27TH ANNUAL OPEN GOVERNMENT SUMMIT

Your guide to the Access to Public Records Act & Open Meetings Act

Attorney General
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August 1, 2025

Dear colleagues and friends:

Thank you for participating in the 27th annual Open Government Summit. This event provides an important opportunity to learn more about the value of transparency in state and local government. We are happy to offer you both in-person and virtual attendance options, and we appreciate your interest in making government more accessible.

Both practitioners and members of the public play vital roles in government transparency. When government decisions are debated openly and readily available, the public becomes more engaged, better informed, and more deeply invested in its community. Further, public access to government records can help keep government officials honest and preempt deception.

There will be critical decision points in this process. For practitioners, there will be times when you will need to carefully exercise judgment to determine whether information should be made publicly available or withheld when necessary to protect an important interest. The question shouldn't simply be whether you *could* withhold, but rather, whether you *should* withhold. It is my hope that today's Summit provides clarity and confidence when you reach that inflection point.

In the spirit of open government, you can always reach out to us at any time with questions, or to schedule a training for your organization or in your community:

opengovernment@riag.ri.gov
401-274-4400

Contained in this booklet are training materials from today's event, including copies of applicable laws and summaries of recent findings made by our Office. You can also access a variety of resources on the Open Government page of our website, including a video recording of this year's 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

Access to Public Records Act Findings - 2025

PR 25-01 **Rourke v. Rhode Island Judiciary**:

The Complainant alleged that the Judiciary violated the APRA by failing to respond to her APRA request. The Judiciary conceded that it did not respond to the Complainant's request, and it did not allege that the Complainant was non-compliant with the Judiciary's APRA procedures. Although the text of the Complainant's request was difficult to read, we found our precedent to be clear that the Judiciary still had an obligation to respond in some manner. The Judiciary, through its General Counsel, noted that it "forgot to send [a] follow up email." We found insufficient evidence that the violation was willful and knowing, or alternatively reckless, nor did we find injunctive relief to be appropriate, as it was clear based on the record that the Judiciary did not possess the requested records. VIOLATION FOUND.

PR 25-02 **Bilow v. Brown University Police Department**
Brigham v. Brown University Police Department

The Complainants alleged that the BUPD violated the APRA by not disclosing certain records in response to an APRA request. BUPD countered that the APRA does not apply to private university police departments. We declined to find a violation because BUPD is not a public body subject to APRA.

PR 25-03 **Schupp v. Rhode Island Department of Revenue**:

The Complainant alleged that DOR violated the APRA by denying his request for taxation reports that, per statute, must be filed with DOR. This Office, in response to a prior dispute between these two parties, found that DOR's denial of the Complainant's request was lawful due to a concern for the privacy interests of the insured (PR 23-43, PR 23-34B). In this instance, the Complainant's request was narrower, seeking only two pieces of information and limiting his request to "corporations." Nevertheless, we again held that DOR's denial was proper, particularly because the Complainant did not address our concerns relative to entities owned and operated by individuals and small corporations. We also found Exemption (B) to be applicable to the subject records.

PR 25-04 **Rose v. RIPTA**:

The Complainant sought a "Proposal Public Copy" of an RFP for construction of a transit hub in Providence, which was a document specifically contemplated for public release and required for submission as part of the RFP process. RIPTA issued a blanket denial as to the Complainant's request. We determined that RIPTA likely violated the APRA, either by failing to state in writing that it did not maintain a "Proposal Public Copy" or by failing to produce what by definition seems to be a public record. If the latter scenario transpired, we found that RIPTA likely also violated the APRA by failing to state in writing that no reasonably segregable portion of the record was available. We made no determination as to whether RIPTA violated the APRA as of the date of the finding, and requested supplemental submissions to clarify the record.

PR 25-05 **Robinson v. Rhode Island Department of Transportation**:

The Complainant made a number of allegations relative to her request for video footage of the front entrance of an RIDOT facility, including: inadequate and improperly promulgated APRA procedures, an improper assertion of an APRA extension, a flawed administrative appeal response, a failure to acknowledge her verbal requests, and failure to provide all responsive records. Of these allegations, this Office found one violation as to RIDOT's assertion of an extension, in that it was not sufficiently particularized to the request made. We did not find injunctive relief to be appropriate and did not find the violation to be willful and knowing, or reckless because the extension itself was demonstrably proper (it was merely the wording of the extension that violated the APRA).
VIOLATION FOUND.

PR 25-06 **Kilcullen v. University of Rhode Island**:

The Complainant sought the email communications of a URI faculty member. While URI produced a large volume of responsive emails, the Complainant ultimately challenged redactions to five (5) pages of emails reflective of three (3) separate email exchanges. The email chains in question included the professor, media literacy experts and DHS employees, and consisted of responses to two (2) articles that were critical of the professor's work. Based on this Office's precedent, including our recent finding in *White v. Office of the Governor*. PR 24-33, we found the redactions to be proper pursuant to Exemption (K). The redacted portions of the emails consisted of discussions of media strategy and individuals' opinions of the subject articles, which constitute "impressions" under Exemption (K). We therefore found no violation.

PR 25-07 **Anonymous v. City of Warwick:**

The Complainant alleged that the City violated the APRA by withholding voted ballots. We found the City properly withheld the voted ballots pursuant to Exemption (S) as R.I. Gen Laws § 17-19-39.1 prevents the opening of the voted ballots unless ordered to do so by the State Board of Canvassers or a court of law.

PR 25-08 **Dubois v. City of Pawtucket:**

The Complainant alleged that the City failed to provide all responsive records and improperly withheld records as work product under Exemption (K). We found that there is insufficient evidence to conclude that the City's search for records was inadequate, however it did improperly withhold park maintenance templates as work product.
VIOLATION FOUND.

PR 25-09 **Farinelli v. City of Pawtucket**

The Complainant alleged that the City failed to provide a responsive call log. We found insufficient evidence to find that the City's search for records was insufficient and the City provided an explanation as to why it would not possesses such a call log.

PR 25-10 **Leslie v. City of Providence**

The Complainant alleged that the City violated the APRA by overly-redacting police and incident reports and withholding in-full body-worn camera (BWC) footage pertaining to a homicide. Based on the City's own concession that it had wrongfully concluded that no arrest had been made and therefore redacted the documents in that context, we found that the City violated the APRA. We did not find this violation to be willful and knowing, or reckless, however, because the City erroneously concluded that no arrest had been made due to a clerical error. Additionally, the City subsequently provided revised documents to the Complainant. Based on our *in camera* review, we found that the City lawfully withheld the BWC footage due to the pervasive privacy concerns implicated by release of the footage, as well as the potential that the footage would impact the suspect's right to a fair trial or impartial adjudication.
VIOLATION FOUND.

PR 25-11 **GoLocalProv v. University of Rhode Island**

The Complainant did not receive a response to his APRA request within the statutory timeframe and sent a message to URI as a reminder. URI provided the Complainant with a substantive response to the request very soon thereafter. The next day, the Complainant submitted the instant Complaint to this Office. We found that URI violated the APRA based on its own admission that it was tardy in responding. We did not find this violation to be willful and knowing, or reckless, however, due to URI's rapid response in providing the Complainant with the requested records once it was alerted to this oversight.
VIOLATION FOUND.

PR 25-12 **Bell v. Rhode Island Airport Corporation**

The Complainant sought documents pertaining to the potential installation of workplace surveillance devices at RIAC facilities. RIAC denied this request in full, arguing that the subject records were exempt from public disclosure pursuant to Exemption (A)(I)(a) (records relating to the client/attorney relationship) and Exemption (H) (records pertaining to strategy or negotiation involving labor negotiations or collective bargaining). Based on our *in camera* review, we found that the records were lawfully withheld. The records consisted of a solicitation of legal advice followed by substantive responses to this query. Because this request was premised on workplace surveillance's potential impact on collective bargaining, we found Exemption (H) to be applicable to the records as well. We found no violation.

PR 25-13 **Solas v. Providence Public School District**:

The Complainant alleged that the Providence Public School District violated the APRA by redacting the names of certain advisors at Classical High School, the personal email addresses of employees, and the personal email addresses of members of the public who attended a meeting. We found the PPSD permissibly redacted the personal email addresses of employees and members of the public. We found the PPSD improperly redacted the names of the advisors.
VIOLATION FOUND.

PR 25-14 **Ahlquist v. Woonsocket Police Department:**

The Complainant alleges that the WPD improperly redacted the faces of Gov. McKee, Mayor Baldelli-Hunt, and other public officials/employees from BWC footage of a tour of a homeless encampment. We found the redaction impermissible given the limited personal privacy interest in the face of a public official conducting public business.
VIOLATION FOUND.

PR 25-15 **Solas v. South Kingstown School District**

The Complainant alleges that the SD improperly asserted an extension in responding to her request. We found the extension was permissible as it specified the reason for the extension.

PR 25-16 **Wambugu v. City of Pawtucket**

The Complainant alleges that the City improperly withheld an incident report and BWC footage related to an incident he was involved in. We found the City permissibly withheld the report due to personal privacy interests and limited public interest. We further found the City reasonably interpreted his request to only be seeking the report not BWC footage.

PR 25-17 **Corrente v. Warwick Police Department**

The Complainant alleges that the WPD failed to produce all responsive records or provide all information in response to his public records request. We found insufficient evidence to suggest there were responsive records not produced and found that the APRA does not require public bodies to respond to questions.

PR 25-18 **Raymond v. Foster-Glocester School District**

This is a supplemental finding. We previously found the FGSD violated the APRA by failing to provide all responsive records to a public records request and now find this violation was willful and knowing and intend to seek fines.

PR 25-19 **Lamendola v. East Greenwich School Committee**

The Complainant submitted a four-part APRA request to the East Greenwich School Committee seeking certain communications to or from Committee members as well as communications to or from the Committee's legal counsel. We determined that the withheld documents did in fact fall under Exemption (M) and Exemption (A)(I)(a), since all of the responsive communications from and to Committee members comprised communications to or from Committee members in their official capacities, and because all of the responsive communications to or from the Committee's legal counsel related to a client/attorney relationship. R.I. Gen. Laws §§ 38-2-2(4)(A)(I)(a), (M). As a result, this Office found no APRA violation.

PR 25-20 **Anonymous v. City of Warwick**

The Complainant alleged that the City violated the APRA by not providing records to answer his request for information about tax codes. We found no violation as he presented no evidence to counter the tax assessor's sworn affidavit that no responsive records exist and the City had no obligation to answer questions.

PR 25-21 **Tribonacci v. South Kingstown Police Department**

The Complainant alleged that the SKPD violated the APRA by not providing body worn camera footage related to a traffic stop that did not result in arrest. We found the SKPD permissibly withheld the footage given the privacy interests implicated.

PR 25-22 **Bilow v. Coventry Police Department**

The Complainant alleged that the CPD improperly withheld all responsive records in full rather than making redactions and failed to timely respond to his administrative appeal. The Department conceded these violations.
VIOLATION FOUND.

PR 25-23 **Puchalski v. Charlestown Fire District [10.3.24], [10.24.24], [12.10.24], [3.5.25]**

The Complainant filed four (4) separate complaints, all pertaining to requests for records related to the Cross Mills Volunteer Fire Station in Charlestown. She alleged that the District violated the APRA by failing to provide all responsive records as to three (3) of her requests and by assessing an excessive prepayment

estimate and failing to provide a detailed itemization of costs relative to her fourth (and final) request. As to two (2) of her requests (dated October 3, 2024 and December 10, 2024), we determined that the District provided the Complainant with all responsive records and that the Complainant's allegations were premised on the content of those records rather than the sufficiency of the District's response. The alleged incompleteness of the District's response to her September 25, 2024 request, we determined, was attributable to the inexact language of her request (and the burden is on the requester to properly articulate the nature of the request). Finally, we declined to reach the merits as to the Complainant's allegations related to the District's prepayment estimate and a detailed itemization of costs because the District offered to waive the assessed fees in the interest of resolving the dispute, thereby rendering the allegations moot. Regardless of this mootness, the underlying allegations appeared to be unfounded.

PR 25-24 **Anonymous v. City of Warwick**

The Complainant alleges that the City violated the APRA by withholding an employee's W-2 form in its entirety. We found that W-2 forms are kept confidential by federal law and thus are exempt from disclosure under Exemption (S).

PR 25-25 **Jenkins v. Narragansett Police Department**

The Complainant alleges that the NPD violated the APRA by withholding a police incident report involving herself in its entirety. We found that given the fact that the incident did not result in arrest and the specificity of the APRA request, redaction was impractical and the privacy interests implicated outweighed any public interest in release.

PR 25-26 **Angelo v. Town of Westerly**

The Complainant sought sealed executive session minutes and argued that the Town violated the APRA by not providing them in response to his request. He maintained that the records related to the acquisition of properties, and because the properties in question had already been purchased by the Town, Exemption (N) of the APRA was inapplicable to his request. Although that may have been the case, we found that Exemption (J), (which was cited by the Town), was applicable to the subject records because it renders sealed executive session minutes non-public under the APRA. Additionally, there is no provision within the OMA that provides for the automatic unsealing of properly sealed minutes, so the Complainant's argument that the minutes should be unsealed is irrelevant to our analysis, in keeping with our precedent.

PR 25-27 **Schutzman v. Cranston Police Department**

The Complainant sought a number of records concerning the 2013 unsolved homicide of Gandy "Shad" Kaydea. The CPD withheld all records in full, citing Exemption D(a) (interference with investigations of criminal activities or with enforcement proceedings), and Exemption (D)(c) (an unwarranted invasion of personal privacy) (the Department later invoked Exemption (D)(e), which protects against the disclosure of law enforcement techniques). Based upon our review of

the record, we determined that the Department "automatically" withheld the responsive records without conducting a careful analysis of the same, as is required under the APRA. We also noted that the requester sought "[m]edia communications including press releases," and that the Department violated the APRA either by failing to state in writing that it did not maintain such records or by failing to produce the same, which are seemingly public in nature. We instructed the Department to provide a response to the Complainant in a manner consistent with the APRA, and this finding, within thirty (30) days.
VIOLATION FOUND.

PR 25-28 **DiPaola v. Town of Portsmouth, et al.**

The Complainant filed six (6) separate APRA Complaints against three (3) entities (the Town of Portsmouth, the City of Newport, and the CRMC). We found that each of these named entities violated the APRA with respect to four (4) of the Complaints. Portsmouth, Newport, and the CRMC each violated the APRA by failing to timely respond to the Complainant's requests. We additionally found that Newport violated the APRA by failing to provide the requested records in the manner requested by the Complainant, as set forth in R.I. Gen Laws § 38-2-3(k). We directed Newport to provide the subject records to the Complainant in conformance with his request. As to the remaining violations, we did not find injunctive relief to be appropriate because the subject records were ultimately provided to the Complainant. We also concluded that none of the violations were willful and knowing, or reckless, because the violations found therein were either attributable to inadvertence or a mistaken but good faith interpretation of the law.
VIOLATIONS FOUND.

PR 25-29 **Solas v. Rhode Island College**

The Complainant sought documents pertaining to the curriculum for a specific class taught at RIC. She did not receive a response within the statutory timeframe and filed a Complaint with this Office. RIC provided the subject records to the Complainant soon thereafter. We found that RIC violated the APRA based on its own concession that it was tardy in responding. We did not find this violation to be willful and knowing, or reckless, however, due to RIC's rapid response in providing the Complainant with the requested records after the Complaint was filed. We also noted RIC's history of compliance with the APRA.
VIOLATION FOUND.

PR 25-30 **Zimmerman v. Rhode Island State Police**

The Complainant alleges that RISP improperly withheld body-worn camera footage of a police response to a vehicle accident involving his client. We found that the footage was permissibly withheld pursuant to Exemption (D)(c) as the privacy interests outweighed any public interest in release of the footage.

PR 25-31 **Fung v. City of Cranston**

The Complainant sought documents pertaining to public statements made by Cranston's Mayor concerning potentially relocating the Cranston Police

Department's gun range. The City asserted a 20 business day extension but then did not provide a response within the statutory timeframe. The Complainant subsequently filed the instant Complaint. We found that the City violated the APRA based on its own concession that it was tardy in responding. We reserved determining whether the violation was willful and knowing, or alternatively reckless, pending receipt of a supplemental response from the City outlining its search for responsive records prior to responding to the Complaint.
VIOLATION FOUND.

PR 25-32 **Langseth v. City of Warwick [8.9.24], [3.21.25]**

The Complainant sought certain emails between the City and the Rhode Island Airport Corporation (RIAC). The City provided the Complainant with a prepayment estimate, and the Complainant subsequently filed a Complaint with this Office challenging that estimate. We found that the prepayment estimate was reasonable and did not violate the APRA. A second APRA request was submitted by the Complainant in March of 2025 seeking records pertaining to the passage of a 1987 zoning ordinance. After the City provided responsive records to the Complainant, he challenged the sufficiency of the City's response. We found that the City did not violate APRA based on its sworn testimony that it did not maintain any additional records responsive to the Complainant's request.

PR 25-33 **Castro v. City of Pawtucket**

The Complainant sought a specific Pawtucket Police Department incident report. The City withheld the report in full pursuant to Exemption (D)(c). We found that the record was lawfully withheld. The incident described in the report did not result in arrest, and the report named three third-party individuals. We found no violation.

PR 25-34 **Davis v. Town of Exeter**

The Complainant alleged that the Town violated the APRA by improperly denying his request for records related to the issuance of a check. We found no violation because the only withheld record consisted of sealed executive session minutes, which are non-public under the APRA.

PR 25-35 **Blanchet v. Cranston Police Department**

The Complainant sought incident reports and body-worn camera footage from a specific CPD response to a call for service at a private residence. The City withheld the report in full pursuant to Exemption (D)(c). Based on our *in camera* review, we found that the records were lawfully withheld. The incident described in the report did not result in arrest, and the records implicated the privacy interests of two members of the public. We found no violation.

PR 25-36 **Pattillo v. Rhode Island Department of Health**

The Complainant sought four categories of records related to RIDOH's lead disclosure rules. RIDOH assessed a prepayment estimate of over $29,000 to review approximately 7,800 potentially responsive records. We determined that estimate to be equivalent to 15 minutes of review time per document, which RIDOH did not justify as reasonable under the particular circumstances of the Complainant's

request. We therefore found that RIDOH's prepayment estimate violated the APRA, and we sought injunctive relief.
VIOLATION FOUND

PR 25-37 **Langseth v. Rhode Island Airport Corporation**

The Complainant sought records broadly related to a contract amendment passed via resolution by the RIAC board of directors. RIAC assessed a prepayment estimate, which the Complainant provided. RIAC then issued a partial response, and assessed a fee for the responsive records already provided as well as a second prepayment estimate for the review of the remaining potentially responsive records gathered in its initial search. The Complainant contested all three fee assessments. We found that while this Office cannot compel the Complainant to pay for work beyond what he authorized and prepaid for, RIAC may condition fulfilling the remainder of his request on receipt of the additional fees. Accordingly, we found that RIAC did not violate the APRA.

PR 25-38 **Holmes v. South Kingstown Police Department**

The Complainant sought body-worn camera footage and other records related to two separate calls for police service at a specified location. The City withheld the records in full pursuant to Exemption (D)(c). Based on our *in camera* review, we found that the records were lawfully withheld. The two incidents memorialized in the records did not result in arrest, and the records implicated the privacy interests of several other members of the public. We found no violation.

PR 25-39 **Ferreira v. Town of Tiverton**

The Complainant sought emails containing any of several listed search terms. The Town asked the relevant employee to search his own inbox, which did not return any responsive records. Upon receiving the instant Complaint, the Town worked with its IT contractor to conduct a more thorough search and produced several responsive records to the Complainant. As no relief would be appropriate in these circumstances, we declined to find a violation of the APRA.

ADV PR 25-01 **In re City of Providence**:

The City of Providence sought "to clarify [the City's] obligations with respect to providing … copies of copyrighted architectural plans or the ability to photocopy or photograph them." While declining to conclude that this entire category of the City's records was *per se* exempt, we cited precedential support to exempt such records under Exemption (B) ("trade secrets") and Exemption (S) ("records … required to be kept confidential by federal law"). We noted that if the records were public under the APRA, the City had no basis to limit the requester to an in-person inspection. Nevertheless, the City had discretion to allow for in-person inspection (only) if the records were non-public. While supporting as much transparency as possible, we cautioned that there are circumstances wherein there are legitimate reasons to apply APRA exemptions, and took no position as to the City's statement that it would be a requester's "own

choice" to take photographs during an in-person inspection. Finally, we urged to City to communicate with third-party copyright holders to seek permission to reproduce records which may otherwise be exempt.

CHAPTER 38-2
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,thename,grosssalary,salaryrange,totalcostofpaidfringe 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. For purposes of this section, the city or town residence shall not be deemed public for peace officers, as defined in § 12-7-21, and shall not be released.

(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.

SECTION II

OPEN MEETINGS ACT

Open Meetings Act Findings - 2025

OM 25-01 **Mannix v. Bonnet Shores Fire District Charter Committee**:
The Complainant alleged that the Committee violated the OMA by failing to timely post meeting minutes on the Secretary of State's website. We found that the Committee was created via a Consent Judgment which expressly circumscribed its responsibilities and authority, thereby rendering it advisory in nature and not subject to the OMA's posting requirements. As such, it did not violate the OMA.

OM 25-02 **Jenkins v. Bonnet Shores Fire District Council**
Langer v. Bonnet Shores Fire District Council
The Complainants alleged that the Bonnet Shores Fire District violated the OMA by not stopping a public meeting when the Zoom broadcast was cut off. We found the failure to stop a meeting when the Zoom broadcast was cut off violated the OMA as the public body's meeting agenda provided the Zoom link and informed members of the public they could view the meeting via Zoom without any qualifying language.
VIOLATION FOUND.

OM 25-03 **Lombardo v. Westerly Conservation Commission**:
The Complainant alleged that the Commission violated the OMA by failing to post meeting minutes and inadequately describing the nature of the business to be discussed in the supplemental notice for its November 14, 2023 meeting. As to the meeting minutes, although it was a close call, we found that the Commission was advisory in nature such that it was excused from the posting requirement. The Town Charter indicates that the Commission is an advisory entity, and there was little in the record to prove otherwise. Nevertheless, we warned the Commission that if it took non-advisory actions and did not post its meeting minutes it could potentially violate the OMA in the future. We also found the supplemental notice to be lawful based on a number of factors, including general public awareness of the topics being discussed and the fact that the Commission took no action relative to these items.

OM 25-04 **Brien v. Rhode Island Department of Education**
Cournoyer v. Rhode Island Department of Education

The Complainants obtained secondhand knowledge that RIDE was conducting a public hearing concerning a "major amendment" that would convert a Woonsocket charter school from a "Mayoral" charter school to an "Independent" charter school. The Complainants allege that notice for this public hearing was not posted electronically on the Secretary of State's website, in violation of the OMA. We determined that the entity that hosted the hearing, RIDE's "OSO" was not a public body, but merely consisted of RIDE employees who carried out tasks for the Commissioner. Even assuming the OSO were a public body, there was clearly no quorum present because the OSO has no set membership. We therefore found no violation.

OM 25-05 **Town of Narragansett v. State Housing Appeals Board**

The Complainant alleged that the State Housing Appeals Boards failed to post meeting minutes for three meetings. We found that the SHAB failed to timely post meeting minutes and violated the OMA.
VIOLATION FOUND.

OM 25-06 **Zasloff et al. v. Chariho School Committee**

The Complainants alleged that members of the Committee met non-publicly in advance of a December 17, 2024 meeting in order to plan on tabling a vote to select a Chair. Based on the record before us, including sworn affidavits from the implicated members, we found no evidence that a quorum met outside of a public forum. The most detailed Complaint, by its plain language, failed to plead that a quorum convened. The remaining Complaints, which were less specific and premised on general observations of the meeting, necessarily failed. Even assuming such a convening took place, injunctive relief would be inappropriate because the Committee has subsequently selected a Chair and, based on the pleadings, a revote would not change the ultimate outcome. We also noted that the "Chariho Act," which mandates the manner in which a Chair is selected, is outside the scope of the OMA. We therefore found no violation.

OM 25-07 **Ford v. Cranston City Council Ordinance Committee**

The Complainant challenged the testimony (and accompanying photos) offered by members of the Cranston Police Department in support of an ordinance relating to the imposition of civil penalties for the unsanctioned erection of structures on City property (which would greatly impact the unhoused population). The Complainant argued that the Department's remarks were off-topic to the extent that members of the public were "not afforded the opportunity" to "engage in public discussion." We held that there is no right to public comment under the OMA, that the Committee's notice was proper because it was paired with a draft of the ordinance, and that the Department's remarks were confined to the ordinance's logical parameters. We additionally found that the Department's use of photos was proper in that they just served as visual aids. We also noted that the Complainant's own comments mirrored those of the Department, undermining his argument. We therefore found no violation

OM 25-08 **Solas v. Weekapaug Fire District**

The Complainant alleged that the District failed to post meeting minutes on three (3) separate occasions. Based on the undisputed record, we determined that one meeting actually did not occur and that the agenda in that instance had been posted in error. As such, the posting of minutes was not required because no meeting took place. The other two (2) referenced meetings were "annual meetings," which, based on Rhode Island Supreme Court precedent and our own subsequent findings, do not require the posting of meeting minutes as contemplated by the statute. We therefore found no violation.

OM 25-09 **Pezza v. Foster Glocester Regional School Committee**

The Complainant alleged that a non-public quorum of the Committee formed in advance of a meeting in order to plan on the removal of legal counsel. In support of her argument, the Co-Chair cited a lack of any indication of displeasure with legal counsel up to that point as well as the majority's seeming coordination when the issue was raised and voted upon. Based on the evidence submitted by the Committee, including affidavits of the Committee members referenced in the Complaint (as well as, somewhat surprisingly, an affidavit executed by the Complainant herself), we found nothing in the record to support the Complainant's arguments. We also noted precedential support for the contention that the mere observation of the mannerisms of members of a public body and/or the purported efficiency of a meeting itself is not enough to establish an OMA violation.

OM 25-10 **Ahlquist v. Middletown School Committee**

The Complainant alleged that the Committee violated the OMA by: 1) discussing and acting upon two topics that were not properly noticed (the scheduling of future Committee meetings and the scheduling of a "training"), and 2) by convening non-publicly in advance of the meeting. We found no violation as to the scheduling of future meetings. The OMA would permit the Committee to discuss the scheduling of meetings outside of a noticed meeting. As such, the OMA indicates an intent to permit discussions about this specific issue without a public body being subject to the ordinary constraints of the OMA. We found the scheduling of a Committee "training" to be distinguishable, however, in part because it involved additional funding considerations and because this particular subtopic received differing treatment by the Committee. As such, discussion of the training absent proper notice was violative of the OMA. We found no evidence of the formation of a non-public quorum. Although the Committee Chair shared a document with select members of the Committee, there was no evidence of a collective discussion of that document such that a quorum was formed.
VIOLATION FOUND.

OM 25-11 **Messinger-Michaels, et al. v. Johnston Town Council**

The Complainants allege that the Town Council held a meeting in a room without enough seating capacity and failed to timely post supplemental notice. We found that the capacity of the room did not violate the OMA and there is insufficient evidence to establish that the notice was untimely posted.

OM 25-12 **Willis, et al. v. Johnston Town Council**

The Complainants allege that the Town Council failed to provide adequate supplemental notice about its vote to take land by eminent domain to build a new fire headquarters, police headquarters, and town hall. We found the notice was inadequate as it simply listed the land plot number but made no mention of eminent domain or the building of public buildings.
VIOLATION FOUND.

OM 25-13 **Giangiulio v. Foster School Committee**

The Complainant alleges the Committee amended its meeting agenda within 48 hours of a meeting, voted to appoint an interim superintendent without proper notice, held an emergency meeting without notice, improperly communicated to the Complainant about its plan to discuss her job performance in an executive session, and its members improperly responded to public comment. We found insufficient evidence to support the allegations regarding the holding of an unnoticed emergency meeting or amending a meeting agenda within 48 hours. We found the notice given regarding the appointment of an individual was adequate, the Committee communication to the Complainant did not violate the OMA, and the Committee members were permitted to respond to public comment.

OM 25-14 **Lamendola v. East Greenwich School Committee**

The Complainant alleged that the Committee violated the OMA in light of statements made by a non-member of the Committee and other evidence which implied that the Committee had discussed and voted on the issue of the filing of a letter by the non-member in a manner that violated the OMA. We determined that there was insufficient evidence of a collective discussion by a rolling quorum outside of a properly noticed meeting.

OM 25-15 **Cushman v. Warwick School Committee**

The Complainant alleges that the School Committee impermissibly met in executive session to discuss the budget. We found that these discussions were about potential litigation related to the budget and as such was permissible under R.I. Gen. Laws § 42-46-5(a)(2).

OM 25-16 **Hunt v. RI Interlocal Risk Management Trust Inc.**

The Complainant requested that this Office revisit our conclusion in a 2013 advisory opinion wherein we determined that the Trust was not subject to the OMA. He argued that the OMA had been amended since the advisory opinion such that the Trust has been placed within the ambit of the OMA presently. We noted that our conclusion in the advisory opinion did not rely solely on the prior incarnation of the provision referenced therein, but instead relied on a number of factors, all of which indicated that the Trust was not a public body. Findings published since the advisory opinion, as well as the text of the OMA as currently constituted, support our prior conclusion. We thus reaffirmed our previous conclusion that the Trust is not a public body under the OMA and found no violation.

OM 25-17 **Lebon v. Woonsocket Charter Review Commission**

The Complainant alleges that the Commission violated the OMA by holding meetings in a building other than city hall, failing to post supplemental notice on the Secretary of State's website, failing to post supplemental notice at city hall, failing to post supplemental notice in local newspapers, and because only "allies of the Mayor" spoke during public comment at meetings. We did not find the Commission violated any provision of the OMA by holding meetings outside of city hall, not posting in newspapers, or because of the people that spoke during public comment. We did not find sufficient evidence to find that the Commission failed to sufficiently post supplemental notice.

OM 25-18 **Anonymous v. Coventry Town Council**

The Complainant alleged that the Council violated the OMA when a quorum of Councilmembers engaged in a "meeting" (as that term is defined by the OMA) by commenting on a Facebook post. The Council did not dispute that it is a public body and that a quorum of its membership had posted Facebook comments. Despite the Council's arguments to the contrary, we found that the comments in question, which discussed the merits of scheduling joint meetings with the School Committee and touched on the Town's fiscal situation, related to matters over which the Council has "supervision, control, jurisdiction or advisory power" (and were not merely related to "scheduling a meeting.") We also found that the Council did not

provide sufficient evidence to demonstrate that the Facebook comments were not "collective" in nature. Although the Council violated the OMA, we found that it was not a willful or knowing violation, as it was clear from the record that the Councilmembers did not understand themselves to be engaged in a meeting.
VIOLATION FOUND.

OM 25-19 **Solas v. Rhode Island Public Transit Authority**

The Complainant alleged that RIPTA violated the OMA by failing to post meeting minutes for three meetings and by providing inadequate supplemental notice for a May 13, 2024 meeting. Based on our review, we determined that two of the convenings in question did not qualify as "meetings" (as that term is defined by the OMA) because they consisted of staff-level hearings, the substance of which would subsequently be conveyed to a distinct public body for "discussion and action" at a public meeting. As to the third meeting, we determined that the entity that the Complainant was referencing was advisory in nature and therefore not required to post its meeting minutes. We declined to determine whether RIPTA's supplemental notice was inadequate given the fact that the OMA only allows for injunctive relief and civil fines and, given the totality of the evidence, neither remedy would be appropriate in this instance.

OM 25-20 **Solas v. Council on Elementary and Secondary Education [2.23.25]**

The Complainant alleged that the Council failed to post its October 29, 2024 meeting minutes to the Secretary of State's website. The Council conceded that it had failed to do so, and we therefore found that the Council violated the OMA. The Complainant did not make a specific request for injunctive relief, and we found such relief to be inappropriate because the Council properly posted the minutes upon receipt of the Complaint. We also declined to find that the Council willfully or knowingly violated the OMA because, in keeping with our precedent, the Council took "swift" action to rectify the error. We were also unaware of any recent, similar violations by the Council.
VIOLATION FOUND.

OM 25-21 **Umbriano v. Scituate Zoning Board of Review**

The Complainant alleged that the Board failed to post its June 25, October 22, and November 26, 2024 meeting minutes to the Secretary of State's website. The Board conceded that it had failed to do so. We therefore found that the Board violated the OMA. The Complainant did not make a specific request for injunctive relief, and we found such relief to be inappropriate because the Board properly posted the subject minutes soon after receipt of the Complaint. We also declined to find that the Board willfully or knowingly violated the OMA because the record demonstrates that its failure to post the subject minutes was unintentional, attributable to a confluence of events that contributed to the error, and inconsistent with the Board's past practice. We were also unaware of any recent, similar violations by the Board.
VIOLATION FOUND.

OM 25-22 **Anonymous v. Cranston Board of Canvassers**

The Complainant alleged that the Cranston Board of Canvassers violated the OMA by convening non-publicly on Election Day. The Board submitted that it conducted an all-day public meeting wherein it opened the meeting in the morning, went into recess, and then closed the meeting after polls had closed in the City. The meeting was conducted in this manner so that the Board could reconvene whenever it needed to in order to address any exigent issues that may have arisen (none did). Based on the record before us, we determined that each member of the Board individually and separately engaged in electoral tasks throughout the day such that no quorum was ever formed during this period. Additionally, the Complainant did not challenge the Board's compliance with the OMA during the opening and closing of the meeting. As such, we found no violation.

OM 25-23 **Davis v. Exeter Board of Canvassers, Exeter Town Council**

This Complaint stemmed from Exeter's zoning inspector election, where the candidate with the most votes passed away a month before Election Day. The Complainant alleged that the Board failed to post an agenda for its November 23, 2024 meeting, where it declined to certify this zoning inspector election. He additionally alleged that the Board failed to post meeting minutes for this specific meeting (and that the Board was not posting its meeting minutes, generally). Finally, he alleged that the Council met non-publicly to call for the November 23, 2024 Board meeting at issue, as well as to authorize the Town Solicitor's legal representation in the election matter. We found no violation as to the Council because the Complainant offered conclusory allegations with no facts to support his claims. Based on the Board's own concessions, we determined that it violated the OMA by failing to post an agenda and by not posting its meeting minutes. We found injunctive relief to be inappropriate because it would be infeasible for the Board to draft minutes for past meetings and because the Board of Elections resolved the election certification issue caused by the November 23, 2024 meeting. We also did not find the Board's violation to be willful or knowing because it was clear from the record that they became aware of their obligations under the OMA based on the events described herein. They have since come into compliance with the statute.

VIOLATION FOUND.

OM 25-24 **Anonymous v. Warwick Board of Canvassers**

The Complainant alleged that the Board went into executive session to discuss agenda items "7 & 8" without providing proper notice of the same. The Board conceded that it had violated the OMA. We found injunctive relief to be inappropriate because it was clear from the record that no action was taken relative to these items. Additionally, the crux of the executive session discussion was reflected in the open session minutes, and the subject matter of the executive session was "generally known" in advance of the closed session. We also did not find the violation to be willful or knowing, as the violation was attributable to a good faith yet mistaken interpretation of the law. Nevertheless, we informed the Board that it had committed a "serious violation," and directed the Board to familiarize itself with the requirements for conducting executive session in accordance with the OMA.

VIOLATION FOUND.

OM 25-25 **Davis v. Town of Exeter**

The Complainant alleged that the Town Council violated the OMA by: 1) failing to disclose a record by individual members of a vote taken in executive session, 2) failing to record executive session action taken relative to "Calls for Investigation" submitted by the Complainant, and 3) providing inadequate supplemental notice as to a January 2, 2024 meeting. We found no violation as to the "Calls for Investigation" OMA Complaint because it was clear based on the record that the Town Council never took any sort of action relative to that topic. We declined to opine on the supplemental notice allegation because injunctive relief would be inappropriate and the minor error in the agenda was attributable to a typographical error that the Complainant was aware of in advance of the meeting. We found an OMA violation only as to the first allegation (the failure to disclose an executive session vote by individual member). We did not find this to be a willful or knowing violation and declined to issue injunctive relief because the Complainant filed the instant Complaint long after the statute of limitations had expired.

VIOLATION FOUND.

OM 25-26 **Solas v. Rhode Island State Labor Relations Board**

The Complainant challenged multiple aspects of the Board's November 12, 2024 supplemental notice. Specifically, she alleged that one section of the Board's open session agenda and the entirety of the executive session portion of the agenda were impermissibly vague. She added that the executive session notice was improper because it failed to cite to applicable subdivision(s) of R.I. Gen. Laws § 42-46-5(a). We found that the open session agenda item and one part of the executive session agenda were in conformance with the OMA because they identified potential Board actions and described the labor matters to be discussed by party name and case number. We found one agenda item in the executive session notice (titled "Update on [P]ending Litigation") to be impermissibly vague, based largely on the Board's own concession as to the same. We also found that the Board's failure to cite to a specific subdivision of R.I. Gen. Laws § 42-46-5(a) violated the OMA. We did not find the violations to be knowing or willful, and found no need for injunctive relief in that the finding itself effectuated the injunctive relief sought by the Complainant and there was no evidence that action was taken relative to the items in question. VIOLATION FOUND.

ADV OM 25-01 **In Re: Barrington School Committee**

Through counsel, the Barrington School Committee sought guidance as to whether its "advisory committees" are "public bodies" as contemplated by the OMA and whether the OMA's provisions regarding electronic communication are applicable to these entities. We found the Committee's advisory committee "Policy" to be determinative, in that it references compliance with the OMA multiple times and directs the advisory committees to engage in certain tasks that are also mandated by the OMA. We additionally noted that the advisory committees have seemingly been in compliance with the OMA to date. We thus advised to Committee to continue to treat the advisory committees as public bodies and to follow the OMA's concomitant electronic communication provisions.

CHAPTER 42-46
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 includes, 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) "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.

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

(5) "Public body" means any department, agency, commission, committee, board, council, bureau, or authority, or any subdivision thereof, of state or municipal government or the board of directors of 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. 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.

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

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, orwork 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 notifiedin 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 actiontaken 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, except as provided in this subsection.

(2) Provided, further however, that a member of a public body may participate by use of electronic communication or tele- phone 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 the member's 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 the member frombeing 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.

(5) The university of Rhode Island board of trustees members, established pursuant to § 16-32-2, are authorized to participate remotely in open public meetings of the board if they are unable to be physically present at the meeting location; provided, however, that:

(i) The remote members and all persons present at the meeting location are clearly audible and visible to each other;

(ii) A quorum of the body is physically present at the noticed meeting location;

(iii) If videoconferencing is used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used and include instructions on how the public can access the virtual meeting; and

(iv) The board shall adopt rules defining the requirements of remote participation including its use for executive session, and the conditions by which a member is authorized to participate remotely.

(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 votedon 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 otherprominent place within the governmental unit, and electronic filingof the notice with the secretary of state pursuant to subsection (f); however, nothing contained herein shall prevent a public body fromholding 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 beaddressed 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; 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

(4) 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 willbe 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 publiclystates 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. Except for discussions related to finances, the provisions of this subsection shall not apply to a volunteer fire company if the matters of the volunteer fire company are under the supervision, control, or jurisdiction of another public body.

(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 complaintwith 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 general 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 grantedby 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

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 Providence, Rhode Island 02903) 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.
    - Submit Public Records form through our website: https://riag..ri.gov/forms/apra-request

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 pursuant to the APRA, 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 "Open Government Unit" page).

ATTORNEY GENERAL
PETER F. NERONHA

ACCESS TO PUBLIC RECORDS ACT
REQUEST FORM

Date _____

Name (optional) _____

Address (optional) _____

_____

Telephone (optional) _____

Email Address (optional) _____

Requested Records: _____

_____

_____

_____

_____

_____

_____

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.).

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.

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.
- ❖ Certification should be accomplished using forms generated by the Attorney General and available at: http://www.riag.ri.gov/CivilDivision/OpenGovernmentUnit.php.

[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 July 2021.*

- ❖ 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 in whole or in part (i.e. redaction);
  - ➢ Extension of the time to respond; or
  - ➢ Estimate of the time and cost, which tolls the time to respond.
- ❖ The ten (10) business day clock begins to run on the first business day following receipt of the request. Requests received outside of normal business hours or on weekends or state holidays are deemed received as of the next business day.

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 and can provide 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:

[2] This section should not be used for requests seeking adult arrest logs for arrests taking place within five (5) days of the request, 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).*

- 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 indicating that the public body can neither confirm nor deny whether it maintains documents responsive to the request.
- A response that includes the redaction of any records, in whole or in part.
- A response indicating that responsive documents are being withheld in their entirety.

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.
  - The time expended to review and redact documents may be included in the assessed costs. See D.A.R.E. v. Gannon, 819 A.2d 651, 661 (R.I. 2003).
- 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.

COMMUNICATION

- Maintaining open communication with the requestor is key in order to clarify the scope of the request, to confirm that your public body understands what records are being sought, and to potentially resolve any disputes (or narrow the issues) before a complaint is filed with this Office.

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.
      - Except as provided in any applicable Executive Order, 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.
      - 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.

[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 July 2021.*

- 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 - FORMAT *(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 *(R.I. Gen. Laws § 42-46-7)*

❖ 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 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))(also note 2021 amendment excepting certain matters from the provisions of this section)*.

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))*.

PUBLIC COMMENT *(R.I. Gen. Laws § 42-46-6(d))*

- Nothing within the OMA requires a public body to hold an open forum or public comment session.
- Nothing within the OMA requires the members of a public body to respond to any comments made during an open forum or public comment session.
- If a public body chooses to hold an open forum or public comment session, nothing prohibits the public body members from responding to comments initiated by members of the public.
- The public body is permitted to limit comment on any topic during an open forum or public comment session.

ATTORNEY GENERAL
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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.*"

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[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 March 2021.*

[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

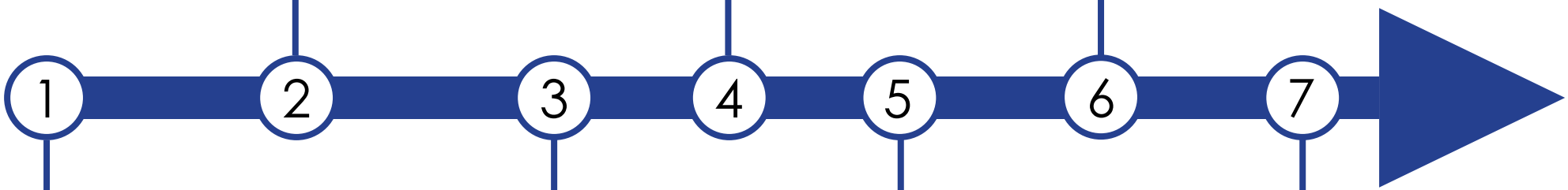
Presiding Councilmember: *"So ordered. The XYZ Council executive session minutes of* [DATE] *shall be sealed."*

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.

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

Open Government Complaint Process

ATTORNEY GENERAL
PETER F. NERONHA



1

Complaint Submitted

Email: opengovernment@riag.ri.gov
or
Mail: Office of the Attorney General
Attn: Open Government Unit
150 South Main Street Providence, RI 02903

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

2

Acknowledgement Letters

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

3

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.

4

Complainant Rebuttal

Complainant may submit a rebuttal to the public body's response within 5* business daysof 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.

5

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.

6

Finding Issued

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

7

Potential Superior Court 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 seeking civil fines.

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

Guidance on Public Bodies Returning to In-Person Meetings and Remote Public Participation in Open Meetings

The Open Meetings Act ("OMA") provides the Office of Attorney General with the statutory authority to investigate alleged violations of the OMA, as well as to interpret the requirements of the OMA. *See* R.I. Gen. Laws §§ 42-46-8(a), 42-46-12. Pursuant to that authority, the Attorney General frequently issues findings and offers trainings and guidance regarding the provisions of the OMA.

The executive order permitting for virtual and hybrid meetings of public bodies for reasons related to the state of emergency resulting from COVID-19 expired on March 31, 2022. Accordingly, public bodies must conform to the requirements of the OMA. Some public bodies and individuals have questions related to returning to in-person meetings, particularly in light of the widespread adoption of technologies and platforms that facilitate virtual access and participation. Accordingly, this guidance document is intended to provide clarity on the requirements of the OMA, for both members of public bodies and members of the public.

As set forth in greater detail below, this guidance clarifies that:

- **Members of the Public Body Must Attend Meetings In-Person**
- **Members of the Public Must Be Permitted to Attend Open Meetings in Person**
- **Public Bodies May Livestream Their Meetings to the Public**
- **Public Bodies May Permit Members of the Public to Participate Remotely in Open Meetings**

Members of the Public Body Must Attend Meetings In-Person

All members of a public body who are participating in a meeting in any fashion must be physically present at the meeting, unless one of the limited exceptions provided for in the OMA applies. The OMA expressly provides that "discussions of a public body via electronic communication, including telephonic communication and telephone conferencing, shall be permitted *only to schedule a meeting.*" R.I. Gen. Laws § 42-46-5(b)(1) (emphasis added). The OMA provides only two exceptions to this rule: "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" or if a member has a disability and cannot otherwise participate as further described in the OMA. R.I. Gen. Laws §§ 42-46-5(b)(2), (3). Except in these very limited circumstances, all members of the public body must be physically present at any meetings in which they are participating.

Members of the Public Must Be Permitted to Attend Open Meetings in Person

The OMA expressly provides that "[e]very meeting of all public bodies shall be open to the public" unless closed for one of the specific reasons permitted by the statute. R.I. Gen. Laws § 42-46-3. **As such, members of the public must be permitted, in-person, to attend the open meetings of public bodies and to observe the conducting of those open meetings.** Although there may be certain particular circumstances where granting in-person attendance to an unlimited number of people may not be feasible, for example due to fire codes or health occupancy restrictions, open meetings must be available to the public for in-person attendance in a manner that conforms with the OMA and with this Office's precedent. *See Brunetti, et al. v. Town of Johnston*, OM 17-19.

Public Bodies May Livestream Their Meetings to the Public

Even prior to COVID-19, a number of public bodies livestreamed their meetings to permit citizens to observe the open meetings in real-time even if they were unable to attend in person. Although the OMA does not require livestreaming open meetings, nothing in the OMA prevents a public body from doing so. In fact, livestreaming open meetings via television, Youtube, Zoom, or some other technology increases access to public meetings and promotes the OMA's purpose of ensuring 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." R.I. Gen. Laws § 42-46-1. **Although offering livestreaming does not relieve public bodies of their obligation to permit in-person attendance at public meetings, public bodies are permitted and encouraged to livestream their open meetings when feasible in order to promote additional public access.**

Public Bodies May Permit Members of the Public to Participate Remotely in Open Meetings

Many public bodies have reported that, during the time when the executive orders regarding the OMA were in effect, they found it beneficial to offer members of the public the ability to participate in the open meeting remotely by offering public comment, testimony, or other remarks through virtual means. **Although the OMA is clear that members of the public body may not participate remotely in open meetings unless expressly permitted by an OMA exception, there is nothing in the OMA that prevents public bodies from permitting members of the public the ability to participate in a meeting remotely, including, for example, offering public comment via Zoom.**

- Continued -

The Rhode Island Supreme Court has been clear that "[i]n determining legislative intent, '[i]t is well settled that when the language of a statute is clear and unambiguous, this Court must interpret the statute literally and must give the words of the statute their plain and ordinary meaning.'" *State v. Badessa*, 869 A.2d 61, 65 (R.I. 2005) (quoting *State v. Martini*, 860 A.2d 689, 691 (R.I. 2004)). Moreover, "[w]e glean the intent and purpose of the Legislature 'from a consideration of the entire statute, keeping in mind [the] nature, object, language and arrangement' of the provisions to be construed * * *." *Id.* (quoting I*n re Advisory to the Governor (Judicial Nominating Commission)*, 668 A.2d 1246, 1248 (R.I. 1996)). "In a nutshell, '[i]n matters of statutory interpretation our ultimate goal is to give effect to the purpose of the act as intended by the legislature.'" *Id.* (quoting *Webster v. Perrotta*, 774 A.2d 68, 75 (R.I. 2001)).

Here, the OMA's provisions restricting meeting by virtual means expressly pertain to "discussions of a public body" and "member[s] of a public body." *See* R.I. Gen. Laws §§ 42-46-5(b)(1), (2), (3). Nothing in the language of the OMA expressly prohibits members of the public from participating remotely. Additionally, offering remote participation to members of the public is consistent with the intent of the OMA, which is for government business to be performed in an open and transparent manner that is accessible to the public. *See* R.I. Gen. Laws §§ 42-46-1, 42-46-3. As such, under the OMA, public bodies may permit members of the public to participate remotely in meetings.

We note that any such remote participation by members of the public must be able to be heard/observed by everyone in attendance at the in-person meeting and carried out in a manner that conforms with any other requirements of the OMA or other applicable laws. Although the OMA does not require public bodies to permit public comment or to permit remote participation by members of the public, public bodies are free to do so and are encouraged to do so when they find that it would advance the purpose of the OMA. We also note that although nothing in the OMA prevents members of the public from providing remote testimony, it is outside this Office's purview under the OMA to address whether doing so would conform with other legal requirements.

We hope that this guidance is helpful as public bodies return to meeting in person. The Open Government Unit is available to answer questions and provide guidance on these and other issues related to the OMA and can be reached at:

Email opengovernment@riag.ri.gov or call 401-274-4400.