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Dear Commission Members:

On behalf of the Attorney General and in accordance with the Open Meeting Law (the OML), G.L. c. 30A, § 19(d), the following report is submitted summarizing the activities of the Division of Open Government (the Division) from January 1, 2014 through December 31, 2014.¹

The Division currently consists of the Director, a paralegal, and three Assistant Attorneys General, one of whom shares duties across two divisions. The Division's responsibilities include receiving, reviewing, investigating and resolving OML complaints; creating and distributing educational materials about the OML; providing training on the OML; promulgating regulations; and responding to general inquiries about the OML from members of public bodies, municipal attorneys, members of the public, and the press.

During 2014, the Division responded to nearly 1,550 inquiries by telephone, e-mail, and letter. In addition to providing daily guidance through our hotline, the Division also added to its already robust training program by introducing live web-based OML trainings in March 2014. Finally, following the addition to our team in late 2013 of another full-time Assistant Attorney General, in 2014 we were able to ensure that the majority of all OML complaints were resolved in fewer than 90 days.

Complaints

As required by G.L. c. 30A, § 19(d),² the Attorney General's Office reports to the

¹ G.L. c. 30A, § 19(d), provides that "[t]he attorney general shall, not later than January 31, file annually with the [Open Meeting Law Advisory] commission a report providing information on the enforcement of the open meeting law during the preceding calendar year."

² "The report shall include, but not be limited to:

- (1) the number of open meeting law complaints received by the attorney general;
- (2) the number of hearings convened as the result of open meeting law complaints by the attorney general;
- (3) a summary of the determinations of violations made by the attorney general;
- (4) a summary of the orders issued as the result of the determination of an open meeting law violation by the attorney general;



Open Meeting Law Advisory Commission that, during 2014, the Division received 222 new OML complaints and resolved a total of 277 complaints. The Division issued 155 determination letters, 28 of which resolved complaints by informal action, and 26 declination letters. The median complaint resolution time in 2014 was approximately 70 days.

In 79 of its 155 determination letters, the Division found that the relevant public body had violated the OML. The most frequently occurring violations were: 1) insufficient meeting notices; 2) deliberation outside of a properly posted meeting, including email deliberation; 3) failure to follow appropriate procedures for entering executive session; 4) insufficiently specific or inaccurate meeting minutes; and 5) failure to follow the requirements of the OML complaint process. The remedial actions most frequently ordered by the Division were: 1) immediate and future compliance with the OML; 2) public release of documents, such as emails, used in deliberation outside of an open meeting; 3) attendance at a training on the OML or review of all or part of the Attorney General's online training video; 4) creation or amendment of open or executive session minutes; and 5) public release of open or executive session minutes. In 15 instances, we did not order any additional relief because the public body had taken sufficient remedial action.

The Division issued three determinations in 2014 finding intentional violations of the Open Meeting Law. In all three instances, the public body involved chose to settle the matter without the need for a hearing. As a result, no hearings were held in 2014. A list of these matters and their resolution follows.

OML 2014-24 (Hampshire Council of Governments) – Council compensated John P. O'Rourke for three days' employment, at an amount of \$865.38.

OML 2014-41 (Hamilton Finance Committee) – Committee paid a \$500 fine to the Commonwealth's General Fund.

OML 2014-42 (Wayland School Committee) – Committee paid a \$500 fine to the Commonwealth's General Fund.

Appeals

Two actions were filed in Superior Court during 2014 seeking relief from orders of the Division. The Attorney General is represented in both matters by attorneys from the office's Administrative Law Division. These matters, which are both currently

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- (5) an accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions;
 - (6) the number of actions filed in superior court seeking relief from an order of the attorney general; and
 - (7) any additional information relevant to the administration and enforcement of the open meeting law that the attorney general deems appropriate."

pending, are:

John P. O'Rourke v. Martha Coakley, Franklin Superior Court, Civil Action No. FRCV2014-00080.

Town of Winchester Board of Selectmen v. Attorney General, Middlesex Superior Court, Civil Action No. MICV2014-07246

Education

Our office's primary goal in enforcing the OML remains ensuring compliance with the law. In order to help individuals who are subject to the OML comply with its requirements, the Division has continued to devote significant time and resources to education and training.

During 2014, the Division trained approximately 940 people on the law's requirements. We conducted a series of seven regional trainings on the OML across the state, reaching approximately 320 attendees. Three of these presentations were conducted jointly with the State Ethics Commission, who presented on the state's Conflict of Interest Law. The Division also hosted six webinars in 2014 to accommodate individuals who were unable to attend the live regional training events. Finally, the Division participated in 13 other training events, reaching hundreds more. These events included presentations to the Massachusetts Municipal Association, the Massachusetts Association of School Committees, and the Massachusetts Municipal Lawyers Association, among others.

As a complement to its in-person training and educational outreach, the Division has continued to offer educational material on its website. The Division's website currently includes the Open Meeting Law Guide; periodically updated FAQs; a training video consisting of six segments explaining different aspects of the OML's requirements; three checklists for use by members of public bodies; and a database of all the Division's determination letters.

As we enter the new year, we look forward to continuing to work with you to ensure that all members of the public and public bodies are able to understand and adhere to the OML's requirements.

Sincerely,



Amy L. Nable
Assistant Attorney General
Director, Division of Open Government

cc: Attorney General Martha Coakley