



To: School Committee
From: Timothy M. Luff
Date: 12/9/19
Re: OML Determination Updates

Since I last updated you in April the Committee has received 6 Open Meeting Law Complaint Determination letters from the Attorney General. The complaints reviewed included 15 total allegations filed by members of the public. Below is an outline of the complaints reviewed and the Attorney General's determinations on the matters. These determination letters have been provided to you in your School Committee materials.

OML 2019-94

Allegation: The Committee's February 25, 2019 meeting notice was insufficiently detailed.

Determination: **The Committee did not violate the Open Meeting Law.**

Notes: When there is no deliberation on a topic by the public body, there can be no violation of the Open Meeting Law with respect to the sufficiency of the notice.

OML 2019-101 (Pertaining to January 28, 2019 School Committee Meeting)

Allegation #1: The meeting agenda was not Posted with 48 hours notice.

Determination: **The Committee did not violate the Open Meeting Law.**

Notes: Novus Agenda malfunction; Town Clerk Stamp was more than 48 hours prior.

Allegation #2: The meeting agenda does not state the date/time that the agenda was posted.

Determination: **The Committee did not violate the Open Meeting Law.**

Notes: Town Clerk stamped edition proved date/time were posted.

Allegation #3: The meeting agenda does not state "Open Session" to account for short open session prior to the executive session.

Determination: **The Committee did not violate the Open Meeting Law.**

Notes: The agenda identified 6PM Open Meeting, 6:05 Executive Session, 7:15 Open Session; "Open Session language not required to be posted if there are other topics identified on agenda prior to executive session", i.e. Pledge of Allegiance or Moment of Silence.

Allegation #4: A Committee member other than the Chair stated the purpose(s) for executive session.

Determination: **The Committee did not violate the Open Meeting Law.**

Notes: School committee policy states "the Vice Person of the Committee will assume the duties of the Chairperson when the Chairperson is absent..."

Allegation #5: The Chair failed to declare that having its discussion in open session would have a detrimental effect on its bargaining position.

Determination: **The Committee did not violate the Open Meeting Law.**

Notes: Although there was no finding, it was noted that this discussion and its posting were about litigation, in which the chair should have declared detrimental effect.

Allegation #6: The executive session was not posted on the meeting agenda.

Determination: **The Committee did not violate the Open Meeting Law.**

Notes: Novus Agenda issue as discussed above; No requirement in Open Meeting Law or Regulations that a heading be included.

Allegation #7: The Subjects “Discuss the Release of Minutes” and “Legal and Joint Facilities” are not sufficiently detailed that a member of the public would know what was to be discussed.

Determination: The Committee did not violate the Open Meeting Law.

Notes: The Committee did not discuss these topics, therefore cannot violate the Open Meeting Law with respect to sufficiency of the meeting notice.

OML 2019-118

Allegation: The Committee held a meeting on May 20th, 2019 without posting 48 hours prior notice.

Determination: The Committee did not violate the Open Meeting Law.

Notes: The complainant requested a further review regarding the positing of original dates on revised agendas for this meeting, however, due to the fact that it was not clearly raised in the original complaint the AG’s office did not review its merits.

OML 2019-126

Allegation: The Committee failed to timely respond to a request to inspect open and executive session minutes of the meetings held since April 2.

Determination: The Committee did not violate the Open Meeting Law.

Notes: The Complainant did not send the request to the Public Body, rather to the Public Records Access Officer of the town. The AG therefore stated that this would fall under the Public Records Law, not the Open Meeting Law. The Public Records Law timeline was met in the circumstance.

OML 2019-154 (Pertaining to the April 22, 2019 School Committee Meeting)

Allegation #1: The meeting agenda from April 22, 2019 failed to state “open session” to account for the open session held prior to the executive session.

Determination: The Committee did not violate the Open Meeting Law.

Notes: “Open Meeting” noted on the agenda prior to executive session.

Allegation #2: The Chair failed to declare that having a discussion in open session would have a detrimental effect on the Committee’s bargaining position.

Determination: The Committee did not violate the Open Meeting Law

Notes: The video of the meeting clearly revealed that the Chair stated the detrimental effect

Allegation #3: The Chair failed to inform other attendees of the meeting being recorded

Determination: Constrained to find the Committee did violate Open Meeting Law

Notes: The Chair did inform the attendees of the recording in Open session after the executive session was held. However, because there were attendees during the 1st short open session, the Chair should have made the statement then as well.

Resolution: Informal Action-Order for Immediate and future compliance

OML 2019-155

Allegations: 2 Separate Allegations regarding the failure to timely respond to a request to inspect open and executive session minutes.

Determinations: The Committee did not violate the Open Meeting Law for either of the 2 Allegations

Notes: Resolved through informal Action by the AG’s Office based upon their determination of no violation from OML 2019-126, in which nearly identical complaints were made. Requests were sent to the Public Records Access Officer of the town and not to the public body. Timeline under the Public Record Law Met.

Central Office:

13 East Central Street
Natick MA 01760

<http://www.natickps.org>

508•647•6500 (phone)

508•647•6506 (fax)

www.facebook.com/natickps