

# Open Meeting Law trainings

Learn more about the Open Meeting Law with in-person and online trainings from the Attorney General's Office.

## Regional trainings

There are currently no regional trainings scheduled. Please check back later for more information.

## Webinar trainings

Please click on a link below to register for an upcoming Open Meeting Law webinar training. Webinars are 90-minute comprehensive trainings on the Open Meeting Law. After registering, you will receive a confirmation email containing information about joining the webinar. Please email [OMLTraining@mass.gov](mailto:OMLTraining@mass.gov) (mailto:OMLTraining@mass.gov) or call 617-963-2925 with any questions.

### 1. Tuesday, March 21, 2023 from 5:30 pm – 7:00 pm

Link to register:

[https://us06web.zoom.us/webinar/register/WN\\_5f56QZP4SP2xzqGRrOOSSQ](https://us06web.zoom.us/webinar/register/WN_5f56QZP4SP2xzqGRrOOSSQ)  
([https://us06web.zoom.us/webinar/register/WN\\_5f56QZP4SP2xzqGRrOOSSQ](https://us06web.zoom.us/webinar/register/WN_5f56QZP4SP2xzqGRrOOSSQ))

### 2. Tuesday, April 4, 2023 from 12:00 pm

Link to register:

[https://us06web.zoom.us/webinar/register/WN\\_JSoRPviYTVquyYIE-hrUnA](https://us06web.zoom.us/webinar/register/WN_JSoRPviYTVquyYIE-hrUnA)  
([https://us06web.zoom.us/webinar/register/WN\\_JSoRPviYTVquyYIE-hrUnA](https://us06web.zoom.us/webinar/register/WN_JSoRPviYTVquyYIE-hrUnA))

### 3. Friday, April 28, 2023 from 12:00 pm

Link to register:

[https://us06web.zoom.us/webinar/register/WN\\_xTJ3\\_sbMSPifbPg5GB\\_XGQ](https://us06web.zoom.us/webinar/register/WN_xTJ3_sbMSPifbPg5GB_XGQ)  
([https://us06web.zoom.us/webinar/register/WN\\_xTJ3\\_sbMSPifbPg5GB\\_XGQ](https://us06web.zoom.us/webinar/register/WN_xTJ3_sbMSPifbPg5GB_XGQ))

### 4. Monday, May 8, 2023 from 7:00 pm



Link to register:

[https://us06web.zoom.us/webinar/register/WN\\_N5C36i-dRdiDdjUzSbT8NA](https://us06web.zoom.us/webinar/register/WN_N5C36i-dRdiDdjUzSbT8NA) ([https://us06web.zoom.us/webinar/register/WN\\_N5C36i-dRdiDdjUzSbT8NA](https://us06web.zoom.us/webinar/register/WN_N5C36i-dRdiDdjUzSbT8NA))

**5. Wednesday, May 17, 2023 from 1:00 pm**

Link to register:

[https://us06web.zoom.us/webinar/register/WN\\_gYCxrCkESYu3kCmWU6Su0w](https://us06web.zoom.us/webinar/register/WN_gYCxrCkESYu3kCmWU6Su0w)  
([https://us06web.zoom.us/webinar/register/WN\\_gYCxrCkESYu3kCmWU6Su0w](https://us06web.zoom.us/webinar/register/WN_gYCxrCkESYu3kCmWU6Su0w))

## CONTACT

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### Attorney General's Division of Open Government

#### Phone

(617) 963-2540 (tel:6179632540)

#### Online

[openmeeting@mass.gov](mailto:openmeeting@mass.gov) (<mailto:openmeeting@mass.gov>)

#### File an Open Meeting Law

**complaint** (<https://www.mass.gov/files/documents/2019/07/15/OML%20Complaint%20Form%202019.pdf>)

## RELATED

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**The Open Meeting Law** (</the-open-meeting-law>)

**File an Open Meeting Law complaint** (</the-open-meeting-law>)



**All Topics** (</topics/massachusetts-topics>)

**Site Policies** (</site-policies>)

**Public Records Requests** (</topics/public-records-requests>)

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# Updated guidance on holding meetings pursuant to the Act Extending Certain COVID-19 Measures

**Guidance Update – February 18, 2022**

On February 15, 2022, Governor Baker signed into law a new session law extending certain COVID-19 related measures. The new law, Chapter 22 of the Acts of 2022, includes an extension until July 15, 2022, of the remote meeting provisions of the Governor's March 12, 2020, Executive Order Suspending Certain Provisions of the Open Meeting Law. The new law has two major parts.

First, the new law allows public bodies to continue providing live "adequate, alternative means" of public access to the deliberations of the public body, instead of holding meetings in a public place that is open and physically accessible to the public. "Adequate, alternative means" may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body in real time.

Second, the new law authorizes all members of a public body to continue participating in meetings remotely; the Open Meeting Law's requirement that a quorum of the body and the chair be physically present at the meeting location remains suspended.

## What means of access will be considered "adequate, alternative means?"

"Adequate, alternative means" may include, without limitation, providing public access through telephone, internet, or satellite enabled audio or video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body as they are occurring (i.e., "live" or "in real time"). The methods listed in the executive order and here are non-exhaustive, and we recognize that there are myriad methods that will be acceptable. "Adequate, alternative means" could include Zoom, a high-capacity telephone conference line, Facebook Live, YouTube Live, and broadcasting on live TV, including local cable access television. The brief delay of approximately 20 seconds when Zoom meetings are streamed to Facebook or YouTube Live is acceptable.

**May a public body post a recording or transcript of the meeting afterwards, instead of providing access to the meeting as it is**

## occurring?

The executive order provides that a municipal public body that, for reasons of economic hardship and despite best efforts, is unable to provide alternative means of public access that will enable the public to follow the proceedings in real time, may instead post a full and complete transcript, recording, or other comprehensive record on its website as soon as practicable after the meeting. In light of the various free and low-cost technologies that could be used to provide the public with real time access, the Division of Open Government strongly recommends that a municipal public body consult with our office before determining that it is unable to provide the public with real time access to a meeting.

## May public body members meet in person, while requiring the general public to follow the proceedings remotely?

Yes. Section (1) of the executive order allowing public access through adequate, alternative means is independent from Section (2), which allows members of the public body to participate remotely. The public body may conduct its proceedings under the relief provided in section (1) or (2) or both.

## If a public body will provide access to its meeting through "adequate, alternative means," what information must be included on the meeting notice?

Public bodies must continue to post notice of every meeting at least 48 hours in advance of the meeting, not including weekends or state holidays, using the official notice posting method (physical notice or website), even if the clerk's office is closed. The notice must include the "location" of the meeting. If access to the meeting will be provided through "adequate, alternative means," the meeting notice must include clear instructions for accessing the meeting remotely. A public body may require members of the public to call to obtain access information for the meeting, rather than including such information on the public meeting notice, to minimize Zoom-bombing and similar disruptions. In such situations, the meeting notice must include clear contact information, and members of the public must be able to obtain the meeting access information up to and throughout the duration of the meeting (members of the public cannot be required to register in advance).

## What other requirements apply to remote meetings?

The Open Meeting Law regulations governing remote participation, 940 CMR 29.10, remain in effect, except where the Governor's executive order specifically suspends certain requirements. In particular, when any—or all—public body members participate in a meeting remotely, the following requirements apply:

1. At the start of the meeting, the chair must announce the name of the member or members who are participating remotely; such information must also be recorded in the meeting minutes.
2. All votes must be taken by roll call.
3. Members of the public body must be clearly audible to each other and to members of the public at all times.

4. When holding an executive session remotely, the public body must still take all required procedural steps for entering into executive session in open session. At the beginning of the executive session, each public body member participating remotely must state that no other person is present or able to hear the discussion at the remote location, unless the public body has approved the presence of that individual.

Should the public body encounter technical problems while meeting remotely, the person chairing the meeting may decide how to address the technical difficulties, 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. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred must be noted in the meeting minutes.

## What about public comment, public participation, and public hearings?

The Open Meeting Law does not require that public bodies allow public comment or public participation during meetings -- to the contrary, the Open Meeting Law specifies that nobody shall address the public body without permission of the chair. However, the Attorney General encourages public bodies to allow public comment and/or public participation when feasible. Because the Open Meeting Law does not require that public bodies allow for public comment or public participation during meetings at all, the manner that public bodies may choose to accept comment or questions is outside the scope of the Open Meeting Law. Public hearings, on the other hand, are governed by separate laws that impose additional requirements, and may require opportunity for public comment or testimony. Those requirements are outside the scope of the Open Meeting Law and therefore do not fall within the Division of Open Government's jurisdiction. Public bodies and members of the public should consult with legal counsel for guidance on the requirements for public hearings.



[All Topics \(/topics/massachusetts-topics\)](/topics/massachusetts-topics)

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Any questions?

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**KP LAW**



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## Additional Resources

- KP Law: [www.k-plaw.com](http://www.k-plaw.com) (see separate pages on COVID-19, Public Records Law and other topical issues, legal references, reference cards and eUpdates)
- Attorney General's Open Meeting Law Website: <http://www.mass.gov/ago/government-resources/open-meeting-law/>
- Public Records Division Website: <https://www.sec.state.ma.us/pre/preidx.htm>

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## Conducting the Meeting - Recording

- Chair must make public statement regarding audio or video recording if attendee intends to record (basis – MA wiretap statute)
- Such statement should include, if the meeting is remote in whole or in part, a limited statement at the beginning of each meeting about the remote nature of the meeting.

## Open Meeting Law - Remote Hearings, cont.

- All other provisions of the Open Meeting Law apply, meaning that notice must be posted at least forty-eight hours prior to the meeting, the notice must contain a detail list of topics the chair anticipates will be discussed, executive session must be identified and for a permissible purpose and minutes must be kept.
- Should the public body encounter technical problems while meeting remotely, the person chairing the meeting may decide how to address the technical difficulties, 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
- If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred must be noted in the meeting minutes; if the matter is a public hearing, the hearing should not continue until the connection is restored; if not, the hearing should be continued to a time, date and place more than 48 hours following the time and date of the posting

## Open Meeting Law – Remote Hearings Under Chapter 20 of the Acts of 2021

- If the public body allows public participation, or if the meeting is a public hearing, members of the public must be able to communicate with the public body and be heard by other members of the public.
- The Attorney General takes the position that if any members of the public are permitted to attend in person, there must be enough room for all members of the public to attend in person. The Attorney General does not allow public bodies to allow only some members of the public to attend in person.
- When meetings are conducted virtually, the meeting notice must provide instructions as to how the public can view and participate in the meeting.
- At the start of the meeting, the chair must announce the name of the member or members who are participating remotely; such information must also be recorded in the meeting minutes.
- All votes taken in a virtual meeting must be by **roll-call vote**, even if the vote is unanimous.

## Remote Meetings, Cont.

- Remote meetings can be totally remote or partially remote; a quorum need not be physically present
- To open a remote meeting, the chair must either introduce the board members, or have the board members introduce themselves
- If a board member is participating remotely and has a camera, the camera should be left on during the meeting
- All votes taken will require a roll call (just like what is required in executive session)
- As with meetings conducted fully in person, public participation is not required at remote meetings of a public body.

# Remote Meetings - Chapter 20 of the Acts of 2021

## Meeting Notice Requirements

- The Act extended relief first provided by the Governor's Open Meeting Law Executive Order, allowing public bodies to meet remotely provided, generally, that the public has adequate, alternative means of access, including:
  - telephone, internet, or satellite enabled audio or video conferencing or
  - any other technology that enables public to follow proceedings in real time
- Notice of the meeting must include clear instructions for accessing meeting remotely, including a link or call in number, or, to avoid so-called "Zoom bombing", the notice may require the public to call in to obtain access information so long as the notice includes clear contact information and the public can obtain access for duration of the meeting (cannot be required to register in advance; someone monitoring call)

## Deliberation – Social Media

- Use of social media is also subject to the OML
- Alternative electronic communications have become more prevalent, including blogging, instant messaging, texting, social networking such as Facebook, and Twitter

### Practical approaches to avoid violations:

- Do not direct comments to other members of body
- If matter directly involves issue pending before body, consider not engaging
- Be thoughtful about manner in which comments are made
- Consider using separate accounts for campaign purposes and following election
- Remember that applicants have due process rights; if the Town is involved in a matter adjudicating the rights of others, only discuss matter at the hearing

## Application of OML to E-mail

- E-mail is now explicitly addressed in the OML.
- A quorum may not use e-mail to share their ideas, feelings, opinions, beliefs, whether serially or in a single e-mail, on board business, and may not use a non-member to avoid law
- **Practical approaches to avoid violations:**
  - Beware of “reply to all” on emails
  - Limit use of e-mail to scheduling purposes, and try to avoid using e-mail to undertake Town business
  - Assume that e-mail may be forwarded to unintended recipients, and therefore limit content to business matters; be prepared to read e-mail in local newspaper or blog
  - Don't ask for or express opinions, ideas, feelings, beliefs or impressions in an e-mail to other members

## Municipal Use of Social Media – Legal Issues

- Open Meeting Law, G.L. c.30A, §§18-25
  - Communications among a quorum of board members on social media can constitute an open meeting law violation
  - Click here for a discussion of the OML and social media (See <http://www.k-plaw.com/wp-content/uploads/2017/01/Open-Meeting-Law-and-Social-Media-Potential-Pitfalls.pdf>)
- Public Records Law, G.L. c.66, §10
  - Records retention
  - Policy to retain copies of social media pages and posts
    - Current guidance recommends taking a periodic “snapshot” of the social media sites in order to meet records retention obligations
  - Do not post information that is not public record

## Disclaimer

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# **OPEN MEETING AND PUBLIC RECORDS LAWS: TECHNOLOGY AND EMERGING ISSUES**

**MASSACHUSETTS  
SELECT BOARD ASSOCIATION**  
**JULY 14, 2021**

**PRESENTED BY LAUREN F. GOLDBERG, ESQ.**

**KP LAW**



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## Training videos

(<https://www.mass.gov/service-details/open-meeting-law-training-videos>)

## Official notice posting locations

(<https://www.mass.gov/service-details/official-notice-posting-locations-for-public-bodies>)

# Contact Information

## Attorney General's Division of Open Government

### Phone

(617) 963-2540 (tel:6179632540)

### Online

[openmeeting@mass.gov](mailto:openmeeting@mass.gov) (mailto:openmeeting@mass.gov)

### File an Open Meeting Law

[complaint](https://www.mass.gov/files/documents/2019/07/15/OML%20Complaint%20Form%202019.pdf) (<https://www.mass.gov/files/documents/2019/07/15/OML%20Complaint%20Form%202019.pdf>)

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## Related Services

[Open Meeting Law Advisory Commission](#) (/open-meeting-law-advisory-commission)



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## All other tasks

**Read the Act Relative to Extending Certain COVID-19 Measures**  
(<https://www.mass.gov/doc/an-act-relative-to-extending-certain-covid-19-measures/download>)

**File an Open Meeting Law complaint**  
(<https://www.mass.gov/files/documents/2019/07/15/OML%20Complaint%20Form%202019.pdf>)

**Attend a regional or online training**  
(<https://www.mass.gov/service-details/open-meeting-law-trainings>)

**Complete public body member certification**  
(<https://www.mass.gov/service-details/complete-public-body-member-certification>)

## What you need to know

**Open Meeting Law Regulations, 940 CMR 29.01-29.11**  
(<https://www.mass.gov/files/documents/2017/09/25/New%20OML%20Regulations%20%28Clean%20version%29.pdf>)

**Text of the Open Meeting Law**  
(<https://www.mass.gov/files/documents/2017/10/12/OML%20Text.pdf>)

**Open Meeting Law guide, educational materials, and newsletter**  
(<https://www.mass.gov/service-details/open-meeting-law-educational-materials>)

**Frequently asked questions**  
(<https://www.mass.gov/info-details/frequently-asked-questions-about-the-open-meeting-law>)

# The Open Meeting Law

Learn about the Open Meeting Law or report a violation with the Attorney General's Division of Open Government.

Guidance Update – July 18, 2022

On July 16, 2022, Governor Baker signed into law An Act Relative to Extending Certain State of Emergency Accommodations, which, among other things, extends the expiration of the provisions pertaining to the Open Meeting Law to March 31, 2023. Specifically, this extension allows public bodies to continue holding meetings remotely without a quorum of the public body physically present at a meeting location, and to provide "adequate, alternative" access to remote meetings. The Act does not make any new changes to the Open Meeting Law other than extending the expiration date of the temporary provisions regarding remote meetings from July 15, 2022, to March 31, 2023.

What would you like to do?

## Top tasks

**Updated guidance on holding remote and hybrid meetings until March 31, 2023**

(<https://www.mass.gov/service-details/updated-guidance-on-holding-meetings-pursuant-to-the-act-extending-certain-covid-19-measure>)

**Search Open Meeting Law determinations**

(<https://massago.hylandcloud.com/203publicaccess2/oml.htm>)

**Find pending Open Meeting Law complaints**

(<https://www.mass.gov/service-details/open-meeting-law-pending-complaints>)