

Massachusetts Special Commission on State Institutions

Meeting Minutes
September 6, 2023
2:30 - 4:30 pm

Date of meeting: Wednesday, September 6, 2023

Start time: 2:35 pm

End time: 4:08 pm

Location: Virtual Meeting (Zoom)

Member Name / Seat	Vote 1*	Vote 2	Vote 3	Vote 4
Evelyn Mateo (co-chair) – Department of Mental Health (DMH)	X	X	X	X
Matthew Millett (co-chair) – Department of Developmental Services (DDS)	X	X	X	X
Elise Aronne – Wrentham Developmental Center	X	X	-	-
Kate Benson – DMH	-	-	-	-
Reggie Clark – Massachusetts Advocates Standing Strong (MASS)	X	X	X	X
Anne Fracht – DDS	X	-	-	-
Alex Green – The Arc of Massachusetts	X	X	X	X
John Hannigan – Secretary of State, Archives Division	-	-	-	-
Rania Kelly – MassFamilies	X	X	X	X
Richard Krant – Wrentham Developmental Center	-	-	-	-
Andrew Levrault – Disabled Persons Protection Commission	X	X	X	X
Mary Mahon McCauley – Massachusetts Office on Disability	-	-	-	-
Vesper Moore – Kiva Centers	X	X	X	X
Brenda Rankin – Wrentham Developmental Center	-	-	-	-
June Sauvageau – Northeast Independent Living Program	-	-	-	-
Mary-Louise White – DMH	X	X	-	-

* (X) Voted in favor; (O) Opposed; (A) Abstained from vote; (-) Absent from meeting or during vote

Proceedings

Matthew Millett, Commission Co-chair, called the meeting of the Special Commission on State Institutions to order at 2:35 pm. He welcomed members and informed members that the Commission meeting is subject to the Open Meeting Law and that any votes taken during the meeting would be conducted via roll-call vote. Mr. Millett also noted that the meeting was being recorded.

Ms. Mateo explained that a Commission member had requested a small change to the draft minutes from the Commission’s first meeting on June 1, 2023, which was to use plain language whenever possible, in both documents and our discussions. She noted that the minutes had been revised to reflect this request.

Vote 1 to approve the 6/1/2023 meeting minutes: Ms. Mateo requested a motion to approve the minutes from the Commission's previous meeting on June 1, 2023. Mr. Levrault introduced the motion, which was seconded by Mr. Millett and approved by roll-call vote (see detailed record of votes above).

Mr. Millett invited Carrie Benedon, Assistant Attorney General and Director of the Division of Open Government for the Massachusetts Office of the Attorney General, to present on the Open Meeting Law (OML). He noted that prior to the meeting, Commission members were asked to submit questions in advance regarding the OML and the day-to-day functioning of the Commission.

Director Benedon provided a detailed explanation of the OML and its requirements, noting that twice a month, her office offers 90-minute webinar trainings on the OML that are open to the public. Director Benedon explained that the OML applies to any public body, board, commission, or committee, established to serve a public purpose. Assistant Attorney General Benedon walked through her presentation slides, which are available on the [Commission's Meeting Materials webpage](#).

Director Benedon explained that Commission members are required to sign a certification form attesting that they have received a copy of the Open Meeting Law educational materials. She explained that signed forms do not need to be submitted to the Attorney General's Office. She noted that copies of the form can be found on the Attorney General's website ([public body member certification](#)) along with links to all OML educational materials. Key points from Director Benedon's presentation included the following:

- All meetings of the Commission, including subcommittee meetings, must be publicly noticed and open to the public. Every meeting must be posted, at least 48 hours in advance, with the date, time, place, agenda, and date and time of posting.
- The OML applies to almost all communications, which includes any discussion on matters within the Commission's jurisdiction, with limited exceptions for administrative matters such as scheduling meetings and setting agenda topics. She noted that the term "deliberation" is defined broadly and such matters are not limited to decision-making or opinion communications.
- Members of the Commission may email each other as long as the email does not reach a quorum of the members or the email is for administrative matters such as scheduling and does not contain any opinions. She warned members to be mindful of "serial communication" through emails, which can occur when an email about Commission matters is forwarded to other members, reaching a majority of Commission members outside of a noticed meeting.
- Meetings must be accessible. Current rules allow remote meetings, such as Zoom, until 2025. The Commission must ensure the remote meeting is working well, everyone can clearly follow the proceedings, and the Zoom license is adequate to accommodate the number of anticipated participants. The meeting must be accessible for persons with disabilities. When in-person meetings occur the meeting location must be compliant with the Americans with Disabilities Act (ADA).
- Executive session may be entered for 10 permissible purposes stated in the OML. To enter into executive session, the Commission must convene in an open meeting, state the purpose (can be in general terms), vote to enter executive session, and announce whether the Commission intends to reconvene afterwards in open session.
- The Commission must keep minutes for all meetings, summarizing the discussion of each meeting topic. She noted that the summary does not need to be a verbatim transcript of the discussion or include exact names of members and language used by participants. However, the

minutes must include a narrative summary of the discussion, any decisions made, documenting any votes, and listing any documents reviewed by the Commission.

- Any person may file an OML complaint by completing the Attorney General's OML Complaint Form ([Attorney General's Office Open Meeting Law Complaint Form](#)) and submitting the complaint to the chair of the public body in question. The public body must meet to discuss the complaint and respond to the individual who filed the complaint within 14 business days of receipt.
- The Division of Open Government of the Attorney General's Office can be contacted with any questions (617-963-2540, openmeeting@mass.gov). In addition, their webpage has a number of resources available including the OML guide, FAQs, checklists, and a searchable database of past determinations.

In response to members' questions, Director Benedon further clarified specific aspects of the OML, explaining the following:

- Sharing reports and other educational resources outside of an open meeting may be acceptable, provided that members refrain from editorializing or including their own opinions about the resources shared in those communications.
- The process of drafting documents collaboratively amongst members would likely need to occur in a publicly posted meeting if a quorum of Commission or subcommittee members would be working on the draft collaboratively. This could be accomplished through a publicly noticed "working session." Alternatively, a Commission member could be designated by the Commission to develop a draft and seek out input from other members of the Commission, provided that members were mindful of serial communication. Multiple people could also be delegated different aspects of the draft document, which a Commission staff member could compile and share more broadly with the Commission.
- Site visits or field trips with a quorum of the Commission may be permissible provided that no deliberations occur. Director Benedon outlined various options for conducting site visits, including attending the site visit as a larger group (quorum), provided that Commission members only listened and there was no discussion. She also noted that if the Commission intended to have any discussions at these visits, and such locations were physically accessible to the public, the Commission could post the meeting and invite members of the public. Additionally, the Commission could schedule site visits in small groups with less than a quorum.

Ms. Mateo reminded Commission members that \$145,000 has been allocated to the Commission to procure administrative and research support. She noted that at the June 1 Commission meeting, the Commission voted to create a Hiring Subcommittee whose membership consists of John Hannigan (replacing Michael Comeau), Andrew Levrault, Mary Mahon McCauley, and Vesper Moore.

Mr. Levrault and Victor Hernandez, Deputy Assistant Commissioner at DDS, provided an overview of the four options the Subcommittee discussed: (1) issuing a request for proposals, which can be a lengthy process; (2) selecting a consultant already under state contract who is already approved to do business with the Commonwealth; (3) hiring a researcher directly, such as a graduate student; and (4) engaging directly with a research entity such as the Center for Developmental Disability Evaluation and Research (CDDER). Deputy Assistant Commissioner Hernandez informed the group that he had a preliminary discussion with CDDER and confirmed their interest in partnering with the Commission. He highlighted their educational background with the capacity to perform administrative functions and other needed tasks for the Commission, including project management, scheduling, taking minutes, exploring cemeteries, collecting records, and working with the State Archives. Members expressed interest in

inviting a representative from CDDER to attend a meeting of the Hiring Subcommittee to discuss their work with the Commission.

Ms. Fracht left the meeting at 3:45 pm.

Vote 2 to invite a representative from CDDER to present before the Hiring Subcommittee: Mr. Millett requested a motion to invite a representative from CDDER to meet with the Hiring Subcommittee. Mr. Levrault introduced the motion, which was seconded by Mr. Green and approved by roll-call vote (see detailed record of votes above).

Deputy Assistant Commissioner Hernandez noted that he would reach out to CDDER and invite them to the next Subcommittee meeting.

Co-Chair Millett facilitated a discussion of members' preferences regarding the structure and frequency of the Commission's meetings. Various members expressed interest in meeting frequently during the next several months to continue the momentum of the Commission's work. Members discussed a realistic and practical timeframe that would advance the goals of the Commission while accommodating members' schedules. Consensus emerged around meeting every two weeks until the holidays begin, at which time, the Commission would assess future meeting cadence.

Ms. Aronne and Dr. White left the meeting at approximately 4:00 pm.

Vote 3 to poll members on their availability to meet every two weeks until mid-November: Mr. Millett requested a motion for the Commission to meet every two weeks until mid-November and for Commission staff to send a poll to members to identify a re-occurring day/time for future meetings that works for the majority of the Commission. Mr. Green introduced the motion, which was seconded by Mr. Levrault and approved by roll-call vote (see detailed record of votes above).

Mr. Green raised whether the Commission should consider inviting special advisors to the Commission and creating other Commission roles, such as vice-chairs and secretaries.

Ms. Mateo informed the group that all meeting materials would be posted on the Commission's website, and that Commission members can email the two co-chairs directly with any questions.

Vote 4 to adjourn: Mr. Green made a motion to adjourn, which was seconded by Mr. Moore and approved by roll-call vote (see detailed record of votes above).

The meeting was adjourned at 4:08 pm.

Meeting Materials

1. Commission meeting presentation
2. AGO Division of Open Government OML Presentation