

Massachusetts Municipal Leader Guide: Open Meeting Law in the Digital Age

Allen Lab for Democracy Renovation



HARVARD Kennedy School

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for Democratic Governance
and Innovation



ABOUT THE ALLEN LAB FOR DEMOCRACY RENOVATION

The Allen Lab for Democracy Renovation has set the standard for democracy-supportive frameworks that shape how policy is made and evaluated. Grounded in the field-defining scholarship of Danielle Allen, the Lab is driving the generational renewal of American constitutional democracy by preparing policymakers, scholars, advocates, technologists, and leaders across sectors to build healthy democracy for modern times. Through research, teaching, field-building, and proof-of-concept pilot testing, the Lab equips the full ecosystem of decision-makers to enact policies and solutions at scale to deliver responsive representation and effective governance for large, complex, digitally powered societies marked by significant social heterogeneity.

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CONTENTS

SOCIAL MEDIA	5
General Summary	5
Overview	5
Recent Attorney General Findings	8
Notes	11
HYBRID MEETINGS	13
Background	13
Overview	13
Potential Legislation	13
Additional Sources	13
Notes	14



SOCIAL MEDIA

Disclaimer: The Massachusetts Attorney General's Office has jurisdiction over Open Meeting Law complaints and provides guidance concerning the Open Meeting Law to local officials. Therefore, any questions concerning the Open Meeting Law are best addressed by the Division of Open Government at the Attorney General's Office. This document is intended to supplement guidance from the Attorney General's Office and, through hypotheticals, provide a broad, general overview of how local officials in Massachusetts may use social media while remaining mindful of the requirements of the Massachusetts Open Meeting Law. Its purpose is educational and informational to better understand common issues and practical considerations that can arise when social media intersects with public deliberations and governmental transparency obligations.¹

GENERAL SUMMARY

How Can Local Officials Use Social Media Without Violating the Open Meeting Law?

- Direct posts to the general public
- Do not direct any post to a fellow member of the public body or otherwise invite other fellow members of the public body to opine on or “like” your post, this includes not “tagging” or “mentioning” fellow public body members in your post
- Likewise, do not tag, comment on or like/dislike any posts from fellow members of your public body on any issue before your public body
- Never engage or intend to engage in deliberation on a social media site, as defined and described below
- Establish explicit local rules as a public body to ensure compliance with the Open Meeting Law

OVERVIEW

What Is the Open Meeting Law?

The Open Meeting Law is intended to ensure transparency in the democratic process. It requires local officials to proactively post a meeting notice describing where, when and the subject matter of their intended discussions and restricts communication between or among a public body outside of the properly

noticed meeting. With this information, the public has the ability to witness any and all policy considerations. The goal, in short, is to prevent officials from discussing and making decisions about issues affecting the public behind closed doors.

What Does the Meeting Notice and Posting Process Look Like?

Generally, the public must be provided with notice of a meeting 48 hours in advance. Notice of the meeting must be properly posted. Notices are usually posted by the Municipal Clerk on local bulletin boards but communities who opt in may post notices on their website instead.

What is Considered a Meeting?

A meeting is, generally, any deliberation by a public body with respect to any matter within their jurisdiction. The Open Meeting Law defines deliberation as “an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body

on any public business within its jurisdiction.” To be a deliberation, the communication must involve a quorum of the public body, i.e., must involve a simple majority of the members. Please note that does not always mean a majority of the full public body. If the public body has subcommittees, then deliberation may occur with a majority of the subcommittee members as well.

How Might a Local Official Violate the open Meeting Law Using Social Media?

If a member of a public body communicates directly with a majority of that same public body over social media platforms such as Facebook or X, that communication may violate the Open Meeting Law. This is because that communication may be considered a deliberation between members that was not properly noticed, as described above.



Communications with members of the *public*, as opposed to members of their same public body, over social media platforms do not violate the Open Meeting Law. The Open Meeting Law only applies to members of the same public body.

Does That Mean Local Officials Cannot Use Social Media?

No. Members of public bodies may communicate with members of the public through any social media platform. Further, the Open Meeting Law does not restrict an individual's right to make comments to the general public, including through social media. However, members of public bodies must *be careful not to engage in deliberation* with the other members of the public body through social media.

Can public Officials Post on social Media Even If They Are "Friends" or Otherwise Connected with a Majority of the Public Body on that Social Media Platform?

Yes. The Open Meeting Law does not restrict an individual's right to communicate with the general public.²

The Attorney General's Office has found that when comments are directed to the general public, and not to fellow Committee members, they did not constitute improper deliberation.³

What If a Public Official Posts in a Particular Social Media Group Where They Are "Friends" Or Otherwise Connected with a Majority of the public Body on That Social Media Platform?

Posting in a Facebook group, or the like, that includes a quorum of members of a public body is not in and of itself a violation of the Open Meeting Law.⁴

However, public body members should use particular care to avoid deliberation when writing a post that may be visible to other members of the public body, especially in a "closed" Facebook group and in particular if the closed group is relatively small.⁵

In order to differentiate between social media posts that are directed to the public and those

that are directed to other members of the public body, the Attorney General's Office examines the communicator's intent.⁶

APPENDIX OF HYPOTHETICALS

- **Bob is a member of a subcommittee subject to the Open Meeting Law. Bob posts on Facebook about an issue that the subcommittee will be addressing soon. Bob's intent is to inform the public, generally, about his position. There is nothing to suggest that other members of the subcommittee saw the post. A member of the general public does respond, and, in turn, Bob responds to that member of the public. Has there been a violation of the Open Meeting Law?**

No. Bob directed his comments to the general public and did not intend to communicate with any other member of his public body, including any members of his subcommittee. Further, there is nothing to suggest that other members of the subcommittee saw the post.

- **Bob and Sally are 2 of 3 members on a subcommittee and are "friends" on Facebook. Bob posts on Facebook about an issue that the subcommittee will be addressing soon. Bob's intent is to inform the public, generally, about his position. There is nothing to suggest that Sally saw the post. Has there been a violation of the Open Meeting Law?**

No. Bob did not intend to communicate with Sally and there is nothing to suggest that Sally saw the post.

- **Bob and Sally are 2 of 3 members on a subcommittee and are "friends" on Facebook. Bob posts on Facebook about an issue that the subcommittee will be addressing soon. Bob's intent is to inform the public, generally, about his position but he also tags Sally in the post. Though she sees the post, she doesn't respond. Has there been a violation of the Open Meeting Law?**



Yes. The expression of an opinion on matters within the body's jurisdiction to a quorum of a public body is a deliberation, even if no other public body member responds.

- **Bob and Sally are 2 of 3 members on a subcommittee and are “friends” on Facebook. Bob posts in a closed Facebook group about an issue that the subcommittee will be addressing soon. Bob’s intent is to inform this particular group, made up of about 10 people, about his position. Sally is also a member of the Facebook group but there is nothing to suggest she saw the post. Has there been a violation of the Open Meeting Law?**

Possibly. Though Bob seemingly intended to communicate generally to all members of the group, rather than just Sally, the fact that the group is so small may show a larger intent that he intended to communicate with Sally. Further, there is nothing to suggest that Sally saw the post.

- **Bob and Sally are 2 of 3 members on a subcommittee and are “friends” on Facebook. Bob posts on Facebook about an issue that the subcommittee will be addressing soon. Bob’s intent is to inform the public, generally, about his position but he also tags Sally in the post. Sally sees the post and “likes” it. Has there been a violation of the Open Meeting Law?**

Yes. Bob seemingly intended to communicate to Sally about a subject within the jurisdiction of the committee and Sally seemingly engaged in communication when she “liked” the post. Because Bob and Sally make up the majority of the 3-member committee, they have likely violated the open meeting law.

- **Bob and Sally are 2 of 3 members on a subcommittee and are “friends” on Facebook. Bob posts on Facebook about an issue that the subcommittee will be addressing soon. Bob’s intent is to inform the public,**

generally, about his position but he also tags Sally in the post. To Bob’s surprise, Sally comments on the post and conveys her support for Bob’s position. Has there been a violation of the Open Meeting Law?

Yes. Bob seemingly intended to communicate to Sally about a subject within the jurisdiction of the committee by “tagging” her even if his intent was to communicate with the public. Thereafter, Sally seemingly engaged in communication when she responded to the post. Because Bob and Sally make up the majority of the 3-member committee, they have likely violated the open meeting law.

- **Bob and Sally are 2 of 3 members on a subcommittee and are “friends” on Facebook. Bob posts on Facebook about an issue that the subcommittee will be addressing soon. Bob’s intent is to inform the public, generally, about his position. He does not tag Sally in the post. To Bob’s surprise, Sally comments on the post and conveys her support for Bob’s position. Has there been a violation of the Open Meeting Law?**

Yes. Even though Bob seemingly never intended to communicate to Sally about a subject within the jurisdiction of the committee, Sally subsequently saw and engaged in communication about his post. Because Bob and Sally make up the majority of the 3-member committee, they have likely violated the open meeting law.

- **Bob and Sally are 2 of 3 members on a subcommittee and are “friends” on Facebook. Bob posts on Facebook about an issue that the subcommittee will be addressing soon. Bob’s intent is to inform the public, generally, about his position. He does not tag any other subcommittee members and does not intend for Sally to read the post, forgetting they are even “friends” on the site. To his surprise, Sally comments on the post and conveys her support for Bob’s**



position. Has there been a violation of the Open Meeting Law?

Yes. Even though Bob seemingly never intended to communicate to Sally about a subject within the jurisdiction of the committee, Sally subsequently engaged in communication about his post. Because Bob and Sally make up the majority of the 3-member committee, they have likely violated the open meeting law.

- **Bob and Sally are 2 of 3 members on a subcommittee and are “friends” on Facebook. Bob posts on Facebook about an issue that the subcommittee will be addressing soon. Bob’s intent is to inform the public, generally, about his position. He does not tag any other subcommittee members and does not intend for Sally to read the post, forgetting they are even “friends” on the site. To his surprise, Sally comments on the post and conveys her support for Bob’s position. Once he sees this, Bob immediately deletes the post and Sally’s comment. Has there been a violation of the Open Meeting Law?**

Yes. Even though Bob seemingly never intended to communicate to Sally about a subject within the jurisdiction of the committee, Sally subsequently engaged in communication about his post. Because Bob and Sally make up the majority of the 3-member committee, they have likely violated the open meeting law. The fact that he subsequently deleted the post and comments does not remedy the violation that already took place.

- **What is the best way for Bob to ensure that his Facebook friendship with Sally does not cause any violations of the open meeting law?**

Bob could do two things. He could de-friend Sally on the platform and, further, remove the ability for her to see his posts or for anyone to make comments on his posts. If Sally is not a “friend” it may bolster Bob’s argument

that he is not intending to communicate with her but more generally with the public. Further, if she cannot see or comment on his posts, there may be no communication that would violate the open meeting law. However, when it comes to preventing comments, Bob needs to ensure what he is doing is content neutral so as to not stymie the free speech rights of users on the platform. Bob could also consider putting a disclaimer on his Facebook posts which states that no other persons who is a fellow member of the public body should read or comment on the post and that the posting is targeting the public and not any fellow board members.

RECENT ATTORNEY GENERAL FINDINGS

How has the Attorney General’s Office ruled on Open Meeting Law complaints related to social media?

1. OML 2025-166 (advising the public body that deliberating with each other outside of a posted meeting on social media violates the Open Meeting Law):

“Although not raised by the complainant, we note our concern regarding the practice of posting communication to a fellow member of a public body to social media. Social media may not be used to facilitate discussion between or among a quorum of its members. See OML 2018-145. Members of public bodies must be careful not to engage in deliberation with other members of the same public body over social media platforms. See OML 2017-192.”

2. OML 2024-175 (finding that while some messages in a closed Listserv spoke to matters within the jurisdiction of the public body, there was no evidence that the posts involved communication directed at the quorum of public body members or that a quorum responded to the posts of other members)



3. OML 2022-27 (finding that a Committee Member did not violate the Open Meeting Law after the Member posted about committee business, but the posts were clearly directed to members of the public).

“The Open Meeting Law does not restrict an individual’s right to make comments to the general public, including through social media. See OML 2017-111. However, if a member of a public body were to communicate directly with a quorum of the public body on a matter within the public body’s jurisdiction through social media, such communication may violate the Open Meeting Law. See OML 2017-192. Posting in a Facebook group that includes a quorum of members of a public body is not in and of itself a violation of the Open Meeting Law. See OML 2018-145, OML 2017-111. However, public body members should use particular care to avoid deliberation when writing a post that may be visible to other members of the public body, especially in a “closed” Facebook group and in particular if the closed group is relatively small. See OML 2018-153. In order to differentiate between social media posts that are directed to the public and those that are directed to other members of the public body, we must examine the communicator’s intent. See OML 2017-111; OML 2015-15.”

“Our office has advised public body members that, while they may use social media to communicate with their constituents on matters of public concern, those members should be cautious to avoid communicating with other public body members via social media. See OML 2018-145. In this case, we find no evidence that the other members of the Committee commented on Member Tool’s posts, and, indeed, it is not evident that the other members even read Member Tool’s comments in the Facebook group. Although these posts by Member

Tool related to Committee business, the posts were clearly directed to members of the public, as part of a public dialogue within the large Facebook group. See OML 2020-139 (finding no violation where a public body member discussed a matter of public body business with members of the public in a large town Facebook group.) In addition, no other members of the Committee responded. Therefore, we find that these posts did not constitute deliberation and did not violate the Open Meeting Law.”

4. OML 2021-133 (finding that a Board member did not violate the Open Meeting Law when they posted comments on social media concerning Board business, since there was no evidence that the posts involved communication directed to a quorum of the Board or that Board members responded to the posts of other members)

“It is not a violation of the Open Meeting Law for a quorum of the members of a public body to also be members of a social media group. However, if a member of the Board were to communicate directly with a quorum of the Board over that social media platform, such communication may violate the Open Meeting Law. We find no evidence that Board members communicated with a quorum of the Board on the Monterey-Community Google Group.

5. OML 2021-65 (finding that a Board member did not violate the Open Meeting Law when they posted on Facebook concerning Board business, since the responses to the post were from members of the public and the wife of one of the Council members)

It is not a violation of the Open Meeting Law for a quorum of the members of a public body to also be members of the same Facebook group. See OML 2017-192. Moreover, posting in a Facebook group that includes a quorum of members of a public body is not in and of itself a violation of the Open



Meeting Law. See OML 2020-139; OML 2018-145. However, if a member of the Council were to communicate directly with a quorum of the Council over social media platforms such as Facebook, such communication may violate the Open Meeting Law. We have reviewed the Facebook post made by the one Council member and find no evidence that the post involved communication directed to a quorum of the Council, or that Council members responded to the post of this one member. Rather, the responses to the post appear to be from members of the public and the wife of one of the Council members. Given the lack of evidence showing deliberation between or among a quorum of the Council, we find no violation of the Open Meeting Law.”

6. OML 2020-139 (finding no violation where a public body member discussed a matter of public body business with members of the public in a large town Facebook group):

“The Open Meeting Law does not restrict an individual’s right to make comments to the general public, including through social media. See OML 2017-111. However, if a member of a public body were to communicate directly with a quorum of the public body on a matter within the public body’s jurisdiction through social media, such communication may violate the Open Meeting Law. See OML 2017-192. Posting in a Facebook group that includes a quorum of members of a public body is not in and of itself a violation of the Open Meeting Law. See OML 2018-145, OML 2017-111. However, public body members should use particular care to avoid deliberation when writing a post that may be visible to other members of the public body, especially in a “closed” Facebook group and in particular if the closed group is relatively small. See OML 2018-153. In order to differentiate between social media posts that are directed to the public and those that are

directed to other members of the public body, we must examine the communicator’s intent. See OML 2017-111; OML 2015-15.”

7. OML 2018-145 (stating that a public body member posting in a closed Facebook group could potentially violate the Open Meeting Law):

“Our office has advised public body members that, while they may use social media to communicate with their constituents on matters of public concern, those members should be cautious to avoid communicating with other public body members via social media . . . Posting to a social media group, standing alone, does not amount to communication between or among a quorum of a body that must occur only in the context of a posted meeting.”

“When comments are made in a closed group, it is reasonably inferable that posts are directed solely at the members of that group, and, when a quorum of a public body belongs to a closed group, it becomes likely that posts and comments are targeted towards the other public body members. See OML 2017-111 (in determining whether improper deliberation took place, a communicator’s intended audience must be examined).”

8. OML 2017-192 (finding that Committee members did not violate the Open Meeting Law in posting on Facebook about Committee business, since there was no evidence that Committee members responded to each other or that the posts were directed to a quorum of the Committee):

“The complaint alleges that a quorum of the Committee are members of Facebook groups “that discusses school committee business.” We find no evidence that a quorum of the Committee violated the Open Meeting Law by deliberating via Facebook. Where a quorum of the members of a public



body are also members of a Facebook group, that is not in and of itself a violation of the Open Meeting Law. However, if a member of the Committee were to communicate directly with a quorum of the Committee over social media platforms such as Facebook, such communication may violate the Open Meeting Law. We find no evidence that Committee members communicated with a quorum of the Committee on the Arlington Resist Facebook page.”

“However, individual Committee members posted comments pertaining to school enrollment issues and renovation of certain Arlington schools to the Arlington School Enrollment Parent Group Facebook page. While the posts related to Committee business, we find no evidence that the posts involved communication directed to a quorum of the Committee, or that Committee members responded to the posts of other members. The Open Meeting Law does not restrict an individual’s right to make comments to the general public. See OML 2017-111. Here, we find that the posts by individual Committee members were directed to members of the public with Arlington School Enrollment Parent Group Facebook accounts, rather than specifically to a quorum of the Committee.”

Please see the [Attorney General’s Open Meeting Law Guide](#)⁷ for further information.

Additionally, please note that some cities and towns have adopted internal policies related to posting on social media. As such, it is advised local officials follow any local use of social media policies.

NOTES

1. Given that social media platforms evolve rapidly and the application of the Open Meeting Law depends heavily on specific facts and circumstances, this document is not intended to provide comprehensive legal guidance or definitive interpretations of the law. Nothing in this document should be construed as legal advice, an official legal opinion, or a substitute for consultation with qualified legal counsel, municipal counsel, or the appropriate state authorities. Local officials should consult their city or town attorney, ethics counsel, or other qualified professionals regarding specific situations, compliance questions, or potential legal risks.
2. See OML 2020-139. See OML 2021-66 (comments made by a public body member to a member of the public explaining the public body member’s reasoning and concerns did not constitute deliberation); OML 2020-139 (a public body member’s comments regarding public body business that were posted to a large Facebook group were clearly directed to members of the public and therefore did not constitute deliberation); see also OML 2020-19; OML 2023-151.
3. OML 2024-208.
4. See OML 2018-145, OML 2017-111.
5. See OML 2018-153.
6. See OML 2017-111; OML 2015-15.
7. <https://www.mass.gov/doc/open-meeting-law-guide-5/download>





HYBRID MEETINGS

BACKGROUND

The ability for municipalities to hold completely remote and/or hybrid meetings without violating the Open Meeting Law was originally permitted on a temporary basis by Executive Order at the beginning of the COVID-19 State of Emergency in 2020. The provisions were extended by the state legislature in [Section 20 of Chapter 20 of the Acts of 2021](#)¹ and further extended by [Chapter 2 of the Acts of 2025](#).² They are set to expire on June 30, 2027 unless extended or codified by the legislature.

OVERVIEW

Public bodies, such as the City Council, Select-board, or School Committee, among many others, are currently allowed to hold remote and hybrid meetings for the benefit of the public and/or their public body members. However, there is no requirement that they do so. Additionally, there is no present requirement that the majority of the members of the public bodies be physically in person for remote or hybrid meetings, though that is generally the rule pursuant to the Open Meeting Law.

If a remote/hybrid meeting is held, the chair of the public body must announce the name of the members of the public body who are participating remotely, and all votes must be taken by roll call. Members of the public body must also be clearly audible to each other and to members of the public at all times. If there are technical issues for members of the public body, it is encouraged to suspend discussion while reasonable efforts are made to correct any problem that interferes with the public body member's ability to hear or be heard clearly, among other potential technical problems. If not corrected, issues may arise concerning quorum of the public body, among other things.

For the general public, adequate access to public meetings can be provided through telephone, internet, or satellite enabled audio or

video conferencing or any other technology that enables the public to clearly follow the proceedings of the public body in *real time*. This could include Zoom, a high-capacity telephone conference line, Facebook Live, YouTube Live, and broadcasting on live TV, including local cable access television. In fact, even prior to the temporary remote provisions, public bodies could, and several did, provide additional means of access to meetings such as broadcasting live on local cable access. The applicable meeting notice must also include clear instructions for accessing the meeting remotely. To maintain compliance with the Open Meeting Law, if there are technical issues with the public's ability to access the meeting, the public body should cancel/adjourn the meeting and reschedule.

To provide for the technical infrastructure needed to support hybrid/remote meetings, communities have explored various funding avenues from the Commonwealth, such as the [Community Compact IT Grant Program](#)³ and [Municipal Fiber Grant Program](#),⁴ or sought a local appropriation.

POTENTIAL LEGISLATION

The revised Municipal Empowerment Act, H5131, as reported by the committee on Municipalities and Regional Government on February 19, 2026, among others, proposes several changes to the open meeting law that would permanently codify the remote/hybrid meeting changes and clarify other related issues. Consideration is also being given to the best mechanisms to hold a hybrid/remote open town meeting while some towns in Massachusetts are actively pursuing policies to enact such an option.

ADDITIONAL SOURCES

[Updated guidance on holding meetings pursuant to the Act Extending Certain COVID-19 Measures](#)⁵

[Massachusetts Bill H.5131](#)⁶



NOTES

1. <https://malegislature.gov/Laws/SessionLaws/Acts/2021/Chapter20>
2. <https://malegislature.gov/Laws/SessionLaws/Acts/2025/Chapter2>
3. <https://www.mass.gov/community-compact-it-grant-program>
4. <https://www.mass.gov/municipal-fiber-grant-program>
5. <https://www.mass.gov/info-details/updated-guidance-on-holding-meetings-pursuant-to-the-act-extending-certain-covid-19-measures>
6. <https://malegislature.gov/Bills/194/H5131>

