

ARTICLE 45. Electronic Recording of Select Board Executive Sessions

To determine whether the Town will vote to urge the Select Board to audio record or audio-visual record its executive sessions, and retain and make publicly available the unredacted portions of these recordings for at least three years after the minutes of the recorded meetings are released to the public.

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OML – Open Meeting Law

- OML regulates the activities of Public Bodies
- Town Boards and Committees are “Public Bodies”
- Google “[Open Meeting Law](#)” to find the Attorney General’s [Open Meeting Law Guide](#)

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Attorney General's OML Guide:

Maura Healey's Introduction:

“...One of the most important functions of the Attorney General's Office is to promote openness and transparency in government...”

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Attorney General's OML Guide:

“...Public bodies are required to create and maintain accurate minutes of all meetings, including **executive sessions**....”

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What is Executive Session?

“...certain topics may be discussed in executive, or closed, session.”

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Do executive sessions have minutes?

- “Public bodies are required to create and maintain accurate minutes of all meetings, including executive sessions.”

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Are executive session minutes released?

- “Once disclosure would no longer defeat the purposes of the executive session, however, minutes and other records from that executive session must be disclosed .”

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Attorney General's OML Guide:

“The minutes...must be created and approved in a
timely manner...”

What is considered “a timely manner?”

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Attorney General's OML Guide:

'A "timely manner" is considered to be within the next three public body meetings or 30 days from the date of the meeting, whichever is later, unless the public body can show good cause for further delay.'

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“...we have generally found that shortages of staff do not provide good cause for failing to approve minutes in a timely manner.”

Kerry Anne Kilcoyne
Assistant Attorney General
Division of Open Government

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How to determine if executive session minutes are approved?

- Executive session minutes are approved in open meetings, and recorded in the open meeting minutes

EXECUTIVE SESSION MINUTES

Upon a motion duly made and seconded, the Board UNANIMOUSLY

VOTED: to approve Executive Session Minutes of December 21, 2015, February 2, 2016, and March 28, 2016 not to be released.

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Timely Approval of Executive Session Minutes: The Concord Select Board's Record

- At least 20 executive sessions held during 2016 through 2018 still did not have their minutes approved as of January 2020
- All of these far exceed the AG's "within the next three public body meetings or 30 days from the date of the meeting" timely approval schedule

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Why should we care?

- Select Board members leave the board
- New members do not know what constitutes accurate approved minutes for meetings they did not attend
- Institutional forgetting of closed-door discussions

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What might be forgotten?

- The Select Board has made \$1,000,000+ spending decisions in executive session
- The reasoning underlying closed-door decisions will be lost

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Why record executive sessions?

- Insures an accurate record of closed-door meetings even if all board members leave before minutes are approved

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Why record executive sessions?

- The Select Board has a track record of failing to approve executive session minutes for literally years after meetings

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**Please vote in favor of this article to
insure the availability of accurate
information about closed-door
Select Board decisions**

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