

AG'S DETERMINATIONS ON OML COMPLAINTS

July 1, 2010 – September 1, 2011

No Violation Found
No Violation Found – But Board Cautioned by AG
Mixed Decision – No to some and Yes to other Violation(s)
Violations Found
Cold Case – No Substantive Decision under OML

AG CITE	CITY or TOWN	PUBLIC BODY	ALLEGED OML VIOLATION	VIOLATION	REASONING	PENALTY IMPOSED
9-21-2010	Brewster	Archives Committee	<ol style="list-style-type: none"> 1. Failure to provide notice of meeting; 2. Inaccurate minutes; 3. Improper complaint procedure. 	<ol style="list-style-type: none"> 1. No 2. No 3. Yes 	<ol style="list-style-type: none"> 1. No OML requirement to notify members beyond the public posting. 2. OML only requires listing of members present <i>or</i> absent; not both. 3. OML requires entire public body to review and respond to the complaint, not just the Chair, unless otherwise delegated. 	<ol style="list-style-type: none"> 1. Recommend ensuring members know of meetings; 2. Recommend listing both present and absent members; 3. Require Committee to proceed on complaints as a public body in the future.
OML 2010-1	Winchester	Board of Directors, Winchester Community Access & Media (“Wincam”)	Improper posting and meeting in closed session.	No	<p>Wincam was not found to be a “public body” within the OML because it did not satisfy the 3 factors:</p> <ol style="list-style-type: none"> 1. Is it “within gov’t and not excluded from definition? 2. Is it empowered to act collectively? 3. Does it serve a “public purpose”? <p>Wincam was found not to be “within gov’t” because, although (1) gov’t played a significant role in its creation and structure (req’d by Town license agt) and</p>	N/A

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					(2) gov't has control over the entity (BOD appointed and removable by Town), (3) it does not perform an essential gov't function (public tv is public service but not essential or traditional gov't function).	
OML 2011-25	Cotuit	Board of Fire Commissioners	Improper posting.	No	The general disclaimer on all notices that any continued topic will not be re-noticed is wrong under the OML. There is no such exception in the notice requirement. "If a public body chooses to continue the discussion of a topic to a future date, the public body must post the topic on a meeting notice at least 48 hours in advance of the next meeting." But no continued topics ever actually took place without proper notice, so no violation of the OML was found.	N/A. But disclaimer will be removed voluntarily.
OML 2011-3	Newton	Board of License Commissioners	Improper Executive Session	Yes	*Prior version of OML applied. Although the Commission may meet in Executive Session to discuss litigation strategy, it must follow proper procedures of publishing notice of meeting, convening in open session and maintaining minutes.	N/A – the AG has no enforcement authority for violation prior to July 1, 2010. Admonished to follow the requirements of the new OML.
OML 2010-6	Gloucester	Board of Trustees of Community Arts Charter School	1. Improper Executive Session (Jan. 6, 2010) 2. Improper deliberation (Jan. 13-Feb. 18, 2010) 3. Improper posting (emergency meeting)	1. Yes 2. Yes 3. Yes	*Prior version of OML applied to 1 and 2. 1. Topics other than proper Executive Session topics were discussed with counsel. There	<ul style="list-style-type: none"> • Immediate and future compliance with the OML; • Attend OML trainings annually for 2 years; • Email copies of all

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			(Sept. 13, 2010)		<p>is no enumerated purpose in the OML for seeking legal advice from counsel.</p> <ol style="list-style-type: none"> 2. Personnel decisions on contracts not subject to collective bargaining cannot be made in Executive Session. Also, although not enough evidence to find violations, AG raised concerns making important decisions without public deliberation (re personnel and building location). 3. The Board could have anticipated the need for a new location, therefore the cause for the meeting did not meet the definition of “emergency”, and even if it did, there was enough time to post outside of the 48-hr. margin. 	<p>meeting notices to AG’s office for the next 2 years;</p> <ul style="list-style-type: none"> ▪ Review all Executive Session minutes within the next 30 days to determine if they should be released.
OML 2011-34	UMass	Board of Trustees of Presidential Search Committee	<p>“Many and wide-ranging”</p> <ol style="list-style-type: none"> 1. Improper Executive Session (Jan. 13). 2. Improper Remote Participation. 3. Improper Executive Session (posting and procedure). 4. Failure to maintain proper minutes. 5. Improper postings. 6. Subcommittee failed wholly to follow the OML. 	Yes (to all)	<p>The AG found the entire search process flawed.</p> <ol style="list-style-type: none"> 1. Board cannot interview candidates in secret. Board violated OML by discussing prohibited topic of professional competence during the Executive Session, rather than only the noticed topic of reputation and character. Not even any evidence of concern re reputation and character – rather forced discussions of professional competence into that category. “Reputation and character” are not technical terms. 	<p>Prior to next search:</p> <ul style="list-style-type: none"> • Immediate and future compliance with the OML. Similar future violations will be considered intentional violations. • Certify that each member of the Board has received a copy of the determination. • Certify that each member of the Board (or Search Committee) has received OML training. • Submit copies of all

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					<p>Rather, there is a common understanding of what they mean” such as, “your reputation among colleagues or supervisor,’ “how others might see you,” and behavior or conduct that “might have human resources implications,” or that involves “law enforcement.” Also inappropriate for the Board to reach consensus on a candidate in secret. It also cited wrong criteria for entering Executive Session – no discussion of contract negotiations took place prior to a candidate being selected. Also, it failed to cite a provision of the general or special laws for which it was purportedly entering Executive Session under Purpose 7; Board must be more specific.</p> <p>2. Board allowed members to participate via telephone. Such action is not yet permitted.</p> <p>3. Board violated OML by failing to separately notice each meeting and Executive Session. Such meetings and Executive Sessions cannot be “continued” as a means to avoid additional postings. It also failed to open each meeting in open session prior to entering into Executive Session – this is <i>not</i> a technical violation.</p> <p>4. Minutes did not contain a list of</p>	<p>meeting notices to the DOG.</p> <ul style="list-style-type: none"> • Submit copies of all meeting minutes to DOG. • Within 60 days review all unreleased executive session minutes to determine if the purpose is complete. • Create, review and approve minutes for the Search Committee where none exist.

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					<p>documents used or sufficient summary of discussion.</p> <p>“Meeting minutes, whether for open or executive sessions, must give the reader an adequate understanding of what actually happened at the meeting. They do not have to be transcripts. But they do have to reflect the discussion that occurred, the action taken by the body, and the positions taken by the individual members. G.L. c. 30A, § 22(a). Confidentiality concerns, while legitimate, do not justify a complete lack of detail in meeting minutes.”</p> <p>5. Board and Search Committee notices did not contain a list of topics to be discussed as required. The Chair could and should have anticipated making recommendations to the Board for appointment.</p> <p>6. Subcommittee created to select the search firm was a “public body” under the OML because it was established by the public body to advise it, regardless of the lack of a vote to create it and the informal nature of its conduct. Therefore should have followed the OML. It did not. This analysis is the same as under the prior version of the OML.</p>	

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					Board acted on advice of counsel, but this advice was a contributing factor to the violations. Board was given warning of OML by head of DOG, yet continued violation.	
1-26-2011	Charlemont	BOH	Improper posting.	N/A	Decline to investigate because the complaint was untimely – filed more than 30 days after alleged violation with no reason provided.	N/A
9-29-2010	Wayland	BOS	Improper Executive Session.	No	The BOS has “supervision, control or advisory power” over litigation by another town entity; thus, it can meet in ES to discuss such litigation.	N/A – but reminder to state that discussing litigation in open session would have detrimental effect.
10-14-2010	Winchendon	BOS	Improper posting and improper deliberation.	No	Action was prior to effective date of new OML. Under the old OML, the deliberation of public business at an informal gathering was legal so long as no decision was reached.	Under the new OML definitions, BOS cautioned to not discuss public business during informal gatherings.
10-19-2010	Dennis	BOS	Improper Executive Session.	No	Action was prior to effective date of new OML. Regardless, Executive Session minutes have since been released, resolving any dispute.	N/A
OML 2010-2	Holbrook	BOS	Improper posting.	Yes	The posting included a discussion item for a development complex but did not include the address or other sufficient identifying information about such complex.	Required to include location identifying information on discussion items where appropriate in the future. Warning that similar violations in the future will be considered intentional violations.
OML 2010-4	Wales	BOS	Improper posting.	Yes	Although appropriately posted 48 hours before the meeting, it did not contain a list of topics.	None (given the meeting took place the first week the new OML was in effect). Recommended to list the topics in the future.
OML 2010-7	Walpole	BOS	1. Improper posting; 2. Improper deliberation;	1. No 2. No	The Chair and Vice Chair of the BOS do not constitute a	N/A

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			3. Failure to maintain minutes.	3. No	<p>“Leadership Subcommittee” of the BOS, and therefore the OML does not apply to their meetings.</p> <p>“[The OML] <i>permits</i> members of a public body to meet and discuss subject matter under the public body’s jurisdiction [outside of a noticed meeting] so long as the members do not constitute a quorum.” (emphasis added).</p>	
OML 2011-1	Wayland	BOS	Improper Executive Session	Yes	Although discussion of the traffic certification was related to the litigation strategy and thus appropriate for Executive Session, such certification must be voted on and approved in open session before issuance. The approval should also have been recorded as a roll call vote.	Ordered to comply with the OML in the future. Future violations of the Executive Session provision will be evidence of intentional violation.
OML 2011-4	Marblehead	BOS	Improper deliberation.	No	<p>*Prior version of OML applied.</p> <p>No evidence of inappropriate deliberation in (1) deciding to place an RFP, (2) appointing an <i>ad hoc</i> committee to evaluate responses; or (3) town employee could act on her own to take such actions.</p>	N/A
2-1-2011	Monson	BOS	Improper deliberation.	N/A	*Statute of limitations tolled until discovery of the OML during document discovery in litigation. Complaint, however, was filed 31 days after such discovery; therefore, it was untimely. AG refused to investigate.	N/A
OML 2011-8	Becket	BOS	Improper posting and action by BOS member.	No	The Sherwood Forest Lake District is not a “public body” under the	N/A

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					OML; it is governed by Chapter 107 of the Acts of 2010. Only one BOS member present, therefore not a quorum for action to be taken by BOS. One member is permitted to act under Chapter 107.	
OML 2011-10	Nantucket	BOS	Improper posting (emergency notice).	No	The Chairman did not reasonably anticipate tabling the vote on appointing legal counsel until within 48 hours of the next posted meeting. The agenda was updated the following morning after the Chair knew of the need for the additional discussion. This is permitted by the OML. The announcement of the continued vote to the public also shows compliance with the spirit of the OML.	N/A
OML 2011-13	Amherst	BOS	Improper posting and deliberation	No	The discussion regarding the Community Development Committee that took place after the Complainant left the meeting after assurance that the matter would not be decided was not a violation of the OML because the Chair could not have reasonably anticipated discussion of the Complainant's concerns regarding the Community Development Committee because she refused to put it on the agenda, the comments were brought up during public comments and the liaison's report. The report was listed in the notice and a member's opinion on a related topic is not improper deliberation. AG found the topic both unanticipated by the Chair and related to a posted item.	N/A

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OML 2011-16	Wayland	BOS	1. Improper notice; 2. Failure to maintain minutes. [Definition of meeting and deliberation]	1. Yes 2. Yes	In a meeting noticed as only a meeting of the Recreation Committee, 3 members of the BOS (a quorum) sat at the table next to each other, the meeting was moderated by the BOS Chair and members spoke to each other and offered opinions on the subject of the meeting. A quorum was present and engaged in deliberation of matters within BOS's jurisdiction (as evidenced by prior meetings and discussions regarding the use of this property and the BOS' broad jurisdiction over policy matters for the Town). Therefore, this qualifies as a meeting of the BOS. Where there was no posting of such meeting and no minutes taken, the BOS violated the OML.	Order immediate and future compliance with the OML and to create and approve minutes from the meeting. Although a technical violation of the OML, the Town tried to widely publicize the meeting, thereby mitigating the violation
5-04-2011	Sturbridge	BOS	Improper notice.	N/A – complaint not timely (not within 30 of violation or discovery)	N/A	N/A
OML 2011-21	Nantucket	BOS	Improper posting (deliberation of item not on agenda).	No	Re-voting of the human resources contracts that arose as a result of the agenda item "Selectmen's Comments" could not have been reasonably anticipated by the Chair, thus there is no violation of the posting requirement of the OML. "The [OML] does not require that the chair to guess which topics might be raised by Board members" .	N/A – but Board reminded that they should postpone action on controversial topics until they can be properly noticed.

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5-26-2011	Wrentham	BOS	Improper deliberation	N/A	AG did not investigate because the allegations took place prior to July 1, 2010	N/A
OML 2011-23	Leicester	BOS	1. Improper posting (deliberation of item not on agenda); 2. Improper appointment	No	1. There was no violation of the OML for voting to consolidate 2 positions based upon the Town Administrator's response to Board's questions during his report because the Chair could not anticipate that another Board member might question the Town Administrator on that topic. 2. The topic was properly posted and whether the Town Administrator misled a person to entice them not to attend the meeting is a matter of local concern; not the OML.	N/A - But the AG recommended "the Town Administrator's Report will be listed under New Business and any items which [he] expects might lead to deliberation and/or a vote by the Selectmen will be listed separately on the agenda."
6-9-2011	Chatham	BOS	N/A	N/A – complaint was untimely	Complaint made 31 days after alleged violation. Actual discovery was irrelevant; tolling only applies when the alleged violations “could not reasonably have been discovered.” Where the violations took place at an open meeting, they were public and visible from the date they occurred. Therefore, no tolling applies.	N/A
OML 2011-24	Dudley	BOS	Improper Executive Session	Yes	The Board violated the OML by meeting in Executive Session to conduct an evaluation of the professional competence of the Town Administrator, even if the results of that discussion (the explanation of the numerical scores) took place later in an open session.	Order all future discussions of professional competence to be held in open session. Order the Board members all receive copies of the determination, AG's OML Guide and the OML. Commend the Board for

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					Professional evaluations of employees are expressly prohibited from being held in Executive Session, and written evaluations are public records.	releasing the minutes of the Executive Session and curing violation by evaluating the Town Administrator in the next open session.
OML 2011-26	Wayland	BOS	Improper deliberation.	Yes	<p>Cable broadcasting caught a quorum of the Board discussing preferences for HDC appointments prior to open meeting was violation of OML as an improper deliberation of a matter under the Board’s jurisdiction. A collective decision was reached. The Board summarily approved new candidates for the HDC, without discussing those candidates up for reappointment, apparently due to opposition to the Town Center project. The Board’s repeat of the discussion in open session after receiving the complaint did not remedy the violation because it was just ceremonial and perfunctory, especially where the Board’s first response was to deny any deliberation took place, before being confronted with the video.</p> <p>The AG found the violation to be intentional and “a violation of a bedrock principle of government transparency” because the Board (1) had signed certificates acknowledging receipt of OML materials; (2) the discussion took place before the meeting was open to the public; and (3) the Board agreed to vote for a particular slate of candidates prior to the</p>	<p>AG believes violation was intentional; therefore, matter referred to a full hearing per AG’s regulations to determine if a fine is appropriate.</p> <p>Order immediate compliance with OML and OML training for entire Board</p>

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					public deliberation and vote.	
OML 2011-27	Otis	BOS	Improper deliberations.	Yes	<p>1. Private meeting among 2 of 3 selectmen and police officers regarding complaints about the Chief was inappropriate where the management and functioning of the department is within the Board's jurisdiction; it should have been noticed, open and minutes taken. Thus, a violation of the OML. The changing stories of selectmen with respect to the meeting and the discomfort the selectmen expressed at the time with it both indicate that the violation was intentional. AG also found violation in serial phone calls after the meeting, although there was no evidence to prove any deliberation occurred, rather than scheduling; used "logical reasoning."</p> <p>2. Serial emails from the Town Administrator and the selectmen constitute improper deliberation where the emails contain discussions of the management of the police department. The emails also suggest additional improper meetings between 2 of the 3 selectmen. This violation was also intentional. Communications to consider consulting with counsel is no defense.</p>	<p>AG believes violation was intentional; therefore, matter referred to a full hearing per AG's regulations to determine if the recommended \$1000 fine is appropriate.</p> <p>Order immediate compliance with OML and OML training for entire Board.</p>
OML 2011-29	Auburn	BOS	1. Improper Withholding of Executive Session	1. No 2. No	1. Town Manager Screening Panel entered into Executive Session	N/A

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			Minutes 2. Improper Comments in Public Meeting and Demand to Cease Public Discussion of Executive Session Discussions.		for the proper purpose of assisting the BOS in screening Town Manager applicants. That purpose was not complete until the entire search process was complete, not just the Panel's nomination, because the information collected during the screening process is used to determine the appropriate final candidate(s). "For this reason, the purpose for which a preliminary screening committee enters executive session may outlast the preliminary screening committee itself." Therefore, the BOS appropriately reviewed and published the Executive Session minutes at the end of the process. 2. Rights or requirements of Board Member's speech are not regulated under the OML.	
OML 2011-31	Templeton	BOS	1. Improper Executive Session (procedure) 2. Improper posting (deliberation of items not noticed) 3. Improper posting	1. Yes 2. No 3. Yes	1. The Chair failed to announce whether it would reconvene in open session following the Executive Session. This was exacerbated by the failure to reopen the door to the meeting room after the Executive Session. 2. There is no reason to doubt Chair's assertion that he did not anticipate the Chief's discussion regarding the OML complaint during open session, therefore it falls into the exception of the 48-	Order immediate and future compliance with the OML. Future violation of this section may be deemed intentional violation.

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					<p>hour rule.</p> <p>3. The meeting notice regarding the discussion of the OML should have been more specific about whose OML complaint was to be discussed.</p>	
<p>OML 2011-32 [<i>same actions complained of above</i>]</p>	<p>Templeton</p>	<p>BOS</p>	<ol style="list-style-type: none"> 1. Improper posting (inaccurate time and specificity) 2. Improper posting (deliberation of item not noticed) 3. Improper Executive Session (procedure) 	<ol style="list-style-type: none"> 1. Yes 2. No 3. No 	<ol style="list-style-type: none"> 1. Failure to state subject of employee review in the Executive Session meeting notice was <i>not</i> a violation because, “[g]iven the lack of detail contained within the meeting notice, a member of the public could have had questions about the exact nature of the discussion anticipated by the public body. However, the meeting notice complied with the letter of the [OML] because it stated the reason for the anticipated executive session, while balancing the privacy rights of the individual who was the subject of the complaint.” The different times stated for the meeting start time between the paper and website posting are a violation of the OML – the content must be the same. 2. The Chair did not anticipate that the Chief would raise the issue of action against the complainant, therefore discussion in open session was permitted (although AG recommends postponing until it can be properly posted). 3. The Chair violated OML by 	<p>Order immediate and future compliance with the OML. Future violation of this section may be deemed intentional violation.</p>

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					failing to state prior to entering the Executive Session that the Board would reconvene in open session.	
OML 2011-33	West Newbury	BOS	Improper deliberation	No	The fact that 2 of the 3 Board members signed the same petition on a matter that was ultimately voted on by the Board for inclusion in the Town Meeting warrant did not rise to the level of deliberation because they did not sign with the intent to communicate their opinion to other Board members outside of a meeting or even with the knowledge that other Board members would see and sign the same petition. Thus, there was no communication between and among Board members violating the OML.	N/A
8-4-2011	Seekonk	BOS	Improper posting (deliberation of item not on agenda)	N/A – complaint was untimely	No tolling because the meeting (and thus the alleged violation) was open to the public for discovery.	N/A
8-23-2011	Hubbardston	BOS	Improper formulation of Town Meeting Warrant Article	N/A	The OML does not govern the content of warrant articles.	N/A
OML 2011-19	Orange	Cemetery Commission	Improper withholding Executive Session minutes.	No	Town entered Executive Session to negotiate collective bargaining agreements. “When a public body enters executive session . . . to conduct collective bargaining sessions – ‘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	N/A. But strongly encouraged Town to review need to continue to withhold minutes. May revisit if not released after Town Meeting.

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					disclosure, at which time they shall be disclosed.”	
OML 2010-3	Methuen	City Council	1. Improper Executive Session. 2. Failure to maintain minutes.	1. Yes 2. Yes	*Applied old OML. 1. Although called for the appropriate purpose of discussing collective bargaining negotiations, the discussion inappropriately turned to the interim budget. 2. Law allows recordings, but requires written minutes of Executive Sessions.	1. Manage discussion during Executive Session more carefully not to stray from stated purpose. 2. Immediately create and preserve minutes of the Executive Session from audio recordings. The portion of those minutes that includes discussion that should have been held in open session must be made public immediately.
OML 2011-6	Westfield	City Council	Improper Public Hearing	No	No violation of the OML by allowing public comment prior to a vote. No ability to review public hearing violations under other laws.	N/A – Council reminded that, under the new OML, the full Council should review any complaint.
OML 2011-35	Methuen	City Council	Improper deliberation	Yes	The serial email sent around by a Councilor requesting opinions on a potential agenda item violated the OML as a deliberation outside of a noticed meeting. The phone calls following the email were also not “deliberation” because they did not include a quorum of the Council (even if serial in nature). The violation did not appear intentional where the Councilor made his intention to poll the Council public and then publicly discussed his actions once he was made aware of the potential OML violation.	None – the actions taken by the Council and the Councilor in (1) acknowledging the violation; (2) releasing the communication in question; (3) removing the topic from the agenda; and (4) requesting all members review the OML handbook, were sufficient to remedy the violation.
OML 2011-12	Northampton	City Council Committee on Public	1. Improper posting; 2. Improper deliberation.	1. No 2. No	1. Meeting was properly posted. Cancellation notice was not	N/A

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		Safety			<p>properly posted by the Clerk’s office and thus had no effect on compliance with the OML.</p> <p>2. Although the Committee was close to “deliberating” in answering the reporter’s questions as a group after the meeting had been adjourned (even nodding in response to fellow members’ answers), “[i]t is not clear to us that this exchange reached the level of a communication ‘between or among a quorum.’ However, we are also cognizant of the appearance of deliberating that may have been conveyed by the Committee in this particular situation. Ultimately, the evidence before us leads us to conclude that the Committee clearly did not act with any intent to circumvent the spirit of the Open Meeting Law. The Committee answered the reporters’ questions with the understanding that their answers would be disseminated to the public.”</p> <p>The minutes reflected the discussion and cited public access to the film.</p>	
OML 2011-20	Gloucester	City Council Planning and Development Committee	Improper deliberation.	Yes	There is no evidence of any meeting of the Committee with the developer outside of noticed open sessions to draft the zoning amendment. The email communication between 2 of the 3 Committee members was,	Ordered immediate and future compliance with the OML. Another violation of this section of the OML may be considered an intentional violation. Ordered to

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					however, an improper “deliberation” in violation of the OML because they each expressed opinions about the zoning amendment and the potential for controversy. The sending of the draft by the Clerk was <i>not</i> deliberation. “If Committee members wish to communicate with municipal staff, such as suggesting revisions to a proposed zoning bylaw, then they may send their comments directly to municipal staff, so long as they don't copy a quorum of the Committee, resulting in an illegal deliberation.”	disclose the violative email communication at their next meeting.
11-02-2010	Templeton	Conservation Commission	Improper deliberation.	No	Action was prior to effective date of new OML and the complaint not timely filed with DA.	N/A
OML 2011-5	Douglas	Conservation Commission	Improper Executive Session	Yes	*Prior version of OML applied. The Commission did not enter Executive Session for one of the 9 enumerated reasons; rather it was discuss staff conduct. In addition, it engaged in improper deliberation regarding staff's professional competency. Such discussions must be held in open session. Discussion of how to move the Stormwater Bylaw forward was also improper.	N/A – the AG has no enforcement authority for violation prior to July 1, 2010. Admonished to follow the requirements of the new OML.
8-22-2011	Westminster	Crocker Pond Recreation Area Committee	Improper posting (unnoticed change of location)	N/A – complaint was untimely		N/A
OML 2011-30	Wareham	Fire District Prudential Committee	Improper Executive Session	Yes	Although it was proper to enter into Executive Session to discuss possible litigation where the	Order immediate and future compliance with the OML. Future violation of this

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					potential for such litigation was “imminent,” the Committee violated the OML by failing to publicly state that discussing the topic publicly would have a detrimental effect on the Town’s position. AG does not consider this to be merely a technical violation. The Committee also violated the OML by allowing the Executive Session discussion to range to other topics, although the other topics are also proper purposes under the OML for Executive Session. Committee must cite all purposes which may apply to the Executive Session discussion. Here, the potential litigation also applied to discipline of an employee and review of complaints.	section may be deemed intentional violation. As soon as purpose complete, the Executive Session minutes shall be promptly released.
OML 2011-22	West Newbury	Housing Authority	Improper Executive Session	No	The Authority gave the employee proper notice of the potential for his termination at the Executive Session and his rights to attend. Not the Authority’s fault that he did not understand the letter. Also, “[w]hile a public body generally may not discuss in executive session the professional competence of an individual, it is appropriate to do so when considering discipline or dismissal related to a complaint about job performance.”	N/A
6-3-2011	Southborough	Municipal Facilities Committee	[unspecified]	N/A – complaint was untimely	“As the executive authority in Southborough, and the authority often responsible for appointing	N/A

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					members to Town boards and committees, the Board of Selectmen must ensure that all municipal public bodies comply with these requirements.’	
OML 2010-5	Gardner	Municipal Golf Course Commission	Improper posting (discussion of a topic not noticed)	No	Comments made during Commissioners’ comment period were not “reasonably anticipated” and did not prompt any deliberation or vote by the Commission; simply a discussion between one Commissioner and a member of the public.	N/A
8-16-2011	Rehoboth	Planning Board	Inaccurate minutes	N/A – complaint was untimely	Not filed within 30 days of alleged violation and involved actions prior to AG’s enforcement.	N/A
OML 2011-7	Natick	School Committee	Improper posting (not specific)	Yes	Where the Committee was reviewing Town Meeting warrant articles, the posting should have stated the articles being discussed in order to give the public proper notice. “Town Meeting discussion” was not sufficient notice. “The meeting notice should have, at a minimum, included detail of the nature of the discussion; ideally it would also indicate any anticipated votes.”	Admonished to provide more specific meeting notices in the future. Any further violations of this section of the OML will be evidence of “intentional violation.”
OML 2011-9	Wayland	School Committee	Improper Executive Session (procedure and conduct).	Yes	*Prior version of OML applied. The Committee failed to state with specificity the reason for Executive Session (i.e., “collective bargaining” was not enough and “personnel” is not a legitimate reason), failed to take a roll call vote to enter and failed to take proper minutes of Executive Session.	N/A – AG has no formal enforcement power for these violations but recommends that the Committee amend the minutes to more specifically reflect the votes and topics discussed.

AG CITE	CITY or TOWN	PUBLIC BODY	ALLEGED OML VIOLATION	VIOLATION	REASONING	PENALTY IMPOSED
OML 2011-14	Wakefield	School Committee	Improper deliberation (email)	Yes	Email sent by the Chair of the policy subcommittee of the Committee (3 members) violated the OML where it went beyond distributing the proposed use policy to adding her opinion about such policy and asking for the members agreement or disagreement. The members “deliberated” when they expressed opinions about the policy. The Committee, however, tabled the discussion on the policy for a posted open meeting and then publicly deliberated and voted on the policy at such meeting; curing any violation of the OML.	Additional guidance. Where the Committee cured the violation, no penalties necessary but cautioned to not deliberate over email and make public the email exchange at issue here.
OML 2011-15	Melrose	School Committee	1. Improper notice; 2. Improper Executive Session	1. Yes 2. No	1. The meeting notice listing only generally the purpose of the Executive Session, and not detailed information about whose contract is being negotiated, was not specific enough to comply with the OML. The notice did <i>not</i> violate the OML by not stating a vote on or ratification of the contract would take place because the public is already on notice that such action may take place after contract negotiations. 2. Entering into Executive Session to discuss strategy for contract negotiations with nonunion personnel was a proper purpose, even if that discussion included changing an employee’s title as part of such negotiations. The	1. Ordered immediate and future compliance with the OML and any future violation of this provision will be considered “intentional.”

AG CITE	CITY or TOWN	PUBLIC BODY	ALLEGED OML VIOLATION	VIOLATION	REASONING	PENALTY IMPOSED
					Committee appropriately voted on the contract in open session. *Noted that serial communication/lobbying by non-Committee member to each Committee member did not constitute “deliberation” where he did not convey each member’s opinion to the others.	
OML 2011-17	Harvard	School Committee	Improper withholding Executive Session minutes and documents.	Yes	The Executive Sessions in question were held to consider discipline of an employee after an ethics decision. It is clear that the Committee determined the matter closed in September 2010. The Minutes should be produced where the purpose for holding the Executive Session has concluded. Public body has the burden of justifying the withholding.	Order the production of the requested Executive Session Minutes, including the documents used.
OML 2011-18	Harvard	School Committee	Improper withholding Executive Session minutes and documents (specifically records of law firm and emails).	Yes	[Same as above. No law firm records or emails ordered released, where the AG did not find that they were “used” during the Executive Sessions.]	[Same as above]
OML 2011-28	Foxborough	School Committee	1. Improper Executive Session (procedure) 2. Improper Executive Session (failure to openly ratify contract)	1. Yes 2. Yes	*Prior version of OML applied. 1. Announcement to enter Executive Session to amend the Superintendent’s contract (so he could draw a pension and continue to work) did not state a proper purpose and was not specific enough to comply with the OML. Should have stated with whom contract negotiations	Order immediate and future compliance with the OML. Future violations of this section may be considered to be “intentional violations.” Committee also ordered to attend OML training and release Executive Session minutes that accurately reflect the discussion.

AG CITE	CITY or TOWN	PUBLIC BODY	ALLEGED OML VIOLATION	VIOLATION	REASONING	PENALTY IMPOSED
					would occur. 2. It was also improper because, although contract negotiations can occur in closed session, the contract must be approved in open session. Terms can be agreed to in Executive Session but ratification or approval of written agreement must occur in public. Further, the purpose of Executive Session concluded as soon as contract terms are agreed to. Thus, minutes and contract should have been released.	
OML 2011-11	Freetown	Soil Conservation Board	Improper posting (not specific).	Yes	The notice of agenda item "Renewal of Fall Soil Permits," without more information about which permits were being considered was not specific enough. "Public bodies are required to list topics in a meeting notice with 'sufficient specificity to reasonably advise the public of the issues to be discussed at the meeting.'" Proper notice would include application number, name of applicant, location for permit.	Additional guidance. Recommended that the Board be more specific in descriptions in the future. Future violations of this section will be evidence of intentional violation.
1-25-2011	Weymouth	Town Council	Improper deliberation	No	Complaint was not timely and the AG refused to investigate as it was prior to effective date of July 1.	N/A
5-04-2011	Southbridge	Town Council	Improper notice. (deliberation of item not on agenda)	N/A – complaint not timely (not within 30 of violation or discovery)	"While a public body may consider a topic that was not reasonably anticipated by the chair more than 48 hours before a meeting, our office strongly encourages the public body not to consider topics that may be controversial or of particular interest to the public until the	N/A

AG CITE	CITY or TOWN	PUBLIC BODY	ALLEGED OML VIOLATION	VIOLATION	REASONING	PENALTY IMPOSED
					topic has been properly listed in a meeting notice in advance of a meeting.”	
5-24-2011	Cohasset	Water Commission	Improper withholding of meeting minutes and documents.	N/A	Commission provided estimate of fee for Public Records Request and received no response from Complaint. Public Records fee complaints must be filed with Secretary of State’s office.	N/A
OML 2011-2	Acton	ZBA	Improper conduct of meeting.	No	The OML allows the Chair to conduct meetings and take comment from whomever he or she deems appropriate. Even if allegations about admitting evidence from developer’s counsel after the close of the public hearing were true, there is no violation of the OML.	N/A
1-25-2011	Peabody	ZBA	Improper notice to abutters under GL c. 40A	No	Violations of G.L. c.40A are separate and distinct from the OML.	N/A
6-08-2011	Manchester by the Sea	ZBA	Improper withholding of minutes and recordings.	N/A	AG did not make any determination but just reminded the Board of obligation to provide minutes upon request but advised complainant to contact Secretary of State to complain about Public Records violations.	N/A
7-25-2011	Great Barrington	ZBA	Inaccurate minutes.	No	The AG only reviews minutes for “substantial compliance” in reflecting the meeting accurately. The minutes substantially comply – doesn’t need to be a transcript.	N/A