Office of the Attorney General

Access to Public Records Act & Open Meetings Act

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Attorney General
Peter F. Neronha

July 19, 2019

Dear Open Government Summit Attendee:

Thank you for joining us at the 21st annual Open Government Summit, hosted by Roger Williams University School of Law. This event provides an important opportunity to learn more about promoting transparency in state and local government.

When government decisions are debated in public and made open to inspection, the result is a more engaged citizenry that is invested in its community. Through this summit, our goal is to provide you, as practitioners, with the tools you need to effectively operate in accordance with the Access to Public Records Act and the Open Meetings Act.

There will be forks in the road. There will be times when you will need to use your discretion to determine whether information should be made publicly available or withheld when necessary to protect an important interest. We recommend that in addition to asking whether you *could* withhold, think about whether you *should*.

Contained in this booklet are helpful training materials from today's event, including copies of applicable laws and recent findings by our Office. Please reach out to our Office at any time with questions, or to schedule an open government training for your organization or in your community:

opengovernment@riag.ri.gov
401-274-4400, ext. 2020

You can also access a variety of resources on our website at **http://www.riag.ri.gov/CivilDivision/OpenGovernmentUnit.php**, including a video of the 2019 Open Government Summit.

Thank you for your interest and commitment to ensuring that state and local government are open and accessible to the people of Rhode Island.

Sincerely,

Peter F. Neronha
Attorney General

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SECTION I

ACCESS TO PUBLIC RECORDS ACT

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Attorney General
Peter F. Neronha

ACCESS TO PUBLIC RECORDS ACT FINDINGS

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Updated: June 28, 2019

ACCESS TO PUBLIC RECORDS ACT FINDINGS – 2019

PR 19-01 **Catoni v. City of Providence**

The Complainant alleged that the City of Providence ("City") violated the APRA when the City stated it did not maintain records responsive to his request. The City provided undisputed evidence in affidavit form that it did not maintain the requested records. Accordingly, we found that the City did not violate the APRA by responding to the Complainant that it did not maintain the requested documents. *See* R.I. Gen. Laws § 38-2-3(a).
Issued March 25, 2019

PR 19-02 **Szerlag v. Town of East Greenwich**

The Complainant alleged that the Town of East Greenwich ("Town") violated the APRA when the Town requested an additional twenty (20) business days to respond to his APRA request. We concluded based on the undisputed evidence that the Town's extension was timely and was based on reasons particular to the request. *See* R.I. Gen. Laws § 38-2-3(e). Accordingly, we found no violation.
Issued March 25, 2019

PR 19-03 **Wilson v. Town of West Warwick**

The Complainant alleged that the Town of West Warwick ("Town") violated the Access to Public Records Act ("APRA") when it failed to respond to his request for records within the ten business days required under the APRA. This Office determined that the Town's assertion that another entity maintained the records was insufficient because even if the Town was not the correct public body to receive the request, it was still required to respond to the request within ten business days. Accordingly, this Office determined there was a violation because the undisputed evidence revealed that the Town did not respond to the request within ten business days. This Office also asked the Town to submit a supplemental response regarding why its violation should not be considered willful and knowing, or reckless.
VIOLATION FOUND.
Issued March 29, 2019

PR 19-04 **Farinelli v. City of Providence**

The Complainant alleged that the City of Providence ("City") violated the APRA by providing a prepayment estimate that underestimated the actual time required for search and retrieval and by subsequently providing an amended prepayment estimate that pertained to only a portion of the requested documents. We concluded that the City's initial estimate did not violate the APRA because of the difficulty involved in accurately predicting the time required to search and retrieve documents responsive to the Complainant's request and because providing such estimates is an inexact science. We also noted that the City informed the Complainant that the

initial prepayment amount was only an estimate. We concluded that the City did violate the APRA by failing to provide responsive documents or an amended estimate of the prepayment cost to complete the entire request. Although we did not find evidence of a willful and knowing, or reckless, violation, we directed the City to provide the Complainant with the requested documents free of charge.
VIOLATION FOUND.
Issued April 8, 2019

PR 19-05 **Maldonado v. Woonsocket Police Department**

The Complainant alleged the Police Department violated the APRA by failing to respond to two APRA requests for a police report related to his arrest, by denying a third APRA request for that police report, and by failing to timely respond to his administrative appeal. This Office concluded that there was no evidence that the Police Department received the first two APRA requests, and accordingly the Police Department did not violate the APRA by not responding. This Office determined that the Police Department did violate the APRA by denying the APRA request for the police report, which the evidence indicated constituted the report of an initial arrest. Additionally, the Police Department violated the APRA by failing to timely respond to Complainant's administrative appeal. Although we do not find the Police Department's violations to be willful and knowing, or reckless, the Police Department is required to provide the police report to the Complainant, free of charge, in a manner consistent with the APRA.
VIOLATION FOUND.
Issued June 7, 2019

PR 19-06 **J.H. Lynch & Sons v. Rhode Island Department of Transportation**

Complainant contended that the Rhode Island Department of Transportation ("RIDOT") violated the APRA when it failed to produce certain documents Complainant requested. This Office determined that RIDOT violated the APRA by failing to timely locate and produce a responsive document. This Office also required RIDOT to provide a supplemental submission regarding, among other things, its search for some of the other items requested by Complainant and whether any APRA violation committed by RIDOT was knowing and willful, or reckless.
VIOLATION FOUND.
Issued June 27, 2019

CHAPTER 2
ACCESS TO PUBLIC RECORDS

38-2-1. **Purpose.** — The public's right to access to public records and the individual's right to dignity and privacy are both recognized to be principles of the utmost importance in a free society. The purpose of this chapter is to facilitate public access to public records. It is also the intent of this chapter to protect from disclosure information about particular individuals maintained in the files of public bodies when disclosure would constitute an unwarranted invasion of personal privacy.

38-2-2. **Definitions.** — As used in this chapter:

(1) "Agency" or "public body" means any executive, legislative, judicial, regulatory, or administrative body of the state, or any political subdivision thereof; including, but not limited to, any department, division, agency, commission, board, office, bureau, authority, any school, fire, or water district, or other agency of Rhode Island state or local government which exercises governmental functions, any authority as defined in section 42-35-1(b), or any other public or private agency, person, partnership, corporation, or business entity acting on behalf of and/or in place of any public agency.

(2) "Chief administrative officer" means the highest authority of the public body.

(3) "Public business" means any matter over which the public body has supervision, control, jurisdiction, or advisory power.

(4) "Public record" or "public records" shall mean all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, magnetic or other tapes, electronic data processing records, computer stored data (including electronic mail messages, except specifically for any electronic mail messages of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities) or other material regardless of physical form or characteristics made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency. For the purposes of this chapter, the following records shall not be deemed public:

(A) (I) (a) All records relating to a client/attorney relationship and to a doctor/patient relationship, including all medical information relating to an individual in any files;

(b) Personnel and other personal individually-identifiable records otherwise deemed confidential by federal or state law or regulation, or the disclosure of which would constitute a clearly unwarranted invasion of personal privacy pursuant to 5 U.S.C. 552 et. seq.; provided, however, with respect to employees, and employees of contractors and subcontractors working on public works projects which are required to be listed as certified payrolls, the name, gross salary, salary range, total cost of paid fringe benefits, gross amount received in overtime, and any other remuneration in addition to salary, job title, job description, dates of employment and positions held with the state municipality, or public works contractor or subcontractor on public works projects, employment contract, work location, and/or project, business telephone number, the city or town of residence, and date of termination shall be public. For the purposes of this section "remuneration" shall include any payments received by an employee as a result of termination, or otherwise leaving employment, including, but not limited to, payments for accrued sick and/or vacation time, severance pay, or compensation paid pursuant to a contract buy-out provision.

(II) Notwithstanding the provisions of this section, or any other provision of the general laws to the contrary, the pension records of all persons who are either current or retired members of any public retirement systems as well as all persons who become members of those retirement systems after June 17, 1991 shall be open for public inspection. "Pension records" as used in this section shall include all records containing information concerning pension and retirement benefits of current and retired members of the retirement systems and future members of said systems, including all records concerning retirement credits purchased and the ability of any member of the retirement system to purchase retirement credits, but excluding all information regarding the medical condition of any person and all information identifying the member's designated beneficiary or beneficiaries unless and until the member's designated beneficiary or beneficiaries have received or are receiving pension and/or retirement benefits through the retirement system.

(B) Trade secrets and commercial or financial information obtained from a person, firm, or corporation which is of a privileged or confidential nature.

(C) Child custody and adoption records, records of illegitimate

births, and records of juvenile proceedings before the family court.

(D) All records maintained by law enforcement agencies for criminal law enforcement and all records relating to the detection and investigation of crime, including those maintained on any individual or compiled in the course of a criminal investigation by any law enforcement agency. Provided, however, such records shall not be deemed public only to the extent that the disclosure of the records or information (a) could reasonably be expected to interfere with investigations of criminal activity or with enforcement proceedings, (b) would deprive a person of a right to a fair trial or an impartial adjudication, (c) could reasonably be expected to constitute an unwarranted invasion of personal privacy, (d) could reasonably be expected to disclose the identity of a confidential source, including a state, local, or foreign agency or authority, or any private institution which furnished information on a confidential basis, or the information furnished by a confidential source, (e) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions or (f) could reasonably be expected to endanger the life or physical safety of any individual. Records relating to management and direction of a law enforcement agency and records or reports reflecting the initial arrest of an adult and the charge or charges brought against an adult shall be public.

(E) Any records which would not be available by law or rule of court to an opposing party in litigation.

(F) Scientific and technological secrets and the security plans of military and law enforcement agencies, the disclosure of which would endanger the public welfare and security.

(G) Any records which disclose the identity of the contributor of a bona fide and lawful charitable contribution to the public body whenever public anonymity has been requested of the public body with respect to the contribution by the contributor.

(H) Reports and statements of strategy or negotiation involving labor negotiations or collective bargaining.

(I) Reports and statements of strategy or negotiation with respect to the investment or borrowing of public funds, until such time

as those transactions are entered into.

(J) Any minutes of a meeting of a public body which are not required to be disclosed pursuant to chapter 46 of title 42.

(K) Preliminary drafts, notes, impressions, memoranda, working papers, and work products, including those involving research at state institutions of higher education on commercial, scientific, artistic, technical or scholarly issues, whether in electronic or other format; provided, however, any documents submitted at a public meeting of a public body shall be deemed public.

(L) Test questions, scoring keys, and other examination data used to administer a licensing examination, examination for employment or promotion, or academic examinations; provided, however, that a person shall have the right to review the results of his or her examination.

(M) Correspondence of or to elected officials with or relating to those they represent and correspondence of or to elected officials in their official capacities.

(N) The contents of real estate appraisals, engineering, or feasibility estimates and evaluations made for or by an agency relative to the acquisition of property or to prospective public supply and construction contracts, until such time as all of the property has been acquired or all proceedings or transactions have been terminated or abandoned; provided the law of eminent domain shall not be affected by this provision.

(O) All tax returns.

(P) All investigatory records of public bodies, with the exception of law enforcement agencies, pertaining to possible violations of statute, rule, or regulation other than records of final actions taken provided that all records prior to formal notification of violations or noncompliance shall not be deemed to be public.

(Q) Records of individual test scores on professional certification and licensing examinations; provided, however, that a person shall have the right to review the results of his or her examination.

(R) Requests for advisory opinions until such time as the public body issues its opinion.

(S) Records, reports, opinions, information, and statements required to be kept confidential by federal law or regulation or state law, or rule of court.

(T) Judicial bodies are included in the definition only in respect to their administrative function provided that records kept pursuant to the provisions of chapter 16 of title 8 are exempt from the operation of this chapter.

(U) Library records which by themselves or when examined with other public records, would reveal the identity of the library user requesting, checking out, or using any library materials.

(V) Printouts from TELE -TEXT devices used by people who are deaf or hard of hearing or speech impaired.

(W) All records received by the insurance division of the department of business regulation from other states, either directly or through the National Association of Insurance Commissioners, if those records are accorded confidential treatment in that state. Nothing contained in this title or any other provision of law shall prevent or be construed as prohibiting the commissioner of insurance from disclosing otherwise confidential information to the insurance department of this or any other state or country; at any time, so long as the agency or office receiving the records agrees in writing to hold it confidential in a manner consistent with the laws of this state.

(X) Credit card account numbers in the possession of state or local government are confidential and shall not be deemed public records.

(Y) Any documentary material, answers to written interrogatories, or oral testimony provided under any subpoena issued under Rhode Island General Law § 9-1.1-6.

(Z) Any individually identifiable evaluations of public school employees made pursuant to state or federal law or regulation.

(AA) All documents prepared by school districts intended to be used by school districts in protecting the safety of their students from potential and actual threats.

38-2-3. Right to inspect and copy records — Duty to maintain minutes of meetings — Procedures for access. —

(a) Except as provided in § 38-2-2(4), all records maintained or kept on file by any public body, whether or not those records are required by any law or by any rule or regulation, shall be public records and every person or entity shall have the right to inspect and/or copy those records at such reasonable time as may be determined by the custodian thereof.

(b) Any reasonably segregable portion of a public record excluded by subdivision 38-2-2(4) shall be available for public inspection after the deletion of the information which is the basis of the exclusion. If an entire document or record is deemed non-public, the public body shall state in writing that no portion of the document or record contains reasonable segregable information that is releasable.

(c) Each public body shall make, keep, and maintain written or recorded minutes of all meetings.

(d) Each public body shall establish written procedures regarding access to public records but shall not require written requests for public information available pursuant to R.I.G.L. section 42-35-2 or for other documents prepared for or readily available to the public.

These procedures must include, but need not be limited to, the identification of a designated public records officer or unit, how to make a public records request, and where a public record request should be made, and a copy of these procedures shall be posted on the public body's website if such a website is maintained and be made otherwise readily available to the public. The unavailability of a designated public records officer shall not be deemed good cause for failure to timely comply with a request to inspect and/or copy public records pursuant to subsection (e). A written request for public records need not be made on a form established by a public body if the request is otherwise readily identifiable as a request for public records.

(e) A public body receiving a request shall permit the inspection or copying within ten (10) business days after receiving a request. If the inspection or copying is not permitted within ten (10) business days, the public body shall forthwith explain in writing the need for additional time to comply with the request. Any such explanation must be particularized to the specific request made. In such cases the public body may have up to an additional twenty (20) business days to comply with the request if it can demonstrate that the

voluminous nature of the request, the number of requests for records pending, or the difficulty in searching for and retrieving or copying the requested records, is such that additional time is necessary to avoid imposing an undue burden on the public body.

(f) If a public record is in active use or in storage and, therefore, not available at the time a person or entity requests access, the custodian shall so inform the person or entity and make an appointment for the person or entity to examine such records as expeditiously as they may be made available.

(g) Any person or entity requesting copies of public records may elect to obtain them in any and all media in which the public agency is capable of providing them. Any public body which maintains its records in a computer storage system shall provide any data properly identified in a printout or other reasonable format, as requested.

(h) Nothing in this section shall be construed as requiring a public body to reorganize, consolidate, or compile data not maintained by the public body in the form requested at the time the request to inspect the public records was made except to the extent that such records are in an electronic format and the public body would not be unduly burdened in providing such data.

(i) Nothing in this section is intended to affect the public record status of information merely because it is stored in a computer.

(j) No public records shall be withheld based on the purpose for which the records are sought, nor shall a public body require, as a condition of fulfilling a public records request, that a person or entity provide a reason for the request or provide personally identifiable information about him/herself.

(k) At the election of the person or entity requesting the public records, the public body shall provide copies of the public records electronically, by facsimile, or by mail in accordance with the requesting person or entity's choice, unless complying with that preference would be unduly burdensome due to the volume of records requested or the costs that would be incurred. The person requesting delivery shall be responsible for the actual cost of delivery, if any.

38-2-3.1. **Records required.**— All records required to be maintained pursuant to this chapter shall not be replaced or supplemented with the product of a "real-time translation reporter."

38-2-3.2. **Arrest logs.** – (a) Notwithstanding the provisions of subsection 38-2-3(e), the following information reflecting an initial arrest of an adult and charge or charges shall be made available within forty-eight (48) hours after receipt of a request unless a request is made on a weekend or holiday, in which event the information shall be made available within seventy-two (72) hours, to the extent such information is known by the public body:

(1) Full name of the arrested adult;

(2) Home address of the arrested adult, unless doing so would identify a crime victim;

(3) Year of birth of the arrested adult;

(4) Charge or charges;

(5) Date of the arrest;

(6) Time of the arrest;

(7) Gender of the arrested adult;

(8) Race of the arrested adult; and

(9) Name of the arresting officer unless doing so would identify an undercover officer.

(b) The provisions of this section shall apply to arrests made within five (5) days prior to the request.

38-2-3.16. **Compliance by agencies and public bodies.** – Not later than January 1, 2013, and annually thereafter, the chief administrator of each agency and each public body shall state in writing to the attorney general that all officers and employees who have the authority to grant or deny persons or entities access to records under this chapter have been provided orientation and training regarding this chapter. The attorney general may, in accordance with the provisions of chapter 35 of title 42, promulgate rules and regulations necessary to implement the requirements of this section.

38-2-4. **Cost.** — (a) Subject to the provisions of section 38-2-3, a public body must allow copies to be made or provide copies of public records. The cost per copied page of written documents provided to the public shall not exceed fifteen cents ($.15) per page for documents copyable on

common business or legal size paper. A public body may not charge more than the reasonable actual cost for providing electronic records or retrieving records from storage where the public body is assessed a retrieval fee.

(b) A reasonable charge may be made for the search or retrieval of documents. Hourly costs for a search and retrieval shall not exceed fifteen dollars ($15.00) per hour and no costs shall be charged for the first hour of a search or retrieval. For the purposes of this subsection, multiple requests from any person or entity to the same public body within a thirty (30) day time period shall be considered one request.

(c) Copies of documents shall be provided and the search and retrieval of documents accomplished within a reasonable time after a request. A public body upon request, shall provide an estimate of the costs of a request for documents prior to providing copies.

(d) Upon request, the public body shall provide a detailed itemization of the costs charged for search and retrieval.

(e) A court may reduce or waive the fees for costs charged for search or retrieval if it determines that the information requested is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.

38-2-5. **Effect of chapter on broader agency publication — Existing rights — Judicial records and proceedings.** — Nothing in this chapter shall be:

(1) Construed as preventing any public body from opening its records concerning the administration of the body to public inspection;

(2) Construed as limiting the right of access as it existed prior to July 1, 1979, of an individual who is the subject of a record to the information contained herein; or

(3) Deemed in any manner to affect the status of judicial records as they existed prior to July 1, 1979, nor to affect the rights of litigants in either criminal or civil proceedings, including parties to administrative proceedings, under the laws of discovery of this state.

38-2-7. **Denial of access.** — (a) Any denial of the right to inspect or copy records,

in whole or in part provided for under this chapter shall be made to the person or entity requesting the right in writing giving the specific reasons for the denial within ten (10) business days of the request and indicating the procedures for appealing the denial. Except for good cause shown, any reason not specifically set forth in the denial shall be deemed waived by the public body.

(b) Failure to comply with a request to inspect or copy the public record within the ten (10) business day period shall be deemed to be a denial. Except that for good cause, this limit may be extended in accordance with the provisions of subsection 38-2-3(e) of this chapter. All copying and search and retrieval fees shall be waived if a public body fails to produce requested records in a timely manner; provided, however, that the production of records shall not be deemed untimely if the public body is awaiting receipt of payment for costs properly charged under section 38-2-4.

(c) A public body that receives a request to inspect or copy records that do not exist or are not within its custody or control shall, in responding to the request in accordance with this chapter, state that it does not have or maintain the requested records.

38-2-8. **Administrative appeals.** — (a) Any person or entity denied the right to inspect a record of a public body may petition the chief administrative officer of that public body for a review of the determinations made by his or her subordinate. The chief administrative officer shall make a final determination whether or not to allow public inspection within ten (10) business days after the submission of the review petition.

(b) If the custodian of the records or the chief administrative officer determines that the record is not subject to public inspection, the person or entity seeking disclosure may file a complaint with the attorney general. The attorney general shall investigate the complaint and if the attorney general shall determine that the allegations of the complaint are meritorious, he or she may institute proceedings for injunctive or declaratory relief on behalf of the complainant in the superior court of the county where the record is maintained. Nothing within this section shall prohibit any individual or entity from retaining private counsel for the purpose of instituting proceedings for injunctive or declaratory relief in the superior court of the county where the record is maintained.

(c) The attorney general shall consider all complaints filed under this chapter to have also been filed pursuant to the provisions of § 42-

46-8(a), if applicable.

(d) Nothing within this section shall prohibit the attorney general from initiating a complaint on behalf of the public interest.

38-2-9. **Jurisdiction of superior court. —**

(a) Jurisdiction to hear and determine civil actions brought under this chapter is hereby vested in the superior court.

(b) The court may examine any record which is the subject of a suit in camera to determine whether the record or any part thereof may be withheld from public inspection under the terms of this chapter.

(c) Actions brought under this chapter may be advanced on the calendar upon motion of any party, or sua sponte by the court made in accordance with the rules of civil procedure of the superior court.

(d) The court shall impose a civil fine not exceeding two thousand dollars ($2,000) against a public body or official found to have committed a knowing and willful violation of this chapter, and a civil fine not to exceed one thousand dollars ($1,000) against a public body found to have recklessly violated this chapter and shall award reasonable attorney fees and costs to the prevailing plaintiff. The court shall further order a public body found to have wrongfully denied access to public records to provide the records at no cost to the prevailing party; provided, further, that in the event that the court, having found in favor of the defendant, finds further that the plaintiff's case lacked a grounding in fact or in existing law or in good faith argument for the extension, modification, or reversal of existing law, the court may award attorneys fees and costs to the prevailing defendant. A judgment in the plaintiff's favor shall not be a prerequisite to obtaining an award of attorneys' fees and/or costs if the court determines that the defendant's case lacked grounding in fact or in existing law or a good faith argument for extension, modification or reversal of existing law.

38-2-10. **Burden of proof.** — In all actions brought under this chapter, the burden shall be on the public body to demonstrate that the record in dispute can be properly withheld from public inspection under the terms of this chapter.

38-2-11. **Right supplemental.** — The right of the public to inspect public records created by this chapter shall be in addition to any other right to inspect records maintained by public bodies.

38-2-12. **Severability.** — If any provision of this chapter is held unconstitutional, the decision shall not affect the validity of the remainder of this chapter. If the application of this chapter to a particular record is held invalid, the decision shall not affect other applications of this chapter.

38-2-13. **Records access continuing.** — All records initially deemed to be public records which any person may inspect and/or copy under the provisions of this chapter, shall continue to be so deemed whether or not subsequent court action or investigations are held pertaining to the matters contained in the records.

38-2-14. **Information relating to settlement of legal claims.** — Settlement agreements of any legal claims against a governmental entity shall be deemed public records.

38-2-15. **Reported violations.** — Every year the attorney general shall prepare a report summarizing all the complaints received pursuant to this chapter, which shall be submitted to the legislature and which shall include information as to how many complaints were found to be meritorious and the action taken by the attorney general in response to those complaints.

38-2-16. **38 Studios, LLC investigation.** — Notwithstanding any other provision of this chapter or state law, any investigatory records generated or obtained by the Rhode Island state police or the Rhode Island attorney general in conducting an investigation surrounding the funding of 38 Studios, LLC by the Rhode Island economic development corporation shall be made available to the public; provided, however:

(1) With respect to such records, birthdates, social security numbers, home addresses, financial account number(s) or similarly sensitive personally identifiable information, but not the names of the individuals themselves, shall be redacted from those records prior to any release. The provisions of § 12-11.1-5.1 shall not apply to information disclosed pursuant to this section.

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SECTION II

OPEN MEETINGS ACT

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Attorney General
Peter F. Neronha

OPEN MEETINGS ACT FINDINGS

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Updated: June 28, 2019

OPEN MEETINGS ACT FINDINGS – 2019

OM 19-01 **Neill v. Nasonville Fire District Board**

The Complainant alleged that the Nasonville Fire District Operating Committee ("NFD") violated the OMA when three of its seven members met with members of another fire district operating committee without providing notice of the meeting or posting the meeting agenda or meeting minutes. The Complainant also alleged that the NFD did not allow public comment at a meeting. Because the OMA only applies when a quorum of a public body convenes for a meeting, the NFD did not violate the OMA when three of its seven members met because there was not a quorum. Nor did the NFD violate the OMA by refusing public comment because the OMA expressly provides that it does not require a public body to permit public comment. *See* R.I. Gen. Laws § 42-46-6(d). Accordingly, we found no violations.
Issued March 18, 2019

OM 19-02 **Angelo v. Town of Westerly**

The Complainant alleged that the Town of Westerly ("Town") violated the OMA when the Town improperly convened into executive session to discuss the sale of Town property. Based on the undisputed evidence, including an in camera review of the executive session minutes, we found no evidence that the Town discussed the sale of Town property in executive session at the meeting identified in the Complaint. Our in camera review of the minutes revealed that the one item discussed in executive session pursuant to R.I. Gen. Laws § 42-46-5(a)(5) pertained to the acquisition of a certain parcel of real property for public purposes, which a public body may (but need not) discuss in executive session. *See* R.I. Gen. Laws § 42-46-5(a)(5). Accordingly, we found no violation.
Issued April 8, 2019

OM 19-03 **City of Central Falls v. Central Falls Detention Facility Corporation**

Through its Solicitor, the City of Central Falls ("Complainant") filed a Complaint alleging that the Central Falls Detention Facility Corporation ("Corporation") violated the Open Meetings Act ("OMA") in relation to an emergency meeting of the Corporation Board of Directors ("Board") that occurred on January 22, 2019. The Complainant alleged that: the emergency meeting was unnecessary; the Board failed to take an affirmative vote on the necessity of the emergency meeting; the Board's actions exceeded the scope of the alleged emergency; the Board erred by taking a vote at the emergency meeting; and the agenda for the January 22 meeting provided insufficient notice.

This Office found that the Corporation violated the OMA because the agenda for the January 22 meeting did not provide sufficient notice of the business to be discussed and because the Board failed to take an affirmative vote on the need for an emergency meeting. This Office requested supplemental submissions addressing: whether the January 22 meeting was necessitated by an unexpected

occurrence; whether the meeting was limited to the issue that created the need for an emergency meeting; and why it was not practicable to have provided sooner notice of the January 22 meeting. This Office also sought a supplemental submission regarding whether the violations found (and ones that may be found) were willful or knowing, and the appropriate relief.
VIOLATION FOUND.
Issued April 12, 2019

OM 19-03B This supplemental finding addresses whether the OMA violations found in City of Central Falls v. Central Falls Detention Facility Corporation, OM 19-03 were willful or knowing; whether the January 22, 2019 emergency meeting was necessitated by an unexpected occurrence; whether the meeting was limited to the issue that created the need for an emergency meeting; and whether notice of the January 22 meeting was provided as soon as practicable. After reviewing all the evidence presented, this Office concluded that the Corporation violated the OMA by not posting notice of the emergency meeting as soon as practicable. We found insufficient evidence to support the contention that the Corporation violated the OMA by failing to comply with the requirement that the emergency meeting was necessary to address an unexpected occurrence and was limited to addressing the issue that gave rise to the purported emergency. We also found insufficient evidence to support a knowing or willful violation. This Office determined that injunctive relief was not appropriate because the agreement approved by the Corporation at the January 22 meeting has since been terminated and the loan obtained as a result of the agreement has been repaid.
Issued June 26, 2019

OM 19-04 **Bower and Angell v. Scituate Town Council**
Complainants alleged that the Scituate Town Council violated the OMA at its September 20, 2018 meeting by voting to freeze the funds of the Land Trust and Conservation Commission without providing proper notice. This Office determined that the Town Council violated the OMA because the agenda item did not sufficiently specify the nature of the business to be discussed. *See* R.I. Gen. Laws § 42-46-6(b). There was no evidence the Town Council willfully or knowingly violated the OMA. Additionally, injunctive relief was not appropriate because the Town Council subsequently voted to remove the freeze.
VIOLATION FOUND.
Issued June 4, 2019

OM 19-05 **Ward v. Woonsocket Planning Board**
The Complainant alleged that the Woonsocket Planning Board violated the OMA by voting to hire an attorney to provide a legal opinion because the meeting agenda only stated that the Board would discuss hiring an attorney. This Office determined that the Board violated the OMA by failing to provide proper notice that it would vote on hiring an attorney. We concluded that there was no evidence that the violation was willful or knowing and that injunctive relief was not appropriate because the attorney had already completed the task for which the Board hired him.

VIOLATION FOUND.
Issued June 7, 2019

OM 19-06 **Gutierrez v. New Shoreham School Committee**

The Complainant alleged that the School Committee violated the OMA by discussing her employment contract in executive session at its July 16, 2018 meeting without providing her notice and an opportunity to have the discussion occur in open session. The School Committee provided an affidavit from the former Superintendent attesting that the School Committee did not discuss Complainant's job performance or individual contract during the executive session, and also provided a copy of the executive session minutes for our in camera review. Based on the totality of the evidence presented, this Office found no evidence to rebut the evidence submitted by the School Committee or to support Complainant's contention that the School Committee discussed her job performance at the July 16, 2018 executive session. Accordingly, the School Committee was not required to provide notice pursuant to R.I. Gen. Laws § 42-46-5(a)(1), and we found no violation.
Issued June 7, 2019

OM 19-07 **Mancini v. City of Providence City Plan Commission**

Complainant alleged that the City of Providence Plan Commission violated the OMA when it failed to properly notice and maintain minutes of a site visit. The undisputed evidence revealed that only three of the seven Commission members attended the site visit, which was less than a quorum. Additionally, there was no evidence that the Commission members engaged in discussions during the site visit regarding any matter over which the Commission has supervision, control, jurisdiction or advisory power, or that a third party served as a conduit between Commission members so as to create a rolling quorum. Accordingly, this Office determined that the OMA was not implicated during the site visit and that no violation occurred.
Issued June 26, 2019

OM 19-08 **Giramma v. Narragansett Town Council**

Complainant alleged that the Town Council met outside the public purview in violation of the OMA on January 3, 2019 for the purpose of meeting with bond counsel. The undisputed evidence revealed that two separate gatherings were held on January 3, 2019, each between two council members and Town staff, for the purpose of obtaining information about requirements and procedures associated with town bond referenda. It was also undisputed that the Town Council consists of five members, three of which would constitute a quorum. There was no evidence that a quorum of the Town Council met and had a collective discussion outside a public meeting, and no allegation that any individual served as a conduit between the members, so as to create a rolling quorum. Accordingly, this Office determined that the OMA was not violated.
Issued June 26, 2019

OM 19-09 **Murphy v. Jamestown Board of Canvassers**

Complainant alleged that Jamestown Board of Canvassers unilaterally ended discussion on an agenda item without taking a vote of the Board members who were present and that the chairperson decided to take no further action or vote on the matter at issue. This Office determined that the OMA was not violated because the OMA does not require that a vote be taken on an agenda item and does not require a public body to discuss an issue. Additionally, allegations about the Chairperson's individual actions do not implicate the OMA.

Issued June 26, 2019

OM 19-10 **Andrews-Mellouise v. East Providence School Committee**

Complaint alleged that the School Committee violated the OMA by discussing her job performance during executive session at both its September 25, 2018 and October 9, 2018 meetings without providing proper notice. This Office concluded that the School Committee violated the OMA by not providing Complainant with proper notice that her job performance would be discussed at the September 25, 2018 meeting as required by R.I. Gen. Laws § 42-46-5(a)(1). This Office also determined that the School Committee violated the OMA by failing to note in its minutes for both meetings that the Complainant had received the required notice. Regarding the October 9, 2018 meeting, this Office concluded that Complainant was provided with proper notice. We also found that the relevant agenda item for the two meetings did not violate the OMA. We determined that injunctive relief was not appropriate because no action was taken at the September 25, 2018 meeting and because Complaint received proper notice of the October 9, 2018 meeting. Additionally, we determined there was no evidence of a willful or knowing violation.

VIOLATION FOUND.

Issued June 27, 2019

OM 19-11 **Hilton, et al. v. Tiverton Town Council**

Complainants alleged that four members of the Tiverton Town Council met outside the public purview in violation of the OMA for the purpose of discussing and selecting the solicitor for the Town Council. It was undisputed that the Town Council consists of seven members and that four members constitute a quorum. This Office found that there was inadequate evidence that the fourth council member named in the Complaint participated in any collective discussion regarding this topic outside of a public meeting. Accordingly, this Office determined that there was insufficient evidence that the Town Council violated the OMA in this regard. Complainants additionally alleged that the relevant agenda item for the December 27, 2018 meeting did not adequately specify the nature of the business to be discussed because it only identified the attorney as the candidate for Town Solicitor and did not identify the law firm for which he worked. This Office determined that the agenda item provided sufficient notice and did not violate the OMA.

Issued June 27, 2019

OM 19-12 **Murray v. Woonsocket City Council**

Complainant alleged that the City Council violated the OMA by listing an agenda item, "Legislative Report," that did not provide adequate notice of the specific persons, bills, or subject matters that would be discussed. This Office determined that the City Council violated the OMA because the agenda item did not provide sufficient notice of the nature of the business to be discussed. *See* R.I. Gen. Laws § 42-46-6(b). We determined that injunctive relief was not appropriate because the City Council did not take any action related to the relevant agenda item. Additionally, this Office determined that there was insufficient evidence to conclude that the specific violation in this case was willful or knowing but admonished the City Council that its conduct violated the OMA and may serve as evidence of a willful or a knowing violation in any similar future situation. VIOLATION FOUND.

Issued June 27, 2019

CHAPTER 46
OPEN MEETINGS

42-46-1. **Public policy.** — It is essential to the maintenance of a democratic society that public business be performed in an open and public manner and that the citizens be advised of and aware of the performance of public officials and the deliberations and decisions that go into the making of public policy.

42-46-2. **Definitions.** — As used in this chapter:

(1) "Meeting" means the convening of a public body to discuss and/or act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power. As used herein, the term "meeting" expressly include, without limiting the generality of the foregoing, so-called "workshop," "working," or "work" sessions.

(2) "Open call" means a public announcement by the chairperson of the committee that the meeting is going to be held in executive session and the chairperson must indicate which exception of § 42-46-5 is being involved.

(3) "Public body" means any department, agency, commission, committee, board, council, bureau, or authority or any subdivision thereof of state or municipal government or any library that funded at least twenty-five percent (25%) of its operational budget in the prior budget year with public funds, and shall include all authorities defined in § 42-35-1(b). For purposes of this section, any political party, organization, or unit thereof meeting or convening is not and should not be considered to be a public body; provided, however that no such meeting shall be used to circumvent the requirements of this chapter.

(4) "Quorum," unless otherwise defined by applicable law, means a simple majority of the membership of a public body.

(5) "Prevailing plaintiff' include those persons and entities deemed "prevailing parties" pursuant to 42 U.S.C. § 1988.

(6) "Open forum" means the designated portion of an open meeting, if any, on a properly posted notice reserved for citizens to address comments to a public body relating to matters affecting the public business.

42-46-3. **Open meetings.** — Every meeting of all public bodies shall be open to the public unless closed pursuant to §§ 42-46-4 and 42-46-5.

42-46-4. **Closed meetings.** — (a) By open call, a public body may hold a meeting closed to the public upon an affirmative vote of the majority of its members. A meeting closed to the public shall be limited to matters allowed to be exempted from discussion at open meetings by § 42-46-5. The vote of each member on the question of holding a meeting closed to the public and the reason for holding a closed meeting, by a citation to a subdivision of § 42-46-5(a), and a statement specifying the nature of the business to be discussed, shall be recorded and entered into the minutes of the meeting. No public body shall discuss in closed session any public matter which does not fall within the citations to § 42-46-5(a) referred to by the public body in voting to close the meeting, even if these discussions could otherwise be closed to the public under this chapter.

(b) All votes taken in closed sessions shall be disclosed once the session is reopened; provided, however, a vote taken in a closed session need not be disclosed for the period of time during which its disclosure would jeopardize any strategy negotiation or investigation undertaken pursuant to discussions conducted under § 42-46-5(a).

42-46-5. **Purposes for which meeting may be closed — Use of electronic communications — Judicial proceedings — Disruptive conduct. —**

(a) A public body may hold a meeting closed to the public pursuant to § 42-46-4 for one or more of the following purposes:

(1) Any discussions of the job performance, character, or physical or mental health of a person or persons provided that such person or persons affected shall have been notified in advance in writing and advised that they may require that the discussion be held at an open meeting.

Failure to provide such notification shall render any action taken against the person or persons affected null and void. Before going into a closed meeting pursuant to this subsection, the public body shall state for the record that any persons to be discussed have been so notified and this statement shall be noted in the minutes of the meeting.

(2) Sessions pertaining to collective bargaining or litigation, or work sessions pertaining to collective bargaining or litigation.

(3) Discussion regarding the matter of security including but not

limited to the deployment of security personnel or devices.

(4) Any investigative proceedings regarding allegations of misconduct, either civil or criminal.

(5) Any discussions or considerations related to the acquisition or lease of real property for public purposes, or of the disposition of publicly held property wherein advanced public information would be detrimental to the interest of the public.

(6) Any discussions related to or concerning a prospective business or industry locating in the state of Rhode Island when an open meeting would have a detrimental effect on the interest of the public.

(7) A matter related to the question of the investment of public funds where the premature disclosure would adversely affect the public interest. Public funds shall include any investment plan or matter related thereto, including but not limited to state lottery plans for new promotions.

(8) Any executive sessions of a local school committee exclusively for the purposes (i) of conducting student disciplinary hearings or (ii) of reviewing other matters which relate to the privacy of students and their records, including all hearings of the various juvenile hearing boards of any municipality; provided, however, that any affected student shall have been notified in advance in writing and advised that he or she may require that the discussion be held in an open meeting.

Failure to provide such notification shall render any action taken against the student or students affected null and void. Before going into a closed meeting pursuant to this subsection, the public body shall state for the record that any students to be discussed have been so notified and this statement shall be noted in the minutes of the meeting.

(9) Any hearings on, or discussions of, a grievance filed pursuant to a collective bargaining agreement.

(10) Any discussion of the personal finances of a prospective donor to a library.

(b) No meeting of members of a public body or use of electronic communication, including telephonic communication and tele-

phone conferencing, shall be used to circumvent the spirit or requirements of this chapter; provided, however, these meetings and discussions are not prohibited.

(1) Provided, further however, that discussions of a public body via electronic communication, including telephonic communication and telephone conferencing, shall be permitted only to schedule a meeting.

(2) Provided, further however, that a member of a public body may participate by use of electronic communication or telephone communication while on active duty in the armed services of the United States.

(3) Provided, further however, that a member of that public body, who has a disability as defined in chapter 87 of title 42 and:

    (i) cannot attend meetings of that public body solely by reason of his or her disability; and

    (ii) cannot otherwise participate in the meeting without the use of electronic communication or telephone communication as reasonable accommodation, may participate by use of electronic communication or telephone communication in accordance with the process below.

(4) The governor's commission on disabilities is authorized and directed to:

    (i) establish rules and regulations for determining whether a member of a public body is not otherwise able to participate in meetings of that public body without the use of electronic communication or telephone communication as a reasonable accommodation due to that member's disability;

    (ii) grant a waiver that allows a member to participate by electronic communication or telephone communication only if the member's disability would prevent him/her from being physically present at the meeting location, and the use of such communication is the only reasonable accommodation; and

    (iii) any waiver decisions shall be a matter of public record.

(c) This chapter shall not apply to proceedings of the judicial branch of state government or probate court or municipal court proceedings in any city or town.

(d) This chapter shall not prohibit the removal of any person who willfully disrupts a meeting to the extent that orderly conduct of the meeting is seriously compromised.

42-46-6. Notice. —

(a) All public bodies shall give written notice of their regularly scheduled meetings at the beginning of each calendar year. The notice shall include the dates, times, and places of the meetings and shall be provided to members of the public upon request and to the secretary of state at the beginning of each calendar year in accordance with subsection (f).

(b) Public bodies shall give supplemental written public notice of any meeting within a minimum of forty-eight (48) hours, excluding weekends and state holidays in the count of hours, before the date. This notice shall include the date the notice was posted, the date, time and place of the meeting, and a statement specifying the nature of the business to be discussed. Copies of the notice shall be maintained by the public body for a minimum of one year. Nothing contained herein shall prevent a public body, other than a school committee, from adding additional items to the agenda by majority vote of the members. School committees may, however, add items for informational purposes only, pursuant to a request, submitted in writing, by a member of the public during the public comment session of the school committee's meetings. Said informational items may not be voted upon unless they have been posted in accordance with the provisions of this section. Such additional items shall be for informational purposes only and may not be voted on except where necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to an appropriate committee or to another body or official.

(c) Written public notice shall include, but need not be limited to posting a copy of the notice at the principal office of the public body holding the meeting, or if no principal office exists, at the building in which the meeting is to be held, and in at least one other prominent place within the governmental unit, and electronic filing of the notice with the secretary of state pursuant to subsection (f); however, nothing contained herein shall prevent a public body from holding an emergency meeting, upon an affirmative vote of the majority of the members of the body when the meeting is deemed

necessary to address an unexpected occurrence that requires immediate action to protect the public. If an emergency meeting is called, a meeting notice and agenda shall be posted as soon as practicable and shall be electronically filed with the secretary of state pursuant to subsection (e) and, upon meeting, the public body shall state for the record and minutes why the matter must be addressed in less than forty-eight (48) hours in accordance with § 42-46-6(b) and only discuss the issue or issues which created the need for an emergency meeting. Nothing contained herein shall be used in the circumvention of the spirit and requirements of this chapter.

(d) Nothing within this chapter shall prohibit any public body, or the members thereof, from responding to comments initiated by a member of the public during a properly noticed open forum even if the subject matter of a citizen's comments or discussions were not previously posted, provided such matters shall be for informational purposes only and may not be voted on except where necessary to address an unexpected occurrence that requires immediate action to protect the public or to refer the matter to an appropriate committee or to another body or official. Nothing contained in this chapter requires any public body to hold an open forum session, to entertain or respond to any topic nor does it prohibit any public body from limiting comment on any topic at such an open forum session. No public body, or the members thereof, may use this section to circumvent the spirit or requirements of this chapter.

(e) A school committee may add agenda items not appearing in the published notice required by this section under the following conditions:

(1) The revised agenda is electronically filed with the secretary of state pursuant to subsection (f), and is posted on the school district's website and the two (2) public locations required by this section at least forty-eight (48) hours in advance of the meeting in accordance with § 42-46-6(b);

(2) The new agenda items were unexpected and could not have been added in time for newspaper publication;

(3) Upon meeting, the public body states for the record and minutes why the agenda items could not have been added in time for newspaper publication and need to be addressed at the meeting;

(4) A formal process is available to provide timely notice of the revised agenda to any person who has requested that notice, and the school district has taken reasonable steps to make the public aware of this process; and

(5) The published notice shall include a statement that any changes in the agenda will be posted on the school district's web site and the two (2) public locations required by this section and will be electronically filed with the secretary of state at least forty-eight (48) hours in advance of the meeting in accordance with § 42-46-6(b).

(f) All notices required by this section to be filed with the secretary of state shall be electronically transmitted to the secretary of state in accordance with rules and regulations which shall be promulgated by the secretary of state. This requirement of the electronic transmission and filing of notices with the secretary of state shall take effect one (1) year after this subsection takes effect.

(g) If a public body fails to transmit notices in accordance with this section, then any aggrieved person may file a complaint with the attorney general in accordance with § 42-46-8.

42-46-7. Minutes. —

(a) All public bodies shall keep written minutes of all their meetings. The minutes shall include, but need not be limited to:

(1) The date, time, and place of the meeting;

(2) The members of the public body recorded as either present or absent;

(3) A record by individual members of any vote taken; and

(4) Any other information relevant to the business of the public body that any member of the public body requests be included or reflected in the minutes.

(b) (1) A record of all votes taken at all meetings of public bodies, listing how each member voted on each issue, shall be a public record and shall be available, to the public at the office of the public body, within two (2) weeks of the date of the vote. The minutes shall be public records and unofficial minutes shall be available, to the public at the office of the public body, within thirty five (35) days of the meeting or at the next regularly scheduled meeting, whichever

is earlier, except where the disclosure would be inconsistent with §§ 42-46-4 and 42-46-5 or where the public body by majority vote extends the time period for the filing of the minutes and publicly states the reason.

(2) In addition to the provisions of subdivision (b)(1), all volunteer fire companies, associations, fire district companies, or any other organization currently engaged in the mission of extinguishing fires and preventing fire hazards, whether it is incorporated or not, and whether it is a paid department or not, shall post unofficial minutes of their meetings within twenty-one (21) days of the meeting, but not later than seven (7) days prior to the next regularly scheduled meeting, whichever is earlier, on the secretary of state's website.

(c) The minutes of a closed session shall be made available at the next regularly scheduled meeting unless the majority of the body votes to keep the minutes closed pursuant to §§ 42-46-4 and 42-46-5.

(d) All public bodies shall keep official and/or approved minutes of all meetings of the body and shall file a copy of the minutes of all open meetings with the secretary of state for inspection by the public within thirty-five (35) days of the meeting; provided that this subsection shall not apply to public bodies whose responsibilities are solely advisory in nature.

(e) All minutes and unofficial minutes required by this section to be filed with the secretary of state shall be electronically transmitted to the secretary of state in accordance with rules and regulations which shall be promulgated by the secretary of state. If a public body fails to transmit minutes or unofficial minutes in accordance with this subsection, then any aggrieved person may file a complaint with the attorney general in accordance with §42-46-8.

42-46-8. Remedies available to aggrieved persons or entities. —

(a) Any citizen or entity of the state who is aggrieved as a result of violations of the provisions of this chapter may file a complaint with the attorney general. The attorney general shall investigate the complaint and if the attorney general determines that the allegations of the complaint are meritorious he or she may file a complaint on behalf of the complainant in the superior court against the public body.

(b) No complaint may be filed by the attorney general after one hundred eighty (180) days from the date of public approval of the minutes of

the meeting at which the alleged violation occurred, or, in the case of an unannounced or improperly closed meeting, after one hundred eighty (180) days from the public action of a public body revealing the alleged violation, whichever is greater.

(c) Nothing within this section shall prohibit any individual from retaining private counsel for the purpose of filing a complaint in the superior court within the time specified by this section against the public body which has allegedly violated the provisions of this chapter; provided, however, that if the individual has first filed a complaint with the attorney general pursuant to this section, and the attorney general declines to take legal action, the individual may file suit in superior court within ninety (90) days of the attorney general's closing of the complaint or within one hundred eighty (180) days of the alleged violation, whichever occurs later.

(d) The court shall award reasonable attorney fees and costs to a prevailing plaintiff, other than the attorney general, except where special circumstances would render such an award unjust.

The court may issue injunctive relief and declare null and void any actions of a public body found to be in violation of this chapter. In addition, the court may impose a civil fine not exceeding five thousand dollars ($5,000) against a public body or any of its members found to have committed a willful or knowing violation of this chapter.

(e) Nothing within this section shall prohibit the attorney general from initiating a complaint on behalf of the public interest.

(f) Actions brought under this chapter may be advanced on the calendar upon motion of the petitioner.

(g) The attorney general shall consider all complaints filed under this chapter to have also been filed under § 38-2-8(b) if applicable.

42-46-9. **Other applicable law.** — The provisions of this chapter shall be in addition to any and all other conditions or provisions of applicable law and are not to be construed to be in amendment of or in repeal of any other applicable provision of law, except § 16-2-29, which has been expressly repealed.

42-46-10. **Severability.** — If any provision of this chapter, or the application of this chapter to any particular meeting or type of meeting, is held invalid or unconstitutional, the decision shall not affect the validity of the

remaining provisions or the other applications of this chapter.

42-46-11. **Reported violations.** — Every year the attorney gen¬eral shall prepare a report summarizing the complaints received pursuant to this chapter, which shall be submitted to the legislature and which shall include information as to how many complaints were found to be meritorious and the action taken by the attorney general in response to those complaints.

42-46-12. **Notice of citizen's rights under this chapter.** — The attorney general shall prepare a notice providing concise information explaining the requirements of this chapter and advising citizens of their right to file complaints for violations of this chapter. The notice shall be posted in a prominent location in each city and town hall in the state.

42-46-13. **Accessibility for persons with disabilities.** —

(a) All public bodies, to comply with the nondiscrimination on the basis of disability requirements of R.I. Const., Art. I, § 2 and applicable federal and state nondiscrimination laws (29 U.S.C. § 794, chapter 87 of this title, and chapter 24 of title 11), shall develop a transition plan setting forth the steps necessary to ensure that all open meetings of said public bodies are accessible to persons with disabilities.

(b) The state building code standards committee shall, by September 1, 1989 adopt an accessibility of meetings for persons with disabilities standard that includes provisions ensuring that the meeting location is accessible to and usable by all persons with disabilities.

(c) This section does not require the public body to make each of its existing facilities accessible to and usable by persons with disabilities so long as all meetings required to be open to the public pursuant to chapter 46 of this title are held in accessible facilities by the dates specified in subsection (e).

(d) The public body may comply with the requirements of this section through such means as reassignment of meetings to accessible facilities, alteration of existing facilities, or construction of new facilities. The public body is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section.

(e) The public body shall comply with the obligations established under this section by July 1, 1990, except that where structural changes in facilities are necessary in order to comply with this

section, such changes shall be made by December 30, 1991, but in any event as expeditiously as possible unless an extension is granted by the state building commissioner for good cause.

(f) Each municipal government and school district shall, with the assistance of the state building commission, complete a transition plan covering the location of meetings for all public bodies under their jurisdiction. Each chief executive of each city or town and the superintendent of schools will submit their transition plan to the governor's commission on disabilities for review and approval. The governor's commission on disabilities with assistance from the state building commission shall approve or modify, with the concurrence of the municipal government or school district, the transition plans.

(g) The provisions of §§ 45-13-7 — 45-13-10, inclusive, shall not apply to this section.

42-46-14. **Burden of proof.** — In all actions brought under this chapter, the burden shall be on the public body to demonstrate that the meeting in dispute was properly closed pursuant to, or otherwise exempt from the terms of this chapter.

SECTION III

PROCEDURES & FORMS

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Attorney General
Peter F. Neronha

PUBLIC RECORDS REQUEST GUIDELINES

OPEN GOVERNMENT UNIT

The Office of Attorney General is committed to ensuring open and transparent access to our records. Consistent with the Access to Public Records Act ("APRA"), R.I. Gen. Laws § 38-2-1, *et. seq*., and to facilitate access in an expeditious and courteous manner, the Office of Attorney General has instituted the following procedures for the public to obtain public records maintained by this Office.

1. Requests for records must be made in writing, except as provided in paragraph 3, and sent to the Open Government Unit, which is the Unit within the Office of Attorney General designated to respond to requests. APRA Requests may be submitted in any of the following manners:
    - Mailed to: Office of Attorney General, Attn: Open Government Unit, 150 South Main Street, Providence, Rhode Island 02903.
    - Hand-delivered during business hours to the Office of Attorney General at the reception desk (150 South Main Street) and addressed to the Open Government Unit. The regular business hours of the Office are 8:30 a.m. to 4:30 p.m.
    - Emailed to: opengovernment@riag.ri.gov.

2. A request form is appended for your convenience and is also available on our website: www.riag.ri.gov. You are not required to use our request form, to provide identifying information, or to provide the reason you seek the records. If you do not provide any identifying or contact information, a response to your request will be available no later than 10 business days following your request at the reception desk (150 South Main Street) during normal business hours (8:30 a.m. to 4:30 p.m.).

3. If you are seeking documents available pursuant to the Administrative Procedures Act or other documents prepared for or readily available to the public and do not wish to submit a written request, you must contact an attorney in the Open Government Unit to make your request.

4. Please be advised that the APRA allows a public body ten (10) business days to respond, which can be extended an additional twenty (20) business days for "good cause." These times may be tolled pending a request for prepayment or clarification. We appreciate your understanding and patience.

5. If you feel that you have been denied access to public records, you have the right to file a review petition with the Attorney General. Any withholding or redaction of records constitutes a denial, as does a response from our Office that we do not maintain any records responsive to your request. You may submit a review petition in the same manner as your original request. You may also file a lawsuit in Superior Court.

6. If you have any questions regarding submitting an APRA request, you may email: opengovernment@riag.ri.gov or contact us at (401) 274-4400 and ask to be connected to the Open Government Unit. Additional materials regarding the APRA can be found at: http://www.riag.ri.gov (then proceed to the link entitled "Access to Public Records Act and Open Meetings Act").

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Attorney General
Peter F. Neronha

ACCESS TO PUBLIC RECORDS ACT
REQUEST FORM

Date _____

Name (optional) _____

Address (optional) _____

_____

Telephone (optional) _____

Email Address (optional) _____

Requested Records: _____

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Preferred Format of Response _____

Forward this Document to the Open Government Unit

Note: You are not required to provide identifying information or the reason you seek the records. If you do not provide any identifying or contact information, a response to your request will be available no later than 10 business days following your request at the reception desk (150 South Main Street) during normal business hours (8:30 a.m. to 4:30 p.m.).

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Attorney General
Peter F. Neronha

Rules and Regulations
Regarding Training under the Access to Public Records Act

1. The Chief Administrative Officer, as defined by the Access to Public Records Act, must certify annually, as provided in R. I. Gen. Laws §38-2-3.16 ("compliance by agencies and public bodies"), that persons who have the authority to grant or deny Access to Public Records Act requests have received training for the upcoming calendar year. Individuals must be certified each calendar year.

2. Any person who has not received training prior to the beginning of the calendar year, but who during the calendar year becomes authorized to grant or deny Access to Public Records Act requests, shall receive training as required under the Access to Public Records Act as soon as practicable, but not less than one (1) month after being authorized to grant or deny Access to Public Records Act requests. Such time may be extended at the discretion of the Department of Attorney General for "good cause." The Chief Administrative Officer must certify to the Attorney General that training has been received when training has been completed.

3. Authorized training must be conducted by the Department of Attorney General. The Department of Attorney General will offer various training programs throughout each calendar year and such training programs will be conducted at various locations throughout the State. Public bodies or governmental entities wishing to schedule training sessions may contact the Department of Attorney General. Public entities wishing to schedule Access to Public Records Act training should make every effort to schedule training sessions to as large a group as practicable. The Department of Attorney General reserves the sole discretion to determine whether and when to schedule a training session.

4. For purposes of these Rules and Regulations the requirement for training may be satisfied by attending an Attorney General training in person or by viewing a recent video of an Access to Public Records Act presentation given by the Department of Attorney General. Any person satisfying the Access to Public Records Act training requirement must certify to the Chief Administrative Officer that he or she viewed the entire Access to Public Records Act presentation, or attended the live training program, and such certification shall be forwarded by the Chief Administrative Officer to the Department of Attorney General.

5. Certification may be e-mailed to agsummit@riag.ri.gov, or mailed to the Department of Attorney General, Attn: Public Records Unit, 150 South Main Street, Providence, Rhode Island 02903. Certification forms are available on the Department of Attorney General Website.

6. The Attorney General may annually prepare and post a list of all certifications received by the office by public bodies.

7. The Department of Attorney General may assess a reasonable charge for the certification required by R.I. Gen. Laws § 38-2-3.16, is to defray the cost of such training and related materials.

Attorney General
Peter F. Neronha

CERTIFICATE OF COMPLIANCE
ACCESS TO PUBLIC RECORDS ACT SECTION 38-2-3.16
COMPLIANCE BY AGENCIES AND PUBLIC BODIES

SECTION A – TO BE COMPLETED BY CHIEF ADMINISTRATOR

This certifies that _____ of _____, has completed the Access to Public Records training on the _____ day of _____, 20____, and is in compliance with § 38-2-3.16.

The above has completed training by means of: _____ Live Presentation _____ Video Presentation

_____ _____
Chief Administrator Department/Entity

_____
Dated

SECTION B – TO BE COMPLETED BY CERTIFIED PERSONNEL

I certify that I have viewed the video presentation and/or a live presentation and am in compliance with § 38-2-3.16 of the Access to Public Records Act. In addition, I certify that the information I have provided on this statement is true and correct.

Date of Training: _____ Signed: _____

Email Address: _____
[Email address will be used only to provide notice of future Open Government seminars]

**Please List ANY and ALL Entities for which you are certifying compliance. For instance, the Clerk's Office, the Police Department, the School Department, the entire City/Town/Department.

_____ _____

_____ _____

Upon completion please return to this office by either emailing to agsummit@riag.ri.gov, facsimile 401-222-3016, or mail to Office of Attorney General, Open Government Unit, 150 South Main Street, Providence, Rhode Island 02903.

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Attorney General
Peter F. Neronha

ACCESS TO PUBLIC RECORDS ACT CHECKLIST[1]
OPEN GOVERNMENT UNIT

It is important to note that the APRA establishes the minimum requirements with which public bodies must comply. Public bodies are encouraged to implement policies promoting increased disclosure and transparency that are consistent with the APRA and its goal of facilitating public access to government records.

PROCEDURES *(R.I. Gen. Laws § 38-2-3(d))*

- All public bodies must establish written procedures regarding access to public records, which must be posted on the public body's website, if such a website is maintained, and made otherwise readily available to the public.
- Written procedures must include the following:
  - Identification of a designated public records officer or unit;
  - Where to make a public records request; and
  - How to make a public records request.
- A public body may require that requests be made in writing. However, requests need not be in writing if the requested records are available pursuant to the Administrative Procedures Act or are otherwise readily available to the public.
- A public body cannot require that requests be made on a specific form or that requesters provide identifying information or the reason(s) for their request.

TRAINING AND CERTIFICATION *(R.I. Gen. Laws § 38-2-3.16)*

- Any officer or employee given authority to grant or deny access to records must be trained, either by attending an Attorney General training or by watching the video of the Attorney General's Open Government Summit.
- No later than January 1 of every year, every public body and Chief Administrative Officer must certify that all officers and employees who have the authority to grant or deny persons or entities access to records have been provided orientation and training during the prior year.
  - Any person who becomes authorized by their employer after January 1 to grant or deny Access to Public Records Act requests shall receive training as required under the Act as soon as practicable, but not more than one (1) month after being authorized to grant or deny APRA requests. The Chief Administrative Officer must certify to the Office of Attorney General that training has been received when training has been completed.

[1] *This checklist is provided by the Office of Attorney General to assist public bodies and provide guidance concerning the Access to Public Records Act's requirements. This checklist does not list all Access to Public Records Act requirements and is neither intended to replace the Access to Public Records Act nor should it be construed as legal advice. Public bodies should defer to their legal counsel when questions regarding compliance arise. Revised June 2019.*

- Certification should be accomplished using forms generated by the Attorney General and available at: http://www.riag.ri.gov/CivilDivision/OpenGovernmentUnit.php.
- Completed certification forms must be forwarded to the Office of Attorney General, Attn: Open Government Unit 150 South Main Street, Providence, Rhode Island 02903 or agsummit@riag.ri.gov.

RESPONDING TO REQUESTS[2]

- Within ten (10) business days of receipt of a request, the public body must provide one of the following responses to the requester:
  - Access to the records;
  - Denial of the request;
  - Extension of the time to respond; or
  - Estimate of the time and cost, which tolls the time to respond.

Access:

- Requested documents are presumed to be public records and must be disclosed, unless the document (in whole or in part) is exempt pursuant to one or more of the exemptions found in R.I. Gen. Laws § 38-2-2(A)-(AA). *(R.I. Gen. Laws § 38-2-2(4)).*
  - Even if a document is exempt from disclosure, the public body may, in its discretion, still disclose the document, unless disclosure is prohibited by some other law, regulation, or rule of court.
- Documents must be provided in any requested media that can be provided. (*R.I. Gen. Laws § 38-2-3(g)).*
  - Must provide copies electronically, by facsimile, or by mail pursuant to requester's choice, unless doing so would be unduly burdensome due to the volume of records requested or the costs incurred. Person requesting delivery responsible for costs, if any. *(R.I. Gen. Laws § 38-2-3(k))*.
    - For example, if the public body maintains a document in word or excel and the requester requests that document in one of those particular formats, the public body cannot provide a PDF.

Denial:

- Any denial of a request for records:
  - must be in writing (even if request was made orally);
  - Provide specific reason(s) (including citation to specific exemptions, where applicable) for denial;
    - Without a showing of good cause, any exemption not specifically stated in the denial is deemed waived. *(R.I. Gen. Laws § 38-2-7(a)).*
  - If withholding entire document, must state that no reasonably segregable portion of the document can be produced. (*R.I. Gen. Laws § 38-2-3(b));* and
  - Identify procedure for appealing denial. *(R.I. Gen. Laws § 38-2-7(a)).*
- The following responses constitute denials for purposes of the APRA and the requirements set forth above:
  - A response indicating that the public body does not maintain documents responsive to the request. *(R.I. Gen. Laws § 38-2-7(c)).*
  - A response that includes any redaction of any records, in whole or in part.

[2] This section should not be used for requests seeking adult arrest logs, which require a law enforcement agency to provide a response within 48 hours after receipt of a request, unless a request is made on a weekend or a holiday, in which case the records shall be made available within 72 hours. *(R.I. Gen. Laws § 38-2-3.2).*

Extend the time to respond *(R.I. Gen. Laws § 38-2-3(e))*

- A public body may extend the time to respond by an additional twenty (20) business days.
- The extension must:
  - Be in writing;
  - Demonstrate extension necessary due to voluminous nature of the request, the number of requests pending, or the difficulty in searching for and retrieving or copying requested records; and
  - Be particularized to specific request – no copying above boilerplate language from the statute.

COSTS *(R.I. Gen. Laws § 38-2-4)*

- Up to $.15 per document copied on a common or legal-size paper;
- Up to $15.00 per hour for search, retrieval, review, and redaction, with no charge for the first hour;
  - Multiple requests from the same person/entity within a 30-day time may be considered one request for purposes of calculating the first hour at no charge.
- No more than the reasonable actual cost for providing electronic records;
- No more than the reasonable actual cost for retrieving records from storage, but only where the public body is assessed a retrieval fee; and
- Any other cost provision specifically authorized by law.
- For all costs, an estimate must be provided upon request; and a detailed itemization of the search and retrieval costs must be provided upon request.
- It is a best practice to provide requesters with an estimate up front so that they have an opportunity to make an informed decision about whether to proceed with the request.

Attorney General
Peter F. Neronha

OPEN MEETINGS ACT CHECKLIST[1]
OPEN GOVERNMENT UNIT

It is important to note that the OMA establishes the minimum requirements with which public bodies must comply. Public bodies are encouraged to conduct meetings as openly as possible, consistent with the OMA and its purpose of ensuring that public business is carried out in an open and transparent manner.

WHEN THE OMA APPLIES *(R.I. Gen. Laws § 42-46-2)*

- The OMA applies whenever a quorum of a public body convenes for a meeting. The OMA applies when all three elements are present:
  - A public body is "any department, agency, commission, board, council, bureau, or authority or any subdivision thereof of state or municipal government," in addition to certain libraries.
  - A meeting is "the convening of a public body to discuss and/or act upon a matter over which the public body has supervision, control, jurisdiction, or advisory power."
  - A quorum is defined as "a simple majority of the membership of a public body."
    - Note: a "walking" or "rolling" quorum may be created where a majority of the members of a public body attain a quorum by a series of one-on-one conversations or interactions, whether in person or by electronic means.
      - Discussions of a public body by telephone or electronic means are permissible only to schedule a meeting or due to a member being on active duty in the armed services or having a disability. *(R.I. Gen. Laws § 42-46-5(b))*.

NOTICE REQUIREMENTS *(R.I. Gen. Laws § 42-46-6)*

- Annual Notice (beginning of each calendar year only) *(R.I. Gen. Laws § 42-46-6(a))*.
  - Includes the date(s), time(s), and location(s) of the meetings.
  - Notice must be posted electronically with the Secretary of State **and** provided to a member of the public upon request.
- Supplemental Notice/Agenda (minimum 48 hours before the date of the scheduled meeting, **excluding** weekends and state holidays) *(R.I. Gen. Laws § 42-46-6(b))*.
  - Notice includes:
    - the date notice was posted;
    - the date(s), time(s), and location(s) of the meetings; and
    - a statement specifying the nature of the business for each matter to be discussed.

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[1] *This checklist is provided by the Office of Attorney General to assist public bodies and provide guidance concerning the Open Meetings Act's requirements. This checklist does not list all Open Meetings Act requirements and is neither intended to replace the Open Meetings Act nor should it be construed as legal advice. Public bodies should defer to their legal counsel when questions regarding compliance arise. Revised June 2019.*

- Statement must give the public fair notice of the nature of the business to be discussed or acted upon. Agenda items such as "Old Business" or "Treasurer's Report" are insufficient.
- Cannot take a vote on an item if agenda only states that the item will be discussed and does not indicate that it may be voted upon.
- A public body may respond to comments initiated by members of the public during an open forum but may not vote on the matter absent an emergency. A public body is not required to hold an open forum or permit open discussion but is encouraged to do so when appropriate.

➢ Notice must be posted: *(R.I. Gen. Laws § 42-46-6(c))*
  - at the principal office of the public body holding the meeting, **or** if no principal office exists, at the building where the meeting is to be held;
  - in at least one other prominent location within the governmental unit; **and**
  - electronically with the Secretary of State.

❖ **Emergency Meetings** may be held without satisfying the usual notice requirements, provided that:
  - ➢ The majority takes an affirmative vote that the emergency meeting is necessary to address an unexpected occurrence that requires immediate action to protect the public;
  - ➢ The public body states for the record why the matter must be addressed without providing the usual notice;
    - The statement regarding why the matter must be addressed without the usual notice must be recorded in the meeting minutes.
  - ➢ Notice is posted as soon as practicable *and* electronically filed on the Secretary of State's website; and
  - ➢ The public body may only address the issue or issues which created the need for an emergency meeting.

OPEN MEETINGS *(R.I. Gen. Laws § 42-46-3).*

❖ All meetings must be open to the public unless closed in accordance with the OMA.
  - ➢ The public has a right to record open session meetings.

CLOSED MEETINGS *(R.I. Gen. Laws § 42-46-4(a))*

❖ Although not required, a meeting may be held in closed or executive session if it concerns at least one of the following:
  - ➢ A discussion of the **job performance**, character, or physical or mental health of a person(s), pursuant to *R.I. Gen. Laws § 42-46-5(a)(1),* provided that:
    - person(s) affected shall be notified in advance in writing;
    - person(s) affected advised they may require discussion held in open session; and
    - A statement in open session (**and** record in open session minutes) that affected person(s) have been notified.
  - ➢ Sessions pertaining to **collective bargaining or litigation**. *(R.I. Gen. Laws § 42-46-5(a)(2)).*
  - ➢ Discussions regarding a matter of **security**. *(R.I. Gen. Laws § 42-46-5(a)(3)).*
  - ➢ **Investigative proceedings** regarding allegations of civil or criminal misconduct. *(R.I. Gen. Laws § 42-46-5(a)(4)).*
  - ➢ Discussions or considerations related to the **acquisition or lease of real property** for public purposes, or of the **disposition of publicly held property** wherein advanced public information would be detrimental to the public interest. *(R.I. Gen. Laws § 42-46-5(a)(5)).*
  - ➢ Discussions related to or concerning a **prospective business or industry locating in Rhode Island** when an open meeting would have a detrimental effect on the interest of the public. *(R.I. Gen. Laws § 42-46-5(a)(6)).*
  - ➢ A matter related to the question of the **investment of public funds**, which includes any investment plan or matter related thereto, where the premature disclosure would adversely affect the public interest. *(R.I. Gen. Laws § 42-46-5(a)(7)).*

- School committee sessions to conduct **student disciplinary hearings** or to review other matters that relate to the privacy of students and their records, provided in either case: *(R.I. Gen. Laws § 42-46-5(a)(8))*.
  - any affected student(s) shall be notified in advance in writing;
  - affected student(s) advised they may require discussion held in open session; and
  - during open call, state in open session **and** record in open session minutes that affected student(s) have been notified.
- Hearings on, or discussions of, a **grievance filed pursuant to a collective bargaining agreement**. *(R.I. Gen. Laws § 42-46-5(a)(9))*.
- Discussion of the **personal finances of a prospective donor to a library**. *(R.I. Gen. Laws § 42-46-5(a)(10))*.

- In order to properly convene in executive session, the following must first be performed by the public body in open session:
  - A vote by a majority of the members to convene in executive session;
  - A statement of the specific subsection of R.I. Gen. Laws § 42-46-5(a)(1)-(10) upon which **each** executive session discussion has been convened; **and**
  - A statement specifying the nature of the business for **each** matter to be discussed. *(R.I. Gen. Laws § 42-46-4(a))*.

**The above information must also be recorded in the open session minutes.*

MINUTES *(R.I. Gen. Laws § 42-46-7)*

- Open **and** closed session minutes must be maintained and contain:
  - The date, time, and place of the meeting;
  - The members of the public body recorded as either present or absent;
  - A record by individual member of any vote taken; **and**
  - Any other information relevant to the business of the public body that a member of the public body requests be included. *(R.I. Gen. Laws § 42-46-7(a))*.

MAKING MINUTES AVAILABLE

- For all public bodies:
  - **Unofficial** (unapproved) open and closed session minutes must be available at the principal office of the public body within thirty-five (35) days of the meeting, **or** at the next regularly scheduled meeting, whichever is earlier. *(R.I. Gen. Laws § 42-46-7(b))*.
    - **EXCEPTIONS**
      - when a closed session meeting has been properly convened and a majority of the members vote to seal the minutes, or
      - where a majority of the members vote to extend the time period for filing minutes and publicly state the reason for the extension. *(R.I. Gen. Laws § 42-46-7(b))*.
  - **Official**/approved minutes must be maintained **and** electronically filed with the Secretary of State within 35 days of the meeting. *(R.I. Gen. Laws § 42-46-7(d))*.
    - **EXCEPTION**
      - not applicable to public bodies whose responsibilities are *advisory* in nature. *(R.I. Gen. Laws § 42-46-7(d))*.
- For all volunteer fire companies, associations, fire district companies, or any other organization currently engaged in extinguishing fires and preventing fire hazards:
  - must post unofficial minutes on the Secretary of State's website within 21 days of the meeting, but not later than 7 days prior to the next regularly scheduled meeting, whichever is earlier. *(R.I. Gen. Laws § 42-46-7(b)(2))*.

DISCLOSING VOTES *(R.I. Gen. Laws § 42-46-7(b))*

- All votes listing how each member voted on each issue shall be available at the office of the public body within two (2) weeks of the vote, and
- If a vote is cast during **executive session**, the vote must be disclosed once the open session is reopened.
  - **EXCEPTION**
    - a vote taken in executive session need not be disclosed for the period during which its disclosure would jeopardize any strategy, negotiation or investigation undertaken pursuant to a properly closed meeting. *(R.I. Gen. Laws § 42-46-4(b))*.

Attorney General
Peter F. Neronha

GUIDANCE FOR CONVENING INTO EXECUTIVE SESSION[1]

Pursuant to the Open Meetings Act ("OMA"), public bodies are required to conduct public business in an open and transparent manner. Accordingly, public bodies may only enter into executive (closed) session for limited, specific reasons and are subject to certain requirements when they do so. Some of the most common purposes for entering executive session, and the steps necessary to go from an open meeting to an executive session, are explained below. The full list of purposes for which executive session may be entered can be found at R.I. Gen. Laws § 42-46-5(a).

We emphasize that public bodies should only resort to executive session when necessary and are encouraged to consider whether business may be conducted in open session, even when the OMA may permit the matter to be discussed in closed session.

In addition to articulating in an open call the particular OMA subsection and providing a statement specifying the nature of the business to be discussed, the open session meeting minutes must also record the particular OMA subsection and the statement specifying the nature of the business to be discussed in executive session. *See* R.I. Gen. Laws § 42-46-4(a). This generally should be more specific than the categories listed below. Examples of how to convene and adjourn an executive session are included below.

Convening in and out of Executive Session

During the Open Session:

- **Councilmember A: "***Motion to convene into executive session, pursuant to R.I. Gen. Laws § [appropriate section here], to [repeat whatever is on the agenda here].*"

  Examples:

  (1) "*I move that the XYZ Council go into executive session pursuant to R.I. Gen. Laws §42-46-5(a)(1) to discuss the job performance of the Town Manager. The Town Manager was provided prior written notice that her job performance would be discussed and that she could require that discussion be held during the open session.*"

  * Meeting minutes must reflect that this statement regarding notice was made for the record[2]*

  (2) "*I move that the XYZ Council go into executive session pursuant to R.I. Gen. Laws §42-46-5(a)(2) to discuss the pending litigation of Leslie Knope v. Ron Swanson, Case Number: KC2019-1234.*"

[1] *This information is provided by the Office of Attorney General to assist public bodies and to provide guidance concerning the Open Meetings Act's requirements. This information does not list all Open Meetings Act requirements and is neither intended to replace the Open Meetings Act nor should it be construed as legal advice. Public bodies should defer to their legal counsel when questions regarding compliance arise. Revised June 2019.*

[2] *See* R.I. Gen. Laws § 42-46-5(a)(1).

Councilmember B: "*I second the motion.*"

This motion requires an affirmative vote of the majority of members[3]

This motion, and the vote of each member on the question of holding a closed meeting must be recorded in the minutes[4]

During the Closed Session (at the conclusion of the substantive closed session business):

(1) Motion to convene into open session

Councilmember A: *"I move that the XYZ Council reconvene into open session."*

Councilmember B: *"I second the motion."*

This motion requires an affirmative vote of the majority of members

Presiding Councilmember: *"So ordered. The XYZ Council is now in open session."*

During Open Session:

(1) Report on Actions Taken in Executive Session (Often Provided by the Presiding Member)

- The [INSERT NAME OF BODY HERE] convened in executive session pursuant to [section] to [agenda], and the following votes were taken:
  - Vote(s), if any, on whatever was noticed
  - Motion, if any, to seal the minutes of executive session
  - Motion to return to open session

Note: Any action/vote taken in closed session **SHALL be disclosed in **OPEN SESSION** unless disclosure would jeopardize any strategy, negotiation, or investigation undertaken pursuant to discussions conducted under R.I. Gen. Laws § 42-46-5(a). R.I. Gen. Laws § 42-46-4(b).*

(2) Motion to seal the executive session minutes (optional)

Councilmember A: *"I move that the minutes of the XYZ Council executive session be sealed."*

Councilmember B: *"I second the motion."*

This motion requires an affirmative vote of the majority of members

Presiding Councilmember: *"So ordered. The XYZ Council executive session minutes of* [DATE] *shall be sealed."*

Minutes of a closed session shall be made available at the next regularly scheduled meeting unless the majority votes to keep the minutes sealed. R.I. Gen. Laws § 42-46-7(c). Public bodies are encouraged to not seal minutes unless necessary.

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[3] *See* R.I. Gen. Laws § 42-46-4(a).
[4] *See id.*

Attorney General
Peter F. Neronha

Complaint Submitted

Office of the Attorney General

Attn: Open Government Unit

150 South Main Street
Providence, RI 02903

opengovernment@riag.ri.gov

Complaint should include a short and clear statement of the specific alleged violation(s) and any relevant documentation.

Acknowledgement Letters

If allegations in the complaint, if assumed to be true, state a potential violation of the Act, the Office sends a**cknowledgment letters** to complainant and legal counsel for public body outlining process and requesting a response to the allegations.

Public Body Response

Legal counsel for the public body provides a **substantive response** to complaint within **10 business days*** of acknowledgment letter. Sent to the Office and complainant.

Complainant Rebuttal

Complainant may submit a **rebuttal** to the public body's response within **5 business days*** of receipt that is limited to addressing issues raised in response and may not address new issues. Sent to the Office and legal counsel for public body.

Investigation period

The Office **investigates** the allegations and may request supplemental information from the parties. Neither the public body nor the complainant may submit additional information without permission.

Finding Issued

The Office issues a **finding** that is sent to parties and published on www.riag.ri.gov.

Potential Complaint Filed

If injunctive relief is appropriate or if a violation is found to be **willful or knowing** (OMA) or **willful and knowing, or reckless** (APRA), the Office may file a complaint against the public body in the Superior Court and may seek civil fines.

**This process is subject to change at the discretion of the Office.*
Reasonable extensions may be granted upon an appropriate showing.

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