

MACRS

Fall 2022

Monthly Meetings & Records



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MACRS FALL 2022
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Board Meeting Guidelines

- Business of the retirement board conducted at monthly meetings.
- Policy is established, issues are discussed, and actions are taken.
- Certain minimum standards must be met in the conduct of a retirement board meeting.

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Legal Standard

- G.L. c. 30A, §§ 18-25 is the Open Meeting Law (“OML”)
- Retirement boards are governmental bodies which fall under G.L. c. 30A, §§ 18-25.
- Board meetings are public which implicates G.L. c. 30A, §§ 18-25.
- The public has right to attend meetings and access records in the board’s possession.

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NOTES:

Agenda

- Success of the board meeting is dependent on the quality of preparation for the meeting.
- The chairperson/board administrator should develop the agenda well in advance allowing other board members to suggest items prior to finalization.
- Prepare annual calendar outlining actions that must be performed on a timely basis:
 - Approval of annual report
 - Budget
 - Investment manager meetings
 - Member's terms/elections
 - COLA
- Establish consistent schedule of board meetings for the entire year amenable to all board members. Adjust schedule to avoid excessive absences of board members.
- More important issues should be first on the agenda in case the meeting goes over the anticipated time frame.

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Board Preparation

- Board members have a fiduciary duty to make prudent decisions regarding board matters.
- Board members must have sufficient information regarding current issues: legal opinions, court decisions, draft actuarial reports, investment reports, legislation, etc.
- Materials should be sent to members relative to each agenda item:
 - Minutes of previous meeting
 - Agenda
 - Monthly financial reports
 - Monthly warrant
- Board packages must be sent to board members in advance of each meeting for members to review them and request more information if needed.

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NOTES:

Board Meeting Notice

- Notice of a board meeting must be filed and posted at least 48 hours before the meeting.
- Saturdays, Sundays and legal holidays are not included.
- Notice is to be filed and posted:
 - **Municipal boards:** File in the town clerk's office and post on official bulletin board.
 - **County/District/Regional boards:** File in the office of the county commissioners and post in such office for public viewing.
 - **State boards:** File with attorney general and post on website in accord with rules established for such posting.
- Website is an alternative for all systems except state boards.
- Broadest posting is best practice.
- Notice must be printed in easily readable type which must include date, time, location and list of topics for the meeting.
- Filing a posting is usually the responsibility of the chairperson of the meeting.

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Odds & Ends of Board Meetings

- A meeting can be recorded by any means, video and/or audio, as long as the recording does not interfere with conducting the meeting.
- The chairperson/administrator must give a copy of the OML to each member within two weeks of the member's election or appointment to the retirement board.
- Each member must sign a receipt of receiving the OML.
- It is best for the chair/administrator to annually disseminate the OML to all board members.

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NOTES:

Remote Participation

- Adopted by majority of the retirement board.
- Must have a physical quorum to have a meeting.
- Remote participants may vote.
- All votes must be recorded by roll call.
- Reason for this practice only need be stated as “personal”.
No need to include reasons such as personal illness or disability, emergency, military service or geographic distance.

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Best Practices

- The retirement board speaks with one voice publicly.
- Each member must work toward consensus when possible.
- No member should bring a hidden agenda to the table.
- All knowledge must be shared with all members.
- All votes must be taken by roll call if any member is participating remotely.

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NOTES:

Discussions

- Board must have sufficient time to discuss matters.
- An effective meeting begins with a short review of the agenda to ensure adequate time is allotted to each item and to change order of business if needed.
- The chairperson's role is crucial in ensuring the meeting runs smoothly, stays on agenda and all members' views are carefully considered.
- Discussions would be based on factual considerations, not assumptions.

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Board Action

- A motion must be made and seconded for a board action to be valid. Both actions must be recorded in the minutes.
- Illegal to vote by secret ballot in open or executive session.
- Every motion must be discussed and voted on.
- Any action that pertains to fiduciary and statutory responsibilities must be voted on.

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NOTES:

Examples of Board Action

- Delegating staff to perform ministerial duties.
- Transfer of funds.
- Disability applications.
- Retirement allowances.
- Employment decisions regarding investment managers, attorneys, accountants and all other service providers (includes explicit approval of contracts).
- All expenses of the board and/or staff.
- Personnel actions.
- Appeals of court decisions.
- This not an exhaustive list.

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When Can You Call An Executive Session?

- To discuss the reputation, character, physical condition, or mental health rather than professional competency of an individual; e.g., disability retirement.
- To consider discipline or dismissal of a board employee.
- Member, disability applicant or board employee to be given 48 hours notice of proceeding in executive session, but he or she can waive that right and have the proceeding in open session.
- To discuss strategy for collective bargaining or litigation in certain circumstances.
- To discuss deployment of security personnel or devices.

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NOTES:

When Can You Call An Executive Session? *(Cont'd)*

- To investigate changes of criminal misconduct or to discuss the finding of criminal charges.
- To discuss the purchase, exchange, lease, or value of real property if the discussions would have a detrimental effect on the retirement board or any person, firm or corporation.
- To comply with any general or special law or federal grant-in-aid requirement.
- To interview or consider applicants for employment by a preliminary screening committee.
- To meet or confer with a mediator in certain circumstances.

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Convening an Executive Session

- A retirement board must convene an open meeting for which notice has been given.
- A majority of the board members must vote by roll call to go into executive session.
- The chairperson must state the purpose of the executive session and the statutory provisions under which it has been called.
- Before entering the executive session, the chairperson must state whether the board will re-convene after the executive session.
- All votes in executive session must be done by roll call.

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NOTES:

Minutes

- Under OML, the retirement board must maintain an accurate written record of the meeting.
- At the minimum minutes should contain the following:
 - Time, Date and Place,
 - Members present and absent, and
 - Action taken at each meeting including executive session.
- Minutes are a public record and are to be made available to the public (includes minutes in draft form).

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Minutes *(Cont'd)*

- Legal documents, not a simple record of opinions.
- Minutes should include:
 - A notation that the minutes of the previous meeting were approved.
 - A notation of reports and whether they were approved.
 - Description of items discussed, and
 - All motions made, and the action of the retirement board on each motion.

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NOTES:

840 CMR 6.12(1) & (2)

- Minutes of Executive Session may be exempt as long as disclosure may defeat purpose of why the session was closed.
- Board must periodically review records and determine whether records should remain exempt from disclosure.
- Releasing Executive Session minutes to the public must be voted on in open session and recorded in the minutes.

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Minutes With the Agenda as a Guide

- Starting point for drafting minutes.
- Guide to the meeting and minutes.
- The agenda with any recording and notes ensures accurate minutes.
- Always draft minutes as soon after the meeting as possible.

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NOTES:

Minutes Should Include:

- A list of names of meeting attendees noting when people arrive or leave (however, a person may choose not to identify oneself).
- A copy of the agenda and documents received for the meeting.
- Summary of members' discussions including debate from all sides of an issue.
- Proper wording of motions.
- Record of vote. Extra precision required with roll call votes.
- Start and end times of the meeting.

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Minutes: Conflict of Interest

- Record declaration of anyone who states he or she has a conflict of interest.
- Record when a member recuses him/herself from a vote.
 - Members who are conflicted should not vote or speak on the relevant issue.
- Record if the member leaves the room.

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NOTES:

COVID-19 Changes to Open Meeting Requirements

- Chapter 20 of the Acts of 2021: An Act Relative to Extending Certain Covid-19 Measures Adopted During the State of Emergency
 - Extends certain Open Meeting Law changes until April 1, 2022
- Chapter 107 of the Acts of 2022: An Act Relative to Extending Certain State of Emergency Accommodations.
 - Extends the Open Meeting Law waivers until March 31, 2023.
- Memorandum 19 of 2022 issued July 20, 2022.

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COVID-19 Changes to Open Meeting Requirements (Cont'd)

- Public Bodies can meet remotely as long as adequate, live alternative means of public participation are provided. This means live teleconference or video conference.
- Remote participation is permitted for all members of the public body without the need for a physical quorum to be present at the meeting location.
- Public Body can meet in person at a location closed to the public as long as the live alternative means for public access is provided.
- Remember that it is a violation of the Open Meeting Law for a quorum of the public body to discuss board matters without a proper meeting scheduled. This includes conference calls or email chains involving a quorum of the board.

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NOTES:

COVID: Meetings

- Meetings must still be posted publicly at least 48 hours in advance.
- Should be posted on the Board's website and/or the municipalities website.
- Posting should still contain everything that was previously required such as date, time and list of topics.
- Must include method of participation.

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COVID: Remote Participation

- Normally a quorum, as well as the chair, must be physically present at the meeting location.
- This provision of c. 30A has been suspended.
- All members of a public body may participate remotely without the usual quorum requirements.
- Must ensure that the public has access to bodies deliberations.

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NOTES:

COVID: Accommodating the Public

- Must provide access to the public.
- This can be through telephone, internet, or satellite enabled audio or video conferencing.
- If public participation is part of the meeting process, then provisions must be implemented for this to continue.
- For required participants (subject of hearing or disability) public body must provide the same access to participant as if they were a member of the public body.

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COVID: Executive Session

- Executive sessions can still be held for the same reasons as would normally apply.
- The members of the Board and anyone required to participate should use a separate call in or video conference for the executive session.
- Anyone required to participate in the executive session should have the same access as the members of the Board.

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NOTES:

COVID: Executive Session *(Cont'd)*

- Board should announce that they are going into executive session and leave the public meeting.
- Following the executive session board members should rejoin public meeting and continue or adjourn.

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COVID: Minutes and Record

- Minutes of the meeting and any executive session must still be kept in the same manner.
- All documents and/or recordings should be kept.

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NOTES:

Open Meeting Law Guidance From MA Attorney General

- [Prior Open Meeting Law Determinations](#)
- [Complaints](#)
- [Open Meeting Law Guide](#)
- [COVID-19 Related Changes to the Open Meeting Law](#)
- [Training Schedule](#)

All of these items are covered in detail on the Attorney General's website:
<https://www.mass.gov/the-open-meeting-law>

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