**MA OPEN MEETING LAW (M.G.L. c. 30A, ss18-25) BASICS**

Meetings (What is subject to the Open Meeting Law).

Generally, all meetings of a public body (e.g., a board of a public charter school) must be public.

A meeting is:

-a deliberation;

-by a public body;

-regarding anything in its jurisdiction.

A deliberation is: - “any written or oral communication”;

- through any medium (including email/text/phone call);

- between/amongst a quorum (majority) of a public body;

- on any subject or matter within the body’s jurisdiction.

Jurisdiction is defined as “any matter on which a quorum may appropriately make a decision or recommendation.”

One example: the expression of an opinion on a matter within our jurisdiction (most things concerning Alma) to a quorum (majority) of the Board constitutes a deliberation and must be open to the public.

Some Exceptions: a quorum of the Board may attend things (e.g., training), and inspect places (e.g., real estate), but can’t deliberate.

Chain emails, texts, or phone calls (a calls b, b calls c, c calls d, etc.) involving a quorum of the Board are subject to the Open Meeting Law if they concern a matter within the Board’s jurisdiction. (Avoid/beware of “Reply All.”)

Notice

- Legal notice requires that the date, time, place, and subjects of a meeting be posted publicly at least 48 hours in advance of the meeting.

- Notice of an emergency meeting must be provided as early as possible.

Executive Session [Non-Covid Rules]

Certain matters (see below) may be discussed in Executive Session.

- Before going into Executive Session (“ES”), the Board Chair must: a) state the reason(s) for the ES; b) indicate whether the Board will reconvene in open session after the ES: and (c) take a roll call vote to go into ES.

- Remote participation and voting is allowed in ES. Each remote participant must state at start that no-one else is present or listening at his/her location.

- All votes in ES must be by roll call.

- The Board may only discuss/consider the matters or subjects for which the ES was called.

Permitted matters/subjects for ES (the exceptions most likely to apply) include:

1. Discussion of:

- the character, physical condition, or mental health of an individual;

-discipline of, dismissal of, complaints or charges against, an officer, employee, staff member or individual.

The professional competence of an individual is not, alone, an appropriate subject/matter for ES. When: a) evaluating an employee; b) considering applicants (finalists-see below) for a position; or c) discussing qualifications of persons, it must be done in open session unless it concerns the character or health of, or charges or complaints against, an individual.

There is an explicit exception for a hiring sub-committee or screening committee for applicants for a position if an open meeting would have a detrimental effect on obtaining applicants.

If the full board is deliberating on finalist applicants, it must be in open session.

1. Strategy sessions for: negotiating with personnel; collective bargaining; and litigation.
2. Security matters, and investigation of criminal charges or complaints.
3. Purchase, exchange, lease or value of real property if public discussion (e.g., of negotiation position) would be detrimental to the interests of the public institution.

Remote Participation [Non-Covid Rules]

Remote participation in board meetings is allowed under the following conditions:

- A quorum (majority) is physically present at the meeting;

- All participants must be clearly audible to each other;

-All votes must be by roll call; and

-At the start of the meeting, the Chair must identify any remote participants.

Minutes

Public bodies are required to create and maintain accurate minutes of all meetings, including Executive Sessions.

Minutes must include:

- the Board members present or absent;

- the date, time and place of the meeting;

- the decisions made and actions taken, including a record of all votes;

-a summary of the discussion on each subject;

- a list of all documents and exhibits used at the meeting. (A best practice is, whenever possible, to attach/include the actual document/exhibit with the minutes); and

-the name of each Board member participating remotely.

Although minutes must include a summary of the discussion on each subject considered, a transcript (who said what) is not required. Minutes are a record of what was done, not what was said.

All votes in Executive session must be by roll call, and the results must be recorded in the minutes.

Public bodies are not required to disclose the minutes or materials used in Executive Session if disclosure would defeat the lawful purpose of the Executive Session. Once disclosure would no longer defeat the purpose, those minutes and materials must ordinarily be disclosed.

Certification

Within two weeks of approval by the Commissioner of Education of appointment to the Board, the appointee must complete the Form certifying receipt and understanding of the Open Meeting Law materials (provided upon appointment).

A Board member must sign a new certificate upon reappointment or reelection.