of West Boylston.

Appointed Officials shall mean all persons responsible for or to the municipal government and the Town’s enterprises placed in that position via an appointment.

Consultants shall mean all individuals and organizations conducting business with or on behalf of the municipal government and all of the enterprises of the Town.

Elected Officials shall mean all persons responsible for or to the municipal government and the Town’s enterprises placed in that position by the voters of West Boylston via a town ballot.

Fraud or other irregularity refers to, but is not limited to:

- Any dishonest or fraudulent act,
- Forgery or alteration of any document or account,
- Forgery or alteration of a check, bank draft, or any other financial document,
- Misappropriation of funds, securities, supplies or other assets,
- Impropriety in the handling or reporting of money or financial transactions,
- Profiteering as a result of insider knowledge of Town activities,
- Disclosing confidential and/or proprietary information to outside parties,
- Accepting or seeking anything of material value from consultants, contractors, vendors or persons providing services or materials to the Town,
- Destruction, removal or inappropriate use of records, furniture, fixtures, and equipment,
- Any claim for reimbursement of expenses that are not made for the exclusive benefit of the Town,
- Any computer related activity involving the alteration, destruction, forgery or manipulation of data for fraudulent purposes, or
- Any similar or related irregularity.

Grant Sub-recipients shall mean all individuals and organizations that receive any programmatic funding or “in-kind assistance” from the municipal government and the Town’s enterprises.

Management shall mean those individuals who have been placed in a position of trust by a lawful Town of West Boylston appointing authority to assist in carrying out the objectives of that department of the Town for which they are employed.

Town Administrator shall mean highest-ranking person responsible for the municipal government and the Town's enterprises.

Town Employee shall mean all employees of the municipal government and all of the enterprises of the Town. This definition is inclusive of all employees regardless of the designations full-time, part-time, temporary or casual.

Town of West Boylston is a Massachusetts municipal corporation managed as provided under Chapter 23 of the Acts of 1995 and, and shall include all its enterprise activities, as well as all Boards, Committees, and Commissions elected or appointed by the Board of Selectmen and other appointing authorities.

Vendors and Contractors shall mean all individuals and organizations conducting business with or on behalf of the municipal government and all of the enterprises of the Town.

Volunteers shall mean all contributors of unpaid personal services to the municipal government and all of the enterprises of the Town.

GENERAL POLICY AND RESPONSIBILITIES

RESPONSIBILITIES

The Town has a responsibility to investigate and report to appropriate governmental authorities, as required, any violations of compliance with Town policy, State and Federal Laws and regulations, internal accounting controls and questionable accounting matters.

Town of West Boylston management is responsible for establishing and maintaining policies and controls that provide security and accountability for the resources entrusted to them. Internal controls are intended to aid in preventing and detecting instances of fraud and related misconduct. Management is also expected to recognize risks and exposures inherent in their area of responsibility and be aware of indications of fraud or related misconduct. Responses to such allegations or indicators should be consistent.

Every employee has the responsibility to assist the Town in complying with policies and legal and regulatory requirements, and in reporting known violations. It is the policy of the Town to encourage the support and cooperation of all employees in meeting the Town's commitment and responsibility to such compliance.

REPORTING

Employees should report suspected instances of fraud or irregularity to their immediate supervisor or their next appropriate management level. However, in certain circumstances, it may be appropriate for employees to report suspected instances of fraud or irregularity directly to the Finance Director (If the alleged fraud has been committed by the Employee's supervisor.)

It is the responsibility of a supervisor or relevant manager to ensure that the suspicion of fraud and/or irregularity that is reported to them is reported as soon as practical to the Finance Director. The

written or verbal report should be sufficiently detailed and inclusive to ensure a clear understanding of the issues raised. In the event that the Finance Director is the subject of, or otherwise identified as involved in the acts underlying such report, the person making the report may notify and forward such report to the Town Administrator who will then lead the investigation and the Town Administrator shall immediately report such allegations to the Chairman of the Board of Selectmen.

Town employees are not to initiate investigations on their own. However, anyone may report suspected violations or concerns by letter to the Finance Director and should indicate that he or she is an employee of the Town. The report should be sufficiently detailed and inclusive to ensure a clear understanding of the issues raised. Mark the envelope "Confidential and Private". It is the policy of the Town that anyone who reports a violation may make such report confidentially and offsite.

There shall be no retaliation by the Town's employees against any employee who makes a report pursuant to this policy even if after investigation the Finance Director determines that there has not been a violation of any applicable Town policy, State or Federal laws and regulations or internal accounting controls. However, employees who make reports or provide evidence which they know to be false or, without a reasonable belief in the truth and accuracy of such information, may be subject to disciplinary action.

ANONYMOUS ALLEGATIONS

The Town encourages individuals to put their names to allegations. Concerns expressed anonymously are difficult to investigate; nevertheless they will be followed up at the discretion of management. This discretion will be applied by taking into account the following:

- Seriousness of the issue raised;
 - Credibility of the concern; and
 - Likelihood of confirming the allegation.

FALSE ALLEGATIONS

Employees or other parties must understand the implications (resources and costs) of undertaking investigations and should therefore guard against making allegations, which are false and made with malicious intent. Evidence of malicious intent will result in disciplinary action, and may include termination.

TRAINING, EDUCATION, AND AWARENESS

In order for the Policy to be sustainable, it must be supported by a structured education, communication and awareness program.

It is the responsibility of management to ensure that all employees and other parties, are made aware of, and receive appropriate training and education with regard to this Policy, and the related policies and procedures of the Town.

INVESTIGATION

It is the Town Administrator's intent to fully investigate any suspected acts of fraud, abuse, or similar irregularity. An objective and impartial investigation will be conducted regardless of the position, title, length

of service, or relationship with the Town of any party involved in such an investigation. In conducting investigations, the Finance Director will consult with and receive guidance from the Town Attorney, the West Boylston Police Department and others they identify.

MEDIA ISSUES

Any staff person contacted by the media with respect to an audit investigation is encouraged to refer the media to the appropriate public communications official of the Town. The alleged fraud or audit investigation should not be discussed with the media by any person other than those trained to do so. The Town Administrator and Finance Director will consult with the management of the department involved and assist them in responding to any media requests for information or interview.

REPORTING TO EXTERNAL AUDITORS

The Finance Director will report to the external auditors of the Town all information relating to fraud investigations, in accordance with Statement on Auditing Standard 99 - Consideration of Fraud in a Financial Statement Audit, as issued by the Financial Accounting Standards Board.

WHISTLEBLOWER PROTECTION

In addition to whistleblower protections provided by federal and state laws, this policy provides that retaliation against employees is prohibited.

A. Except as provided in subsection B of this section, no appointing authority or supervisor shall initiate or administer any disciplinary action, deny a promotional opportunity, write an adverse job performance evaluation or in any way adversely affect an employee on account of the employee's disclosure of information. This section shall not apply to:

1. An employee who discloses information that the employee knows to be false or who discloses information with disregard for the truth or falsity of the information.
2. An employee who discloses information from public records that are closed to public inspection pursuant to the Massachusetts Public Records Law.
3. An employee who discloses information that is confidential under any other provision of law.

B. It shall be the obligation of an employee who discloses information under this part to make a good faith effort to provide to their supervisor or appointing authority or the Finance Director, the information to be disclosed prior to its public disclosure.

SECURITY AND CONFIDENTIALITY

All work products of the Finance Director's investigations, including but not limited to working papers, notes, interviews, and other information relating to investigations will not be shared, discussed, or given to anyone without an absolute need to know or pursuant to Court Order. The Finance Director will provide a secure environment for the storage of all work-in-process regarding investigations, subject to law.

ADDENDUM A

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.

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

Chapter 28 of the Acts of 2009, sections 17–20, repealed the existing state Open Meeting Law, G.L. c. 30A, §§ 11A, 11A-1/2, county Open Meeting Law, G.L. c. 34, §9F, 9G, and municipal Open Meeting Law, G.L. c. 39, §§ 23A, 23B, and 23C, and replaced them with a single Open Meeting Law covering all public bodies, G.L. c. 30A, §§ 18-25, enforced by the Attorney General.

* * *

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 in accordance with 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 shall have the authority to prescribe or approve alternative methods of notice where the attorney general determines such alternative 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. Such 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 authorize remote participation applicable to a specific meeting or generally to all of the commission's meetings. If a local commission on disability is authorized to utilize remote participation, a physical quorum of that commission's members shall not be required to be present at the meeting location; provided, however, that the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location. The commission shall comply with all other requirements of law.

(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.

(f) 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.

(g) 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 pursuant to 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 such 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.

ADDENDUM B

940 CMR 29.00: Open Meetings

Open Meetings

29.01: Purpose, Scope and Other General Provisions

(1) **Authority** . The Attorney General promulgates 940 CMR 29.00, relating to the Open Meeting Law, pursuant to [M.G.L. c. 30A, sec. 25 \(a\) and \(b\)](#).

(2) **Purpose** . The purpose of 940 CMR 29.00 is to interpret, enforce and effectuate the purposes of the Open Meeting Law, [M.G.L. c. 30A, sec. 18-25](#).

(3) **Severability** . If any provision of 940 CMR 29.00 or the application of such provision to any person, public body, or circumstances shall be held invalid, the validity of the remainder of 940 CMR 29.00 and the applicability of such provision to other persons, public bodies, or circumstances shall not be affected thereby

(4) **Mailing** . All complaints, notices (except meeting notices) and other materials that must be sent to another party shall be sent by one of the following means: first class mail, email, hand delivery, or by any other means at least as expeditious as first class mail.

29.02: Definitions

As used in 940 CMR 29.00, the following terms shall, unless the context clearly requires otherwise, have the following meanings:

Commission means the Open Meeting Law Advisory Commission, as defined by [G.L. c. 30A, sec. 19\(c\)](#).

District Public Body means a public body with jurisdiction that extends to two or more municipalities.

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

Intentional Violation means an act or omission by a public body or a member thereof, in knowing violation of [M.G.L. c. 30A, sec. 18-25](#). Evidence of an intentional violation of [M.G.L. c. 30A, sec. 18-25](#) shall include, but not be limited to, that the public body or public body member (a) acted with specific intent to violate the law; (b) acted with deliberate ignorance of the law's requirements; or (c) was previously informed by receipt of a decision from a court of competent jurisdiction or advised by the Attorney General, pursuant to [940 CMR 29.07](#) or [940 CMR 29.08](#), that the conduct violates [M.G.L. c. 30A, sec. 18-25](#). Where a public body or public body member has made a good faith attempt at compliance with the law, but was reasonably mistaken about its requirements or, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel, such conduct will not be considered an intentional violation of [M.G.L. c. 30A, sec. 18-25](#).

Person means all individuals and entities, including governmental officials and employees. Person does not include public bodies.

Post notice means to place a written announcement of a meeting on a bulletin board, electronic display, website, cable television channel, newspaper or in a loose-leaf binder in a manner conspicuously visible to the public, including persons with disabilities, at all hours, in accordance with [940 CMR 29.03](#).

Public body has the identical meaning as set forth in [M.G.L. c. 30A, sec. 18](#), that is, 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 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.

Qualification for Office means the election or appointment of a person to a public body and the taking of the oath of office, where required, and shall include qualification for a second or any subsequent term of office. Where no term of office for a member of a public body is specified, the member shall be deemed to be qualified for office on a biannual basis on January 1st of a calendar year beginning on January 1, 2011. Where a member's term of office began prior to July 1, 2010, and will not expire until after July 1, 2011, the member shall be deemed to have qualified for office on January 1, 2011.

Remote Participation means participation by a member of a public body during a meeting of that public body where the member is not physically present at the meeting location.

29.03: Notice Posting Requirements

(1) Requirements Applicable to All Public Bodies

(a) Except in an emergency, public bodies shall file meeting notices sufficiently in advance of a public meeting to permit posting of the notice at least 48 hours in advance of the public meeting, excluding Saturdays, Sundays and legal holidays, in accordance with [M.G.L. c. 30A, sec. 20](#). In an emergency, the notice shall be posted as soon as reasonably possible prior to such meeting

(b) Meeting notices shall be printed or displayed 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. The list of topics shall have sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting. The date and time that the notice is posted shall be conspicuously recorded thereon or therewith.

(c) Notices posted under an alternative posting method authorized by 940 CMR 29.03(2)-(5) shall include the same content as required by 940 CMR 29.03(1)(b). If such an alternative posting method is adopted, the municipal clerk, in the case of a municipality, or the body, in all other cases, shall file with the Attorney General written notice of adoption of the alternative

method, including the website address where applicable, and any change thereto, and the most current notice posting method on file with the Attorney General shall be consistently used

(2) Requirements Specific to Local Public Bodies

(a) The municipal clerk, or other person designated by agreement with the municipal clerk, shall post notice of the meeting 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.,. Such notice shall be accessible to the public in the municipal clerk's office. If such notice is not conspicuously visible to the public during hours when the clerk's office is closed, such notice shall also be made available through an alternative method prescribed or approved by the Attorney General under 940 CMR 29.03(2)(b). A description of such alternative method, sufficient to allow members of the public to obtain notice through such method, shall be posted in a manner conspicuously visible to the public at all hours on or adjacent to the main and handicapped accessible entrances to the municipal building in which the clerk's office is located.

(b) For local public bodies, the Attorney General has determined, pursuant to [M.G.L. c. 30A, sec. 20\(c\)](#), that the following alternative methods will provide more effective notice to the public:

- 1.
1. Public bodies may post notice of meetings on the municipal website;
2. Public bodies may post notice of meetings on cable television, AND, post notice or provide cable television access in an alternate municipal building (*e.g.*, police or fire station) where the notice is accessible at all hours;
3. Public bodies may post notice of meetings in a newspaper of general circulation in the municipality, AND, post notice or a copy of the newspaper containing the meeting notice at an alternate municipal building (*e.g.*, police or fire station) where the notice is accessible at all hours;
4. Public bodies may place a computer monitor or electronic or physical bulletin board displaying meeting notices on or in a door, window, or near the entrance of the municipal building in which the clerk's office is located in such a manner as to be visible to the public from outside the building, or;
5. Public bodies may provide an audio recording of meeting notices, available to the public by telephone at all hours.

(3) Requirements Specific to Regional or District Public Bodies.

(a) Notice shall be filed and posted in each city and town within the region or district in the manner prescribed for local public bodies in that city or town.

(b) As an alternative method of notice, a regional or district public body may post a meeting notice on the regional or district public body's website. A copy of the notice shall be filed and kept by the chair of the public body or the chair's designee.

(4) Requirements Specific to Regional School Districts.

(a) The secretary of the regional school district committee shall be considered to be its clerk. The clerk of the regional school district shall file notice with the municipal clerk of each city and town within such district and each such municipal clerk shall post the notice in the manner prescribed for local public bodies in that city or town.

(b) As an alternative method of notice, a regional school district committee may post a meeting notice on the regional school district's website. A copy of the notice shall be filed and kept by the secretary of the regional school district committee or the secretary's designee.

(5) Requirements Specific to County Public Bodies.

(a) Notice shall be filed and posted 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 this purpose.

(b) As an alternative method of notice, a county public body may post a meeting on the county public body's website. A copy of the notice shall be filed and kept by the chair of the county public body or the chair's designee.

(6) Requirements Specific to State Public Bodies. Notice shall be posted on a website in accordance with procedures established by the Attorney General in consultation with the Information Technology Division of the Executive Office for Administration and Finance for the purpose of providing the public with effective notice. A copy of each notice shall also be sent by first class or [electronic mail to the Secretary of State's Regulations Division](#). The chair of each state public body shall notify the Attorney General in writing of its Internet notice posting location and any change thereto. The public body shall consistently use the most current notice posting method on file with the Attorney General.

29.04: Certification

(1) For local public bodies, a document including [M.G.L. c. 30A, sec. 18-25](#); a document including 940 CMR 29.00; and educational materials prepared by the Attorney General explaining [M.G.L. c. 30A, sec. 18-25](#), and its application, shall be delivered by the municipal clerk to each member of a public body, whether elected or appointed, upon taking the oath of office, if required, and in every case before entering into performance of the office. Within two weeks after receipt of such materials, the member shall certify, on the form prescribed by the Attorney General, receipt of such materials. The municipal clerk shall maintain the signed certification for each such person, indicating the date the person received the materials.

(2) For regional, district, county or state public bodies, a document including [M.G.L. c. 30A, sec. 18-25](#); a document including 940 CMR 29.00; and educational materials prepared by the Attorney General explaining [M.G.L. c. 30A, sec. 18-25](#), and its application, shall be delivered by the appointing authority, executive director or other appropriate administrator or their designees, to each member of a public body, whether elected or appointed, upon taking the oath of office, if required, and in every case before entering into the performance of the office. Within two weeks after receipt of such materials, the member shall certify, on the form prescribed by the Attorney General, receipt of such materials. The appointing authority, executive director or other appropriate administrator, or their designees, shall maintain the signed certification for each such person, indicating the date the person received the materials.

29.05: Complaints

(1) All complaints shall be in writing, using the form approved by the Attorney General and available on the Attorney General's website. A public body need not, and the Attorney General will not, investigate or address anonymous complaints.

(2) Public bodies, or the municipal clerk in the case of a local public body, should provide any person, on request, with an Open Meeting Law complaint form. If a paper copy is unavailable, then the public body should direct the requesting party to the Attorney General's website, where an electronic copy of the form will be available for downloading and printing.

(3) For local public bodies, the complainant shall file the complaint with the chair of the public body, who shall disseminate copies of the complaint to the members of the public body. The complainant shall also file a copy of the complaint with the municipal clerk, who shall keep such filings in an orderly fashion for public review on request during regular business hours. For all other public bodies, the complainant shall file the complaint with the chair of the relevant public body, or if there is no chair, then with the public body. The complaint shall be filed within 30 days of the alleged violation of [M.G.L. c. 30A, sec. 18-25](#), or if the alleged violation of [M.G.L. c. 30A, sec. 18-25](#), could not reasonably have been known at the time it occurred, then within 30 days of the date it should reasonably have been discovered.

(4) The public body shall review timely complaints to ascertain the time, date, place and circumstances which constitute the alleged violation. If the public body needs additional information to resolve the complaint, then the chair may request it from the complainant within seven business days of receiving the complaint. The complainant shall respond within 10 business days after he or she receives the request. The public body will then have an additional 10 business days after receiving the complainant's response to review the complaint and take any remedial action pursuant to 940 CMR 29.05(5)..

(5) Within 14 business days after receiving the complaint, unless an extension has been granted by the Attorney General as provided in 940 CMR 29.05(5)(a) and (b), the public body shall review the complaint's allegations; take remedial action, if appropriate; and send to the Attorney General a copy of the complaint and a description of any remedial action taken. The public body shall simultaneously notify the complainant that it has sent such materials to the Attorney General and shall provide the complainant with a copy of the description of any remedial action taken.

(a) Any remedial action taken by the public body in response to a complaint under 940 CMR 29.05(5) shall not be admissible as evidence that a violation occurred in any later administrative or judicial proceeding against the public body relating to the alleged violation.

(b) If the public body requires additional time to resolve the complaint, it may obtain an extension from the Attorney General by submitting a written request within 14 business days after receiving the complaint. The Attorney General will grant an extension if the request demonstrates good cause. Good cause will generally be found if, for example, the public body cannot meet within the 14 business day period to consider proposed remedial action. The Attorney General shall notify the complainant of any extension and the reason for it.

(6) If at least 30 days have passed after the complaint was filed with the public body, and if the complainant is unsatisfied with the public body's resolution of the complaint, the complainant may file a complaint with the Attorney General. When filing a complaint with the Attorney General, the complainant shall include a copy of the original complaint along with any

other materials the complainant believes are relevant. The Attorney General may decline to investigate complaints filed with the Attorney General more than 90 days after the alleged violation of [M.G.L. c. 30A, sec. 18-25](#), unless an extension was granted to the public body or the complainant demonstrates good cause for the delay.

(7) The Attorney General shall acknowledge receipt of all complaints and will resolve them within a reasonable period of time, generally 90 days. If additional time is necessary to resolve a particular complaint, the Attorney General will notify the complainant and the public body.

(8) If a complaint appears untimely, is not in the proper form, or is missing information, the Attorney General shall return the complaint to the complainant within 14 business days of its receipt, noting its deficiencies. The complainant shall then have 14 business days to correct the deficiencies and resubmit the complaint to the Attorney General. If the deficiencies are not corrected, no further action on the complaint will be taken by the Attorney General.

29.06: Investigation

Whenever the Attorney General has reasonable cause to believe that a violation of [M.G.L. c. 30A, sec. 18-25](#), has occurred that has not been adequately remedied, then the Attorney General may conduct an investigation.

(1) The Attorney General shall notify the public body or person that is the subject of a complaint and an investigation of the existence of the investigation within a reasonable period of time. The Attorney General shall also notify the public body or person of the nature of the alleged violation

(2) Upon notice of the investigation, the subject of the investigation shall provide the Attorney General with all information relevant to the investigation. The subject may also submit a memorandum or other writing to the Attorney General, addressing the allegations being investigated.

If the subject of the investigation fails to voluntarily provide the necessary or relevant information within 30 days of receiving notice of the investigation, the Attorney General may issue subpoenas to obtain the information in accordance with [M.G.L. c. 30A, sec. 24](#), to:

- (a) Take testimony under oath;
- (b) Examine or cause to be examined any documentary material; or
- (c) Require attendance during such examination of documentary material by any person having knowledge of the documentary material and take testimony under oath or acknowledgment in respect of any such documentary material.

Any documentary material or other information produced by any person pursuant to [940 CMR 29.06](#) shall not, unless otherwise ordered by a court of the Commonwealth for good cause shown, be disclosed without that person's consent by the Attorney General to any person other than the Attorney General's authorized agent or representative. However, the Attorney General may disclose the material in court pleadings or other papers filed in court; or, to the extent necessary, in an administrative hearing or other action taken to conduct or resolve the investigation pursuant to 940 CMR 29.00.

29.07: Resolution

(1) No Violation. If the Attorney General determines, after investigation, that the [M.G.L. c. 30A, sec. 18-25](#), has not been violated, the Attorney General shall terminate the investigation and notify, in writing, the subject of the investigation and any complainant

(2) Violation Resolved Without Hearing. If the Attorney General determines after investigation that [M.G.L. c. 30A, sec. 18-25](#), has been violated, the Attorney General may resolve the investigation without a hearing. The Attorney General shall determine whether the relevant public body, one or more of its members, or both, were responsible, and whether the violation was intentional or unintentional. The Attorney General will notify, in writing, any complainant of the investigation's resolution. Upon finding a violation of [M.G.L. c. 30A, sec. 18-25](#), the Attorney General may take one of the following actions:

(a) Informal action. The Attorney General may resolve the investigation with a telephone call, letter or other appropriate form of communication that explains the violation and clarifies the subject's obligations under [M.G.L. c. 30A, sec. 18-25](#), providing the subject with a reasonable period of time to comply with any outstanding obligations.

(b) Formal order. The Attorney General may resolve the investigation with a formal order. The order may require:

1. Immediate and future compliance with [M.G.L. c. 30A, sec. 18-25](#);
2. Attendance at a training session authorized by the Attorney General;
3. That minutes, records or other materials be made public; or
4. Other appropriate action.

Orders shall be available on the Attorney General's website.

(3) Violation Resolved After Hearing. The Attorney General may conduct a hearing where the Attorney General deems appropriate. The hearing shall be conducted pursuant to [801 CMR 1.00 et seq.](#), as modified by any regulations issued by the Attorney General. At the conclusion of the hearing, the Attorney General shall determine whether a violation of [M.G.L. c. 30A, sec. 18-25](#), occurred, whether the public body, one or more of its members, or both, were responsible, and whether the violation was intentional or unintentional. The Attorney General will notify, in writing, any complainant of the investigation's resolution. Upon a finding that a violation occurred, the Attorney General may order:

- (a) Immediate and future compliance with [M.G.L. c. 30A, sec. 18-25](#);
- (b) Attendance at a training session authorized by the Attorney General;
- (c) Nullification of any action taken at the relevant meeting, in whole or in part;
- (d) Imposition of a fine upon the public body of not more than \$1,000 for each intentional violation;
- (e) That an employee be reinstated without loss of compensation, seniority, tenure or other benefits;

- (f) That minutes, records or other materials be made public; or
- (g) Other appropriate action.

Orders issued following a hearing shall be available on the Attorney General's website.

(4) A public body or any member of a body aggrieved by any order issued by the Attorney General under [940 CMR 29.07](#) may obtain judicial review of the order through an action in Superior Court seeking relief in the nature of certiorari. Any such action must be commenced in Superior Court within 21 days of receipt of the order.

29.08: Advisory Opinions

The Attorney General may issue advisory opinions on request or at his or her own initiative to provide guidance to public bodies and the public on changes to [M.G.L. c. 30A, sec. 18-25](#), court decisions interpreting [M.G.L. c. 30A, sec. 18-25](#), or other developments concerning [M.G.L. c. 30A, sec. 18-25](#).

(1) The Attorney General shall ordinarily make a draft advisory opinion available for comment on the Attorney General's website at least 60 days prior to the planned issuance of the opinion. Notice of the posting shall be provided to the Commission.

(2) Comments on the draft advisory opinion shall be submitted, in writing, to the Attorney General at least 30 days prior to the planned issuance of the opinion.

(3) Action taken by a public body in good faith compliance with an advisory opinion, provided that the circumstances are not materially different, shall not constitute an intentional violation of the [M.G.L. c. 30A, sec. 18-25](#).

29.09: Other Enforcement Actions

Nothing in [940 CMR 29.06](#) or [29.07](#) shall limit the Attorney General's authority to file a civil action to enforce M.G.L. c. 30A, sec 18-25 [M.G.L. c. 30A, sec. 18-25](#) pursuant to [M.G.L. c. 30A, sec. 23\(f\)](#).

29.10: Remote Participation

(1) Preamble. Remote participation may be permitted subject to the following procedures and restrictions. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. By promulgating these regulations, the Attorney General hopes to promote greater participation in government. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

(2) Adoption of Remote Participation. Remote participation in meetings of public bodies is not permitted unless the practice has been adopted as follows:

(a) Local Public Bodies. The Chief Executive Officer, as defined in [M.G.L. c. 4, sec. 7](#), must authorize or, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that authorization or vote applying to all subsequent meetings of all local public bodies in that municipality.

- (b) Regional or District Public Bodies. The regional or district public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.
- (c) Regional School Districts. The regional school district committee must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.
- (d) County Public Bodies. The county commissioners must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of all county public bodies in that county.
- (e) State Public Bodies. The state public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.
- (f) Retirement Boards. A retirement board created pursuant to [M.G.L. c. 32, sec. 20](#) or [M.G.L. c. 34B, § 19](#) must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.
- (3) Revocation of Remote Participation. Any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) may revoke that adoption in the same manner.
- (4) Minimum Requirements for Remote Participation.
- (a) Members of a public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other;
- (b) A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location, as required by [M.G.L. c. 30A, sec 20\(d\)](#);
- (c) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of [M.G.L. c. 39, sec. 23D](#).
- (5) Permissible Reasons for Remote Participation. If remote participation has been adopted in accordance with 940 CMR 29.10(2), a member of a public body shall be permitted to participate remotely in a meeting, in accordance with the procedures described in 940 CMR 29.10(7), if the chair or, in the chair's absence, the person chairing the meeting, determines that one or more of the following factors makes the member's physical attendance unreasonably difficult:
- (a) Personal illness;
- (b) Personal disability;
- (c) Emergency;

- (d) Military service; or
- (e) Geographic distance.

(6) Technology.

(a) The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted. Accommodations shall be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications.

- (i) telephone, internet, or satellite enabled audio or video conferencing;

- (ii) any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.

(b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.

(c) The public body shall determine which of the acceptable methods may be used by its members.

(d) The chair or, in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged, wherever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.

(e) The amount and source of payment for any costs associated with remote participation shall be determined by the applicable adopting entity identified in 940 CMR 29.10(2).

(7) Procedures for Remote Participation.

(a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.

(b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. This information shall also be recorded in the meeting minutes.

(c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.

(d) A member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the public body.

(e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants, in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting, and shall be listed in the meeting minutes and retained in accordance with [M.G.L. c. 30A, sec. 22](#).

(8) Further Restriction by Adopting Authority. These regulations do not prohibit any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) from enacting policies, laws, rules or regulations that prohibit or further restrict the use of remote participation by public bodies within that person or entity's jurisdiction, provided those policies, laws, rules or regulations do not violate state or federal law.

(9) Remedy for Violation. If the Attorney General determines, after investigation, that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

END NOTES

1. i Chapter 30A § 18

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

2. ii Chapter 66 § 5A

Section 5A. The records, required to be kept by sections eleven A of chapter thirty A, nine F of chapter thirty-four and twenty-three B of chapter thirty-nine, shall report the names of all members of such boards and commissions present, the subjects acted upon, and shall record exactly the votes and other official actions taken by such boards and commissions; but unless otherwise required by the governor in the case of state boards, commissions and districts, or by the county commissioners in the case of county boards and commissions, or the governing body thereof in the case of a district, or by ordinance or by-law of the city or town, in the case of municipal boards, such records need not include a verbatim record of discussions at such meetings.

3. iii Chapter 30A §§ 22(a)

Section 22. (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.

4. iv Chapter 30A §22(c)

Section 22, (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.

v Chapter 66 § 10

Section 10. (a) Every person having custody of any public record, as defined in clause Twenty-sixth of section seven of chapter four, shall, at reasonable times and without unreasonable delay, permit it, or any segregable portion of a record which is an independent public record, to be inspected and examined by any person, under his supervision, and shall furnish one copy thereof upon payment of a reasonable fee. Every person for whom a search of public records is made shall, at the direction of the person having custody of such records, pay the actual expense of such search. The following fees shall apply to any public record in the custody of the state police, the Massachusetts bay transportation authority police or any municipal police department or fire department: for preparing and mailing a motor vehicle accident report, five dollars for not more than six pages and fifty cents for each additional page; for preparing and mailing a fire insurance report, five dollars for not more than six pages plus fifty cents for each additional page; for preparing and mailing crime, incident or miscellaneous reports, one dollar per page; for furnishing any public record, in hand, to a person requesting such records, fifty cents per page. A page shall be defined as one side of an eight and one-half inch by eleven inch sheet of paper.

(b) A custodian of a public record shall, within ten days following receipt of a request for inspection or copy of a public record, comply with such request. Such request may be delivered in hand to the office of the custodian or mailed via first class mail. If the custodian refuses or fails to comply with such a request, the person making the request may petition the supervisor of records for a determination whether the record requested is public. Upon the determination by the supervisor of records that the record is public, he shall order the custodian of the public record to comply with the person's request. If the custodian refuses or fails to comply with any such order, the supervisor of records may notify the attorney general or the appropriate district attorney thereof who may take whatever measures he deems necessary to insure compliance with the provisions of this section. The administrative remedy provided by this section shall in no way limit the availability of the administrative remedies provided by the commissioner of administration and finance with respect to any officer or employee of any agency, executive office, department or board; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If a custodian of a public record refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this section, the supreme judicial or superior court shall have jurisdiction to order compliance.

(c) In any court proceeding pursuant to paragraph (b) there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove with specificity the exemption which applies.

5. vi Chapter 66 §10

Section 10. (a) Every person having custody of any public record, as defined in clause Twenty-sixth of section seven of chapter four, shall, at reasonable times and without unreasonable delay, permit it, or any segregable portion of a record which is an independent public record, to be inspected and examined by any person, under his supervision, and shall furnish one copy thereof upon payment of a reasonable fee. Every person for whom a search of public records is made shall, at the direction of the person having custody of such records, pay the actual expense of such search. The following fees shall apply to any public record in the custody of the state police, the Massachusetts bay transportation authority police or any municipal police department or fire department: for preparing and mailing a motor vehicle accident report, five dollars for not more than six pages and fifty cents for each additional page; for preparing and mailing a fire insurance report, five dollars for not more than six pages plus fifty cents for each additional page; for preparing and mailing crime, incident or miscellaneous reports, one dollar per page; for furnishing any public record, in hand, to a person requesting such records, fifty cents per page. A page shall be defined as one side of an eight and one-half inch by eleven inch sheet of paper.

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and finance with respect to any officer or employee of any agency, executive office, department or board; nor shall the administrative remedy provided by this section in any way limit the availability of judicial remedies otherwise available to any person requesting a public record. If a custodian of a public record refuses or fails to comply with the request of any person for inspection or copy of a public record or with an administrative order under this section, the supreme judicial or superior court shall have jurisdiction to order compliance.

(c) In any court proceeding pursuant to paragraph (b) there shall be a presumption that the record sought is public, and the burden shall be upon the custodian to prove with specificity the exemption which applies.

(d) The clerk of every city or town shall post, in a conspicuous place in the city or town hall in the vicinity of the clerk's office, a brief printed statement that any citizen may, at his discretion, obtain copies of certain public records from local officials for a fee as provided for in this chapter.

The commissioner of the department of criminal justice information services, the department of criminal justice information services and its agents, servants, and attorneys including the keeper of the records of the firearms records bureau of said department, or any licensing authority, as defined by chapter one hundred and forty shall not disclose any records divulging or tending to divulge the names and addresses of persons who own or possess firearms, rifles, shotguns, machine guns and ammunition therefor, as defined in said chapter one hundred and forty and names and addresses of persons licensed to carry and/or possess the same to any person, firm, corporation, entity or agency except criminal justice agencies as defined in chapter six and except to the extent such information relates solely to the person making the request and is necessary to the official interests of the entity making the request.

The home address and home telephone number of law enforcement, judicial, prosecutorial, department of youth services, department of children and families, department of correction and any other public safety and criminal justice system personnel, and of unelected general court personnel, shall not be public records in the custody of the employers of such personnel or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed, but such information may be disclosed to an employee organization under chapter 150E, a nonprofit organization for retired public employees under chapter 180 or to a criminal justice agency as defined in section 167 of chapter 6. The name and home address and telephone number of a family member of any such personnel shall not be public records in the custody of the employers of the foregoing persons or the public employee retirement administration commission or any retirement board established under chapter 32 and shall not be disclosed. The home address and telephone number or place of employment or education of victims of adjudicated crimes, of victims of domestic violence and of persons providing or training in family planning services and the name and home address and telephone number, or place of employment or education of a family member of any of the foregoing shall not be public records in the custody of a government agency which maintains records identifying such persons as falling within such categories and shall not be disclosed.