



THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL
ATTORNEY GENERAL

(617) 727-2200
www.mass.gov/ago

June 7, 2023

OML 2023 – 95

VIA EMAIL

Felicia Vasudevan, Esq.
Murphy, Hesse, Toomey & Lehane, LLP
fvasudevan@mhtl.com

RE: Open Meeting Law Complaint

Dear Attorney Vasudevan:

This office received a complaint from Bruce Friedman on July 18, 2022, alleging that the Malden School Committee (the “Committee”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally filed with the Committee on September 14, 2022, and Attorney Mariem Marquetti responded on behalf of the Committee by letter dated November 9, 2022, pursuant to an extension of time granted by this office.¹ The complaint alleges that the Committee failed to respond to the complainant’s request for meeting minutes.

Following our review, we find that the Committee violated the Open Meeting Law as alleged. In reaching this determination, we reviewed the original complaint, the Committee’s response to the complaint, and the complaint filed with our office requesting further review. We also corresponded with counsel for the Committee by email.

The complaint alleges that on September 2, the complainant requested from the Committee minutes of meetings held during specified date ranges. The complaint does not allege, and we do not review, whether the requested meeting minutes were timely approved; we only review whether the Committee timely responded to the requests for minutes. The Open Meeting Law requires that minutes of an open session, if they exist and whether approved or in draft form, be made available upon request by any person within 10 days. G.L. c. 30A, § 22(c). Under the Open Meeting Law, a public body has 10 calendar days from the date a request is received to provide a response. A public body is only required to produce any meeting minutes, whether in draft or approved form, which existed at the time of a request. A public body is not

¹ Unless otherwise specified, all dates refer to 2022.

required to produce meeting minutes in response to a request that do not already exist. See OML 2020-151.² However, if minutes do not yet exist at the time of a request, the public body is still required to respond to the request within 10 calendar days with an explanation of whether the minutes do or do not exist in either approved or draft form. See OML 2021-46.

The Committee does not dispute that it failed to timely respond to the September 2 requests for meeting minutes within 10 calendar days; the Committee acknowledges that it responded to the requests on September 19. Therefore, we find that the Committee violated the Open Meeting Law.

Finally, we must determine whether the Committee's violation was, as the complainant urges, intentional. See G.L. c. 30A, § 23(c). An intentional violation is an "act or omission by a public body or a member thereof, in knowing violation of [the Open Meeting Law]." 940 CMR 29.02. An intentional violation may be found where the public body acted with deliberate ignorance of the law's requirement or has previously been advised that certain conduct violates the Open Meeting Law. Id. Here, we have not previously warned the Committee against the violation found here, nor do we find other evidence that would support a finding of an intentional violation by the Committee. We therefore decline to find that the violation was intentional.

For the reasons stated above, we find that the Committee violated the Open Meeting Law by failing to timely respond to a request for meeting minutes. We order the Committee's immediate and future compliance with the Open Meeting Law and caution the Committee that a determination by our office of a similar violation in the future may be considered evidence of intent to violate the Open Meeting Law.

We now consider the complaint addressed by this determination to be resolved. This determination does not address any other complaints which may be pending with our office or the Committee. Please feel free to contact our office at (617) 963-2540 if you have any questions.

Sincerely,



Carrie Benedon
Assistant Attorney General
Division of Open Government

cc: Bruce Friedman (via email: [REDACTED])
Malden City Clerk (via email: cdesiderio@cityofmalden.org)
Mayor Gary Christenson, Chair, Malden School Committee (via email: mayor@cityofmalden.org)

² Open Meeting Law determinations may be found at the Attorney General's website, <https://www.mass.gov/the-open-meeting-law>.

This determination was issued pursuant to G.L. c. 30A, § 23(c). A public body or any member of a body aggrieved by a final order of the Attorney General may obtain judicial review through an action filed in Superior Court pursuant to G.L. c. 30A, § 23(d). The complaint must be filed in Superior Court within twenty-one days of receipt of a final order.