




CITY OF SOMERVILLE, MASSACHUSETTS  
LAW DEPARTMENT

MEMORANDUM

TO: Honorable Joseph A. Curtatone, Mayor  
Honorable Board of Aldermen  
Honorable School Committee Members  
All Boards, Commissions and Department Heads of the City of Somerville

FROM: Francis X. Wright, Jr., City Solicitor 

DATE: June 21, 2010

RE: Revised Open Meeting Law

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The Massachusetts Open Meeting law has recently been revised as part of the 2009 Ethics Reform Bill. Part of the revisions centralize state-wide enforcement of the law with the Office of the Attorney General. The scheduled effective date for these revisions is July 1, 2010.

The overriding purpose of the Open Meeting Law ("Law") is for deliberations and decisions upon which public policy is based to be held in public. The Law requires that most meetings of governmental bodies be held in public, with proper notice. However, there are certain exceptions within the Law that ensure public officials are not "unduly hampered" by requiring every discussion among public officials be held in public. Consequently, the Law provides for certain circumstances under which a meeting may be held in executive, or closed, session. The following, in summary form, is a list of the relevant changes to the Law:

1. The law applies to all public bodies. The law defines a public body as "a multi-member board, commission, committee or sub-committee, however created, elected, appointed or otherwise established ...." Please contact this office if you have any questions regarding applicability of the law.



2. New requirements for all persons serving on “public bodies” to receive Attorney General’s version of Open Meeting Law, regulations and educational material; the City Clerk or a designee shall maintain written certifications of receipt. In a follow-up communication, you will be notified how to comply with this provision.
3. 48 hour notice is still required under the Law. However, Saturdays, Sundays and legal holidays cannot be counted as part of the notice requirement. (As an example, a Monday night meeting must be posted before the preceding Thursday night.) As a practical matter, be sure that the City Clerk receives all meeting notices for posting no later than Wednesday of the week prior to the meeting.
4. All notices of public meetings must: (1) include a list of topics the chair reasonably anticipates will be discussed; and (2) be posted in or on a municipal building to be visible to the public at all hours of the day. Your meeting posting must include a list of topics that the Chair expects will be discussed. This does not prevent the meeting from addressing items that the Chair did not reasonably expect to be discussed.
5. Emails are expressly included in the definition of “deliberation” under the Law. Such communications are prohibited outside of an open session. However, please note that distribution of agendas, scheduling information or reports to be discussed at an upcoming meeting are permitted via email.
6. Attendance by a quorum of members at a particular event or location is not a “meeting” if it is not intended to conduct business and no deliberation occurs. (As an example, attending a conference, social event, or a meeting of another municipal board is permitted.)
7. The Law now requires that minutes of meetings must contain more detailed information. In addition to “date, time, place and matters discussed,” minutes must also include summaries of matters discussed, list of documents used, and all decisions made/votes taken. Even before they are formally approved by the body, minutes must be generated, maintained, and made available within 10 days of a request.
8. Documents and other exhibits, such as photographs, recordings or maps, used by the body at an open executive session shall, along with the minutes of a meeting, become part of the official public record of the session. You may want to ask participants of your meeting to bring additional copies for the record of any materials they intend to submit during the meeting.
9. Chairs of bodies are required to periodically review executive session minutes and determine if they should be released, or if the purpose for convening the executive session is still ongoing, thus requiring that the minutes of said session be kept as confidential.



10. The Attorney General will assume all interpretation and enforcement authority over the Law, and District Attorneys will no longer be involved. The Law also grants unto the Attorney General broad enforcement authority.
11. Under the Law, citizens seeking to make complaints of violations of the Law must now first file a written complaint with the governmental body. Upon receipt, the governmental body is required to reply to the complaining party and forward its reply to the Attorney General. If you receive any complaints of violations of the open meeting law, please forward them to the Law Office immediately.

I have also attached for your convenience a one page guide to the changes in the open meeting law.

Although there is discussion at the state level about delaying implementation of the above changes to November 1, 2010, please assume that these changes will take effect on July 1, 2010.

If your respective bodies have specific questions relative to these changes, please do not hesitate to contact this office.