

**Town of Lexington**  
**Open Meeting/ Open Government Questions**  
**June 14 & June 24, 2010**

1. Minutes

- a. In addition to sending draft minutes to board/committee members for review, can the sender (staff or one committee link) request comments be sent back to them for compilation for review and discussion at next scheduled meeting?

The sender of the minutes can request comments for compilation for review and discussion at the next scheduled meeting, but should not distribute comments or opinions, other than technical corrections, prior to the public meeting.

- b. Once official minutes are approved, what is the retention period for the draft minutes and/or notes?

All record retention questions should be addressed to the Secretary of State who oversees the Public Records Law.

- c. Do guidelines exist on how content specificity of minutes to be kept?

The Open Meeting Law requires that the minutes include 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. There are no other guidelines on the specificity of the content, if that is the question.

2. Agenda

- a. Is it acceptable to place a boiler plate disclaimer regarding the items included/or possibly omitted from a meeting agenda as part of each agenda?

The law requires that the meeting notice include a list of topics the chair reasonably anticipates will be discussed, 48 hours in advance of the meeting. A boilerplate disclaimer does not eliminate this requirement. The public body is permitted to discuss items at the meeting that were not reasonably anticipated by the chair 48 hours in advance of the meeting.

3. Handling attachments/documents.

- a. How specific must a listing/reference to documents discussed/reviewed at a board or committee meeting be reflected in the meeting minutes?

It must be a list of the documents and exhibits, so listed with enough specificity that the reader would have some understanding of what the document or exhibit was.

- b. How are ‘confidential’ documents referred to at a public meeting be treated?

If the documents are confidential, then they should be listed to the extent they can be without revealing any confidential information.

- c. Define ‘documents used’ at meeting and required to be referenced in the minutes; and identify retention of such documents.

The term “documents used” is not defined in the statute. The Attorney General’s Office is currently reviewing this issue and will issue guidance at a later date

Retention of such documents is overseen by the Secretary of State who issues a Record Retention Schedule.

4. What is a public body – in regards to administrative bodies/committees?
  - a. Is a school or municipal screening committee, comprised of staff and/or citizens, gathered by the town manager, superintendent, or school principals for the purpose of reviewing and commenting on applications for a specific job openings deemed to be a public body?

This is a fact specific inquiry, and we would need more information about the specific committee and how it is constituted. We expect to provide guidance in the future.

5. Constitutional officer – statewide or local (selectmen, moderator, etc.?)
  - a. What is the definition of ‘constitutional officer’ in the context of the Open Meeting Law – i.e., does this pertain to local officials such as Selectmen, Moderator, etc.?

Constitutional officers only include the Governor, Lt. Governor, Secretary of State, Attorney general, Treasurer, and Auditor. Selectmen, moderators, and other town officials are not constitutional officers.

6. Volunteers –
  - a. It is urged the regulations to be written recognizing board/committee participation is comprised of community volunteers who act in the spirit of open government and open meetings.

7. Remote Participation.
  - a. Can a board/committee appoint a temporary chairperson for a specific meeting at which the current chairperson is absent (possibly remote participation) and meeting be held with a member participating remotely?

The Attorney General will be considering this issue and seeking public comment on remote participation in the near future. Until the Attorney General issues regulations regarding remote participation, it is not permitted.

- b. Does the Chairperson have any discretion in deciding to approve/disapprove remote participation?

No, it is not permitted at this time.

8. Videotaping, televising, recording:

- a. In addition to notifying committee members/audience a meeting is being videotaped and/or audio taped, must a certified/licensed/recognized stenographer notify the committee of their presence and creation of a verbatim record?

The law only requires a person notify the chair if they are making an audio or video recording of the meeting.

9. Town Meeting caucus of Boards & Committees

- a. If it is permissible for members of boards and committees to meet during a town meeting session to discuss an article before the town meeting, must the board/committee discussion be open to any and all wishing to observe/hear the discussion? Must it be able to be heard if being taped or televised?

While Town meeting is not a meeting subject to Open Meeting Law, and members of public bodies can attend Town Meetings without being subject to the Open Meeting Law, they should not deliberate on matters outside of public view.

10. Meeting Participation & Executive Session

- a. If a Board/Committee does not intend to reconvene in open session after the close of executive session but then decides to do so to discuss an item that came up in executive session, is this permissible?

No. If the public body informed the public that they would not be reconvening in open session, then they could not reconvene in open session. The body would have to discuss the item at the next open meeting where proper notice is given.

- b. If a board/committee attends a previously posted meeting of another board/committee, but hasn't posted their participation, may that board/committee in attendance also participate in an executive session if the posted meeting goes into executive session?

No, they may not participate in executive session, but may only attend and participate as other members of the public.

11. Response to Alleged Violations

- a. May a staff person or Committee chairperson respond to alleged violations made against a board/committee in lieu of a full committee meeting for such purpose?

Procedures for responding to alleged violations would need to be determined by the public body.

- b. Must all complaints be forwarded to the AG, with response from Board/Committee or representative, and status of complaint – resolved/unresolved?

Yes. Please see the regulations and other materials available on the Attorney General's website: [www.mass.gov/ago/openmeeting](http://www.mass.gov/ago/openmeeting).