

	<b>Division of Mental Health Services</b>	Procedure	<b>OPEN MEETING LAW</b>
		Procedure #:	1
		Content Expert	Jonathan Fox
		Revision #	
		Date Revised	-----
Approved By:	Liam Seward	Effective Date:	6.1.19

## **1. Purpose**

---

The purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. Because the democratic process depends on the public having knowledge about the considerations underlying governmental action, the Open Meeting Law requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently.

This procedure establishes a monitoring process to ensure DMH is complying with the Open Meeting Law. In addition, corrective actions in the event of non-compliance are detailed.

## **2. Scope and Responsibilities**

---

The requirements of the Open Meeting Law apply to all DMH committees and boards (and any of their subcommittees) that qualify as Public Bodies under that law. (See Definitions, below).

Public Bodies are required to post notices of their meetings. In addition, regulations issued under the Public Records Law require that Public Bodies post minutes of their meetings. The notices and minutes of DMH Public Bodies are posted on the DMH website.

### **3. Definitions**

---

**Deliberation** - An oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction.

**Meeting** - A deliberation by a public body with respect to any matter within the body's jurisdiction; provided, however, "meeting" shall not include:

(a) an on-site inspection of a project or program, so long as the members do not deliberate;

(b) attendance by a quorum of a public body at a public or private gathering, including a conference or training program or a media, social or other event, so long as the members do not deliberate;

(c) attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate;

(d) a meeting of a quasi-judicial board or commission held for the sole purpose of making a decision required in an adjudicatory proceeding brought before it; or

(e) a session of a town meeting convened under section 9 of chapter 39 which would include the attendance by a quorum of a public body at any such session.

**Minutes** - the written report of a meeting created by a public body required by subsection (a) of section 22 and section 5A of chapter 66.

**Open meeting law** – Massachusetts General Law Chapter 30A, Sections 18 to 25, inclusive.

**Post notice** - To display conspicuously the written announcement of a meeting either in hard copy or electronic format.

**Public body** - a multiple-member board, commission, committee or subcommittee within the executive or legislative branch or within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; provided, however, that the governing board of a local housing, redevelopment or other similar authority shall be deemed a local public body; provided, further, that the governing board or body of any other authority established by the general court to serve a public purpose in the commonwealth or any part thereof shall be deemed a state public body; provided, further, that “public body” shall not include the general court or the committees or recess commissions thereof, bodies of the judicial branch or bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer and shall not include the board of bank incorporation or the policyholders protective board; and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

#### **4. Procedure**

---

##### **A. Notice**

At least 5 business days in advance of an open meeting, the chair of the DMH Public Body ensures that the notice of public meeting is completed and emailed to **DMH-DL – Open Meeting Notices**. This ensures sufficient time for posting on DMH’s web site. The email goes to the DMH’s Office of Communications and Community Engagement among others. That Office is responsible for posting the meeting on the DMH web site at minimum 48 hours before the meeting. The email also goes to the Secretary of State’s Regulation Office, which is required by law to receive a copy of the notice. The notice must include the point of contact, the date, time and location (site address and meeting room) of the meeting and all of the topics that the chair reasonably anticipates will be discussed at the meeting. The date and time that the notice is posted must also be on the notice. For more details on minutes see Appendix A, Public Body Checklist for Posting a Meeting Notice.

Once the notice is posted on the DMH web site, the chair person will ensure a copy of the notice is printed from the web site and retained in the Public Body's files.

## **B. Minutes**

After the meeting and within the next three public meetings of the public body or with 30 days, whichever is later, the chair of the DMH public body ensures that meeting minutes are completed, approved and emailed to **DMH-DL – Open Meeting Notices**. Again, this email goes to the DMH's Office of Communications and Community Engagement among others. The minutes will then be posted to the DMH website, by the Office of Communications and Community Engagement. The minutes must include the date, time and place of meeting and members who were present or absent. The minutes must contain an accurate summary of the discussion of each subject of the meeting, a record of all decisions made and the actions taken. See Attachment B for more details as to what must include in the minutes.

## **C. Audit**

On the first of every month (or the next work day) the DMH Director of Compliance will choose one DMH Public Body and contact the Office of Communication and Community Engagement to ensure that Public Body is still in existence and continues to send meeting notices and minutes for posting. The Director of Compliance will make a record of the body's adherence or non-adherence to the Open Meeting law requirement. If the body is not adhering to the requirement, the Office of Communication and Community Engagement will reach out to the appropriate chair and review with them the requirements of the open meeting law.

## **D. Complaint**

If at any time a Chair of a DMH Public Body receives an open Meeting Complaint from an Individual, the Chair must email a copy of the complaint to the Director of Compliance and DMH General Counsel within 1 Business Day of receipt of the complaint. In addition, the chair must take the following actions:

- Provide a copy of the complaint to all members of the public body;
- Call a meeting of the public body to go over the complaint;
- Respond to the complaint (or after the meeting of the Public Body, the Chair may delegate the duty to respond to the complaint to legal counsel or another member) within 14 business days of receipt of the complaint or ask for an extension, if it has good cause to do so. The response must be in writing and describe any action the public body has taken to address the complaint.
- A copy of the Public Body's response must be sent to the Attorney General's Division of Open Government; DMH General Counsel and the Director of Compliance.

If at any time the Chair of a public body receives a Complaint from the Attorney General's Office, they shall notify the DMH General Counsel and the Director of Compliance immediately and the Chair shall work with the DMH General Counsel and the Director of Compliance in responding to the Attorney General's Office.

#### **E. Annual Report.**

At the end of every year the Director of Compliance will file a report related to the Department's compliance with the Open Meeting Law with the DMH Chief of Staff, General Counsel, Deputy Commissioner of Mental Health Services and the Director of Communication and Community Engagement.

#### **F. Onboarding**

Each time an Area Director or the Commissioner appoints a new chair to a Public Body, the Area Director or the Commissioner must notify the Office of Communications and Community Engagement. The Office will review with the new chair the requirements of the Open Meeting Law and provide them with a copy of the Attorney General's Guide Book on the Open Meeting Law.

## **5. Authority, Stature, Regulation(s), Policy**

---

The Open Meeting Law, MGL c. 30A, §§ 18-25

940 CMR 29.00: Open Meeting Law Regulations

## **6. Attachments**

---

**Attachment A** Attorney General's Public Body Checklist For Posting a Notice.

**Attachment B** Attorney General's Public Body Checklist for Creating and Approving Meeting Minutes.