



The Commonwealth of Massachusetts  
Office of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely. Sign and date the second page. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, by email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address the allegations in the complaint. At the same time, the body must send the Attorney General a copy of the complaint and a copy of the response. The public body may delegate this responsibility to an individual member of the public body, its counsel, or a staff member, but only after the public body has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, by email, or by hand, but only once you have waited for 30 days after filing the complaint with the public body. Mail may be sent to: The Division of Open Government, Office of the Attorney General, One Ashburton Place - 20<sup>th</sup> Floor, Boston, MA 02108. Emails may be sent to: [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by email at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



## OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: Robert Last Name: Espindola

Address: 14 John St.

City: Fairhaven State: MA Zip Code: 02719

Phone Number: (774) 263-1046 Ext. \_\_\_\_\_

Email: respindola@fairhaven-ma.gov

Organization or Media Affiliation (if any): Town of Fairhaven, Select Board

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual  Organization  Media

### Public Body that is the subject of this complaint:

City/Town  County  Regional/District  State

Name of Public Body (including city/town, county or region, if applicable): Town of Fairhaven

Specific person(s), if any, you allege committed the violation: Angeline Lopes Ellison, Leon Correy

Date of alleged violation: 2-26-2024

## Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

On February 16th, I sent an email to the Open Meeting Law email address asking for clarification about "if going into executive session for the purpose of discussing the goals and objectives that will be set in place for the Town Administrator for the upcoming year (i.e. the basis for how the Town Administrator will be scored at their annual review under their existing contract) is a valid reason for a Select Board to enter executive session"

On February 21st, I received a statement from Ms. Carrie Benedon, Assistant Attorney General, that stated "We have explained in a few prior determination letters that discussions of the process or metrics through which an evaluation will be conducted is not a proper matter for executive session. Please see the attached determinations, and others that are cited within them."

On February 21st, I forwarded that email, along with the attached determinations to Town Administrator Angie Lopes Ellison and all four of my fellow Board members to alert them that I had received guidance from the Attorney General that Goals should not be taken up in Executive Session.

On February 23rd, the Select Board received an email containing an electronic copy of our "packet" for our February 26th meeting. In the section of the packet labeled "Monday, February 26th, Executive Session" the first page of that section was a one page document titled "2024 Town Administrator Goals" that included a listing of five (5) main goals with bullets under each one. That document was followed by a copy of the existing Town Administrators Contract for which the term runs until April 4th, 2025. The contract document calls for an appraisal of calendar year goals to be completed by the end of December of that year. It appeared clear to me that, despite the Attorney Generals guidance, we were being called into Executive Session to discuss 2024 goals (under the existing contract). During our Open Meeting discussion prior to voting to go into executive session, I referred to the email exchange between Ms. Benedon and I that I had forwarded to everyone prior to the meeting, handed a hard copy of the email and all three determination letters and explained that goal setting did not meet the standard for discussion in Executive Session.

I thought that was made very clear. Upon entering Executive Session, Town Administrator Ellison started the meeting by saying that she wanted to discuss goals and became very angry. I felt uncomfortable both because the discussion was about to ensue about goals and because I felt there was a hostile environment aimed at me, so I exited the Executive session at that point. Later, Town Administrator Ellison left the room and at that point I reentered the Executive session for the remainder of it where there was discussion about what was actually on the Executives Session (her contract).

On March 11th, the Board approved Executive Session meeting minutes that confirm not only that the topic of goals discussed in Executive Session but Town Administrator Ellison also filed a formal complaint to the rest of the Board about me while I was not in the room. There was nothing posted on the Executive Session agenda to discuss concerns about any Board member and I received no notification that that discussion would take place without me present in the room. Furthermore, it is my understanding, from talking to Labor Counsel, that because of the comments made about me in Executive Session, I will be questioned in an investigation about the allegations.

The meeting notes make no mention of the Chair attempting to stop the conversation about goals or about me during the Executive Session even though the Chair has received, in writing, a copy of guidance from the Attorney General that it is the Chairs responsibility to ensure that topics not on the Executive Session Agenda are not discussed in Executive Session.

I believe the actions taken in executive session to discuss goals after receiving written notice by email and then verbal notice during the Open Public meeting as well as the complaint to the rest of the Board with me absent and without proper notice, show a blatant disregard for the Open Meeting Law. I believe it is my responsibility to file a formal complaint in an effort to stop this sort of thing from happening in the future.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Investigate the complaint and determine if there was an Open Meeting Law violation. If there was, provide guidance on how to avoid a similar violation in the future

## Review, sign, and submit your complaint

### I. Disclosure of Your Complaint.

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

### II. Consulting With a Private Attorney.

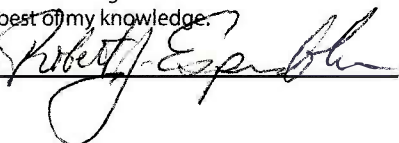
The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

### III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: \_\_\_\_\_



Date: \_\_\_\_\_

3-11-2024

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO: