



**Massachusetts Association of Health Boards
Guidance Document
For Public Health Excellence Collaboratives
Posting of Meetings
August 16, 2023**

This information is provided for educational purposes only and is not to be construed as legal advice.

Background: The Massachusetts Attorney General’s Office of Open Government enforces the standards for the posting of public meetings in the Open Meeting Regulations under 940 CMR 29.03, as set forth in the Open Meeting Law (OML), G.L. c. 30A §§ 18 – 25.

Question Presented: Does a Public Health Excellence (PHE) collaborative’s governance board comprise a “public body¹,” and if so, does a meeting of the governing board require compliance with the OML?

Analysis: PHE collaboratives are a creation of an Intermunicipal Agreement (IMA), or a Memorandum of Understanding (MOU) adopted by municipalities. These IMA/MOUs detail the structure of a governance body often termed an “Advisory Board.” These bodies contain one or two representatives from each municipality in the PHE collaboratives. Generally, the membership of these governing boards of PHE collaboratives can be traced back to the appointing authority of the executive branch of a given municipality in the adoption of the IMA/MOU. As such, these governing boards satisfy the definition of a “public body” pursuant to the provision of the OML. Therefore, meetings in which a deliberation of a quorum of governance board members takes place, are subject to all provisions of the OML, including posting of meetings² and compiling minutes.³

¹ As defined in the relevant portions of 940 CMR 29.02, a “Public Body” is “a multiple-member board, commission, committee or subcommittee ... within any county, district, city, region or town, however created, elected, appointed or otherwise constituted, established to serve a public purpose; ... and provided further, that a subcommittee shall include any multiple-member body created to advise or make recommendations to a public body.

² A “Meeting” is defined in the statute as “a deliberation by a public body with respect to any matter within the body’s jurisdiction.” And a “Deliberation” is “an oral or written communication through any medium, ..., between or among a quorum of a public body on any public business within its authority. Importantly, the law is clear that a deliberation does not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting or the distribution of reports or documents that may be discussed at a meeting, so long as no opinion of a member is expressed. G.L. c. 30A, § 18.

³ Minutes are required by the OML, and, thus, the procedure for compiling them can be found in G.L. c. 30A §22. Requests for the production of those minutes is overseen by the Secretary of the Commonwealth Public Records Division. G.L. c. 66, § 10.

MAHB suggests that a best practice is that any “meetings” where a quorum of the governance boards of the PHE collaboratives will be present, deliberation will occur, and during which public business will be discussed, should be posted in compliance with the OML, and minutes should be taken and kept in the ordinary course.

There are some exceptions to the OML requirements. For instance, attendance by a quorum of the governance board at a public or private social event, conference or training program would not require compliance with the OML so long as the members do not deliberate. Meetings among less than a quorum of the members of a public body is not a deliberation as long as there are not multiple communications among the members of the public body that, together, would constitute communication among a quorum of the board.

Much like the operations of current health departments staff, PHE collaborative staff such as the Shared Services Coordinators and collaborative employees should feel comfortable running daily operations and meetings outside the governance board meetings as any municipal department would while simply being mindful of OML and public records requirements.

Under strict statutory interpretation, each participating municipality must “post notice of every meeting at least 48 hours in advance, and include the date, time and place of the meeting, and a listing of topics that the chair reasonably anticipates will be discussed at the meeting.” G.L. c. 30A, § 20(b). This means that for all deliberative meetings, notices must be filed and posted in each municipality in the PHE collaborative in the manner prescribed for local public bodies of each such municipality. See G.L. c. 30A, § 20(c)⁴. This is a burdensome task in some collaboratives where there may be a need to post each meeting in many municipalities.

While compliance with the OML and posting meetings initially may seem inhibitive, there is a certain protocol endorsed by the Attorney General’s Office, which will make posting notices of meetings quite simple and unobtrusive for a PHE collaborative.

The Attorney General’s Office of Open Government has worked out a far less onerous method of posting for regional/county/district public bodies. Since a PHE collaborative fits the definitions applied to regional/county/district public bodies, a PHE collaborative may, by majority vote, adopt the abbreviated methods for posting meetings. Posting the meeting notice to the “regional or district public body’s website” is an acceptable official notice posting method. See 940 CMR 29.03(3). This means that only the host community must post the meeting *so long as certain steps are taken by vote of the collaborative*.

These steps are as follows:

⁴ The applicable CMR provision reads in its entirety: “(3) Requirements Specific to Regional or District Public Bodies. (a) Notice shall be filed and posted in each city and town within the region or district in the manner prescribed for local public bodies in that city or town. (b) As an alternative method of notice, a regional or district public body may, by majority vote, adopt the regional or district public body’s website as its official notice posting method. A copy of each meeting notice shall be kept by the chair of the public body or the chair’s designee in accordance with the applicable records retention schedules. The public body shall file and post notice of the website address, as well as directions on how to locate notices on the website, in each city and town within the region or district in the manner prescribed for local public bodies in that city or town.”

1. At a meeting of the collaborative that is duly posted in each PHE collaborative municipality pursuant to the OML, an agenda item is included to “take a vote upon adoption of posting methods complying with 940 CMR 29.03(3).”
2. At that meeting, an appropriate motion is made, to adopt the procedures stated.
3. If the body votes to adopt the procedures, written notice of adoption of the alternative method is sent by the Shared Services Coordinator, through the municipal clerk of the host community, to the Office of Open Government⁵ that your PHE Collaborative has adopted the procedures for posting as set forth in 940 CMR 29.03(3), stating that the method of posting to be carried out is consistent with the posting mechanism for the host community.⁶
 - a. If the host community has a web page where it posts all public meetings, that web address must be referenced in the notification. If the host posts its meetings on a bulletin board open to all interested parties, and does not use an electronic posting method, the location of that bulletin board must be stated.⁷
4. Each of the participating municipalities must post the name of the PHE collaborative and the fact that the municipality participates in that PHE collaborative, and that meetings of the PHE collaborative are posted on the host’s website/posting method with instructions (URL link) describing how to find the posting.
5. Since there are some county-based collaboratives in the PHE program, it should be noted that notices for those groups should be filed in the offices of the county commissioners.

Following this protocol leads to each participating PHE collaborative municipality satisfying their meeting posting requirement. To be sure that your group has been included in this abbreviated procedure, you should verify that your PHE collaborative’s name appears on the Attorney General’s official spreadsheet of notice posting locations for regional/county/district bodies.⁸

As always, if you have any legal questions, MAHB recommends that you contact your municipal attorney as this guidance document should not be construed as legal advice.

However, we stand ready to assist you with implementing these procedures. Please contact support@mahb.org.

⁵ Notice should be sent via email to openmeeting@mass.gov.

⁶ If such an alternative posting method is adopted, the municipal clerk, in the case of a municipality, or the body, in all other cases, shall file with the Attorney General written notice of adoption of the alternative method, including the website address where applicable, and any change thereto, and the most current notice posting method on file with the Attorney General shall be consistently used. 940 CMR 29.03(1)(c).

⁷ *Id.*

⁸ Go to this web page, <https://www.mass.gov/service-details/official-notice-posting-locations-for-public-bodies>, and scroll to the subsection on regional/county/district bodies and click the link to the spreadsheet.