

Frequently asked questions about meeting minutes

Must documents used by a public body at a meeting be retained with the minutes?

No, documents used by a public body at a meeting may be retained separately from the minutes, though the minutes must list all the documents used by the public body during the meeting. However, once used by the public body at a meeting, the documents become part of the official record and must be maintained in accordance with the Commonwealth's public records retention schedules. .

Must the minutes of meetings list all members of the public body?

The Open Meeting Law requires that the minutes of a meeting list the names of the members present *or* absent.

What are the acceptable methods for approving meeting minutes?

Public bodies must create and approve minutes of all meetings, including executive sessions, in a timely manner. A "timely manner" will generally be considered to be within the next three public body meetings or within 30 days, whichever is later, unless the public body can show good cause for further delay. The Attorney General encourages public bodies to approve minutes at the next meeting whenever possible. The Open Meeting Law does not govern the method for approving those minutes, however. Public bodies may choose the method for approving their minutes, including approval by the public body chair alone, by majority vote of the public body, or by consent of the body (approved unless there is an objection). When a quorum of a public body approves minutes, however, it must do so during a noticed meeting.

When must a public body respond to a request for meeting minutes?

The procedures and timeframes for responding to requests for meeting minutes are different depending on whether the request is made under the Open Meeting Law or the Public Records Law.

A request for minutes under the Open Meeting Law must be made to the public body. The Open Meeting Law requires that "minutes of an open session, if they exist and whether approved or in draft form, shall be made available upon request by any person within 10 days." G.L. c. 30A, § 22(c). A public body has 10 calendar days from the date a request is received to provide a response. If minutes do not yet exist at the time of a request, the public body is still required to respond to the request within 10 calendar days with an explanation of whether the minutes do or do not exist in either approved or draft form.

A public body must also respond to a request for executive session minutes within 10 calendar days. G.L. c. 30A, § 22(g)(2). If the public body or a designee has determined, prior to the request, that certain executive session minutes may be released, it should respond to the requester directly, notifying him or her of the availability of those minutes. And if, at the time of a request, the public body has not conducted a review of the minutes to determine whether

continued nondisclosure is warranted, the body must perform such a review and release the minutes, if appropriate, no later than its next meeting or within 30 days, whichever occurs first. G.L. c. 30A, § 22(g)(2). In such circumstances, the body must still respond to the requestor within 10 days, notifying them that it is conducting this review.

We note that the Public Records Law requires that a response for records be provided in 10 business days. The Public Records Law also requires each agency or municipality to designate a Public Records Access Officer, an individual responsible for coordinating responses to requests for records - often the Town Clerk in a municipality. The Town Clerk may also be the custodian of meeting minutes that have been approved by public bodies. However, the Town Clerk is not subject to the Open Meeting Law and a failure by the Clerk to timely respond to a request for minutes would not be a violation of the Open Meeting Law, although it could be a violation of the Public Records Law. Furthermore, whereas the Open Meeting Law requires that public bodies respond to a request for minutes within 10 calendar days, a Records Access Officer has 10 business days to respond to requests for meeting minutes made under the Public Records Law.

To whom should a request for meeting minutes under the Open Meeting Law be made?

A request for minutes that is directed to a public body will trigger the requirements of the Open Meeting Law. A request for minutes that is directed to another municipal employee, such as a Town Clerk or a Public Records Access Officer, will likely fall under the Public Records Law.