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Dear Commission Members:

On behalf of the Attorney General and in accordance with the Open Meeting Law, G.L. c. 30A, §19(d), the following report is submitted summarizing the activities of the Division of Open Government ("Division") from July 1, 2010 through December 31, 2010.¹

The Ethics Reform Act of 2009² made significant revisions to the Open Meeting Law, chief among them centralizing the enforcement of the law in the Attorney General's Office and creating the Division. Currently, the Division consists of two attorneys, one of whom is the Director, and one paralegal. The Division's responsibilities include receiving, reviewing, investigating and resolving Open Meeting Law complaints; creating and distributing educational materials about the Open Meeting Law; providing training on the Open Meeting Law; promulgating regulations; and responding to general inquiries about the Open Meeting Law from members of public bodies, municipal attorneys, members of the public, and the press. Between July and December 2010, the Division focused its time and resources primarily on three areas: establishing the complaint process and resolving Open Meeting Law complaints; educating stakeholders about the revisions to the Open Meeting Law; and finalizing first-in-the-state regulations pertaining to the Open Meeting Law.

Complaints

As required by G.L. c. 30A, §19(d)³, the Attorney General's Office reports to the Open

¹ G.L. c. 30A, §19(d) provides that "the 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." G.L. c. 30A, §§18-25 took effect on July 1, 2010. Accordingly, this report summarizes the activities of the Division of Open Government from July 1, 2010-December 31, 2010.

² See Chapter 28 of the Acts of 2009.

³ "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 open meeting law enforcement actions;
- (5) An accounting of the fines obtained by the attorney general as the result of open meeting law enforcement actions;

Meeting Law Advisory Commission that between July 1, 2010 and December 31, 2010, the Division of Open Government received 65 Open Meeting Law complaints, 21 of which have been resolved. Of those, nine complaints resulted in a formal determination. In five instances, the Division determined that the relevant public body had violated the Open Meeting Law and issued a remedial order. The most frequently occurring violations were inappropriate deliberations during an executive session (three instances); deficient meeting notices (two instances); failure to maintain minutes (one instance); and inappropriately convening an emergency meeting (one instance). The remedial actions most frequently ordered by the Division were immediate and future compliance with the OML (five instances); the creation, approval and, where appropriate, release of minutes of public meetings (two instances); compulsory training of members of a public body (one instance); mandatory training annually during the subsequent two calendar years with attendant certification to the Division (one instance); and the required submission to the Division of all meeting notices of the public body for the subsequent two calendar years (one instance).

No hearings were convened by the Division in response to complaints received by our office and, accordingly, we assessed no fines pursuant to G.L. c. 30A, §23(c)(4). No actions were filed in Superior Court seeking relief from an order of the Attorney General.

The Division received approximately 1,200 inquiries by telephone, e-mail and letter, in addition to formal written complaints, between July 1, 2010 and December 31, 2010.

Education

Our office's goal in enforcing the Open Meeting Law is compliance with the law. Simply stated, individuals who are provided with the tools necessary to understand the law are less likely to violate it. Therefore, while the revisions to the Open Meeting Law mandated by the Ethics Reform Act of 2009 took effect on July 1, 2010, our office began conducting or participating in Open Meeting Law educational programs as early as April, 2010. Between April 1, 2010 and December 31, 2010, the Division presented educational programs on the Open Meeting Law before 30 groups, representing a cross-section of entities statewide with an interest in the OML. In addition, in November 2010, the Division conducted its first remedial training, ordered to cure an OML violation.

To complement the trainings and educational outreach performed in-person, the Division has developed materials that are available on the Office of the Attorney General's website. These materials include the Open Meeting Law Complaint Form; a Guide to the Open Meeting Law; and Frequently Asked Questions, which are periodically updated and supplemented by the Division.

Regulations

Effective July 1, 2010, our office promulgated emergency regulations on the Open Meeting Law. These initial regulations were based largely on our conversations with stakeholders between April, 2010 and June, 2010. Following the promulgation of the emergency

(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."

regulations, and in accordance with G.L. c. 30A, our office convened four regional public hearings to receive comments on the emergency regulations. These hearings occurred in Boston on August 5, 2010; Worcester on August 9, 2010; Springfield on August 10, 2010; and New Bedford on August 11, 2010. Written comments were received from 45 individuals and organizations, while an additional 24 individuals testified during the public hearings. Our office issued final regulations on the Open Meeting Law, 940 CMR 29.00, on October 1, 2010.

Good governance should be a goal shared by everyone, regardless of whether they serve in government, are a member of the public, advise public officials, or are a member of the media. Our office seeks to achieve this goal through the fair and consistent enforcement of the Open Meeting Law coupled with robust educational outreach. We look forward to furthering this goal during 2011 by, among other things, developing additional, large-scale educational programs; implementing alternative training methods; supplementing the material available on our website; and, of course, continuing to review, investigate and resolve complaints.

Sincerely,



Britte McBride
Assistant Attorney General
Director, Division of Open Government

cc: Attorney General Martha Coakley