



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL

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January 28, 2020

OML 2020 – 8

Timothy Luff
Assistant Superintendent
Natick Public Schools
13 East Central Street
Natick, MA 01760

RE: **Open Meeting Law Complaints**

Dear Assistant Superintendent Luff:

This office received two complaints from Ronald Alexander on July 30, 2019 and August 1 alleging that the Natick School Committee (the “Committee”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25.^{1,2} Both complaints were originally filed with the Committee on June 4 and you responded, on behalf of the Committee, by letter dated June 19. The first complaint alleges that the Committee failed to timely respond to a request for open and executive session minutes. The second complaint alleges that the Committee failed to timely approve minutes of meetings held between January 7 and May 6.

We resolve these complaints by **informal action** in accordance with 940 CMR 29.07(2)(a), after reviewing the original complaints, the Committee’s responses to the complaints, the complaints filed with our office requesting further review, and the notices and open session minutes of Committee meetings held between January 28 and May 20.

The Open Meeting Law requires that a public body “create and maintain accurate minutes of all meetings, including executive sessions.” G.L. c. 30A, § 22(a). The meeting minutes must be reviewed and approved in a timely manner. G.L. c. 30A, § 22(c). “Timely manner” means “within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay.” See 940 CMR 29.11; OML 2018-48.³ Whenever possible, we recommend that minutes of a meeting be approved at the next meeting. See OML 2018-67; OML 2017-133.

¹ Mr. Alexander numbered these complaints NSC-2019-6 and NSC-2019-7.

² All dates in this letter refer to the year 2019.

³ Open Meeting Law determinations and declinations may be found at the Attorney General’s website, www.mass.gov/ago/openmeeting.

Moreover, the minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days. G.L. c. 30A, § 22(c). If minutes do not yet exist at the time of a request, the public body is still required to respond to the request within 10 days with an explanation of whether the minutes do or do not exist in either approved or draft form. See OML 2017-50; OML 2016-71; OML 2015-173. A public body must also respond to a request for executive session minutes within 10 days. G.L. c. 30A, § 22 (g)(2).

The first complaint alleges that the Committee failed to timely respond to the complainant's request for meeting minutes.⁴ On May 6, the complainant submitted a request to publicrecords@natickma.org "for all minutes" of all meetings held by the Committee in 2019. On May 21, Assistant Superintendent Luff responded and provided copies of eight sets of responsive meeting minutes.⁵ The complainant argues that the response is untimely because it was provided in 10 business days, rather than 10 calendar days. A request for meeting minutes that is directed to a public body will fall under the Open Meeting Law and requires a response in 10 calendar days. See G.L. c. 30A, §§ 22(c), (g); OML 2019-163. On the other hand, a request for minutes that is directed to a clerk or other municipal employee as Records Access Officer will likely fall under the Public Records Law and requires a response in 10 business days. See G.L. c. 66, § 10; OML 2019-126; OML 2019-68. Here, the complainant sent his request for meeting minutes to the Public Records Access Officer, only, via the town's public records email address and therefore his request fell within the Public Records Law. The Division of Open Government's statutory authority concerns compliance only with the Open Meeting Law, G.L. c. 30A, §§ 18-25. As this allegation concerns compliance with the Public Records Law, it falls outside the scope of this office's jurisdiction and we decline to review it. See OML 2015-17; OML Declination 3-11-15 (Wayland School Committee). Nevertheless, we note that a response was provided within 10 business days.


The second complaint alleges that the Committee failed to approve meeting minutes in a timely manner. The Committee posted notices for, and held meetings on, January 7, January 28, February 11, February 25, March 11, March 25, April 1, April 10, April 22, and May 6. The Committee was required to approve each of these sets of minutes within the next three public body meetings. See 940 CMR 29.11; OML 2018-111. We find that all of the meeting minutes were approved within three public body meetings, with most of the minutes approved at the subsequent meeting. Therefore, we find that the Committee approved meeting minutes in a timely manner and did not violate the Open Meeting Law.

For the reasons stated above, we find that the Committee did not violate the Open Meeting Law. We now consider the complaints addressed by this determination to be resolved. This determination does not address any other complaints that may be pending with our office or the Committee. Please feel free to contact our office at (617) 963-2540 if you have any questions regarding this letter.

⁴ The complaint specifically alleges that the Committee failed to "timely release" meeting minutes. However, we note that the Open Meeting Law does not require that a public body release its minutes, but rather that minutes be created and approved in a timely manner and that a public body respond to a request for meeting minutes in a timely manner. See G.L. c. 30A, § 22(c); OML 2019-20.

⁵ For purposes of clarity, we refer to you in the third person.

Sincerely,

A handwritten signature in cursive script, appearing to read "KerryAnne Kilcoyne".

KerryAnne Kilcoyne
Assistant Attorney General
Division of Open Government

cc: Ronald Alexander
Natick School Committee

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.