

OFFERED BY COUNCILOR LIZ BREADON



CITY OF BOSTON

IN THE YEAR TWO THOUSAND TWENTY SIX

ORDER OF COUNCIL PRESIDENT LIZ BREADON

WHEREAS, On Wednesday, June 24, 2026, the City Council received a complaint alleging a violation of the Open Meeting Law; *and*

WHEREAS, Pursuant to the provisions of the Open Meeting Law and the Attorney General's regulations the City Council is required to review the Open Meeting Law complaint and respond to the complainant within 14 business days (see G.L. c. 30A, §23 (b) and 940 CMR 29.05 (5)); *and*

WHEREAS, To comply with the Open Meeting Law and the Attorney General's regulations, attached to this order is the complaint referenced herein; ***NOW, THEREFORE BE IT***

ORDERED: That the Law Department for the City of Boston address the Open Meeting Law complaint and respond accordingly on behalf of the Boston City Council.

Filed on: June 26, 2026



Office of the City Clerk

ALEX GEOURNTAS
City Clerk

June 25, 2026

City Councilor Liz Breadon, President
Boston City Council
Boston City Hall -5th Floor
One City Hall Square
Boston, MA 02201

RE: Open Meeting Law Complaint

Dear Council President Breadon:

I am writing to inform you that an Open Meeting Law Complaint has been filed with the City Clerk's Office regarding violations during the City Council Meeting on May 6, 2026.

The Open Meeting Law Complaint was stamped by my office on June 25, 2026 at 2:41 PM.

I have attached for your review a copy of the complaint and please refer to **Section 23: Enforcement of Open Meeting Law; Complaints; Hearings; Civil Actions** information that is included as part of this letter to initiate a response to the Massachusetts Attorney General's Office.

Please do not hesitate to contact me if you have any questions at 617-635-4601.

Thank you!

Very truly yours,

Alex Geourntas
City Clerk



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

RECEIVED
CITY CLERKS OFFICE

Please note that all fields are required unless otherwise noted.

2026 JUN 25 P 2:41

BOSTON, MA

Your Contact Information:

First Name: Brian Last Name: McCarter

Address: 6 Liberty Square PMB 9194

City: Boston State: MA Zip Code: 02109

Phone Number: _____ Ext. _____

Email: mccarter.brian.j@gmail.com

Organization or Media Affiliation (if any): None

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual Organization Media

Public Body that is the subject of this complaint:

City/Town County Regional/District State

Name of Public Body (including city/town, county or region, if applicable): Boston City Council

Specific person(s), if any, you allege committed the violation: Chair

Date of alleged violation: meeting 5/6/2026, minutes approved 5/13/2026, public on june 22

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

Standing: any person may file an Open Meeting Law complaint; the complainant did not attend and claims no personal injury. OML 2017-32.

PUBLIC ACCESSIBILITY / RIGHT TO RECORD (ss. 20(f),(a)) - During the open session a member of the public who was video-recording the meeting was removed from the chamber and excluded for about twenty minutes solely because he was recording; Council staff were present and the removal was carried out by Boston police. He was initially allowed to return only on condition that he stop recording, and no trespass order was in effect. The Council ultimately permitted him to record, but that later cure does not erase the violation; a temporary denial of the right to record is itself a violation, even where the body claims it only asked the person to refrain temporarily (OML 2018-4). The s. 20(f) right to record an open session is absolute, subject only to reasonable equipment limits (OML 2022-25). An open and obvious recording device is itself notice to the chair (OML 2018-4); a body may not require advance notice of intent to record (OML 2014-8), and directing or restricting recording is itself a violation (OML 2019-67). Removing and excluding the member of the public also denied the s. 20(a) right to attend (OML 2022-237). The right to record is further protected by the First Amendment and Articles 16 and 19 of the Massachusetts Declaration of Rights.

UNLAWFUL REMOVAL (s. 20(g)) - Recording an open session is not disruption, and the s. 20(g) removal power cannot be used to eject a person for exercising the s. 20(f) right. Removal for disruption is a last resort, permitted only after a clear warning and an order to withdraw from the chair, who alone may then authorize an officer to remove the person (OML 2025-97). No clear warning or order from the presiding officer appears anywhere in the record of the meeting; the removal was carried out by police. The chair's warning, if any, is an action that must appear in the record, and the burden of showing the s. 20(g) steps were followed rests on the public body.

INACCURATE MINUTES (s. 22(a)) - Section 22(a) requires minutes to summarize the discussions and the actions taken, and to be accurate they must reflect what occurred. The approved 05/06/26 minutes record only "Recess" and omit the removal of a member of the public from the open session, making the record of that portion inaccurate and incomplete.

TIMELINESS - The removal appears nowhere in the public record of the meeting and was not reasonably discoverable until the conduct became public about 06/22/26. The complaint is timely under 940 CMR 29.05(3) (OML 2025-205; OML 2026-16).

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

Accept the ss. 20(a),(f),(g) and 22(a) violations. A public acknowledgment that the public may record open sessions and that recording is never grounds for removal; s. 20(f)(g) guidance for Councilors, Council staff, and chamber officers; AG-run Open Meeting Law retraining; amend the 05/06/26 minutes to reflect the removal. s. 23(b) preserved.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: Brian McCarter

Date: June 24 2026

For Use By Public Body
Date Received by Public Body

For Use By AGO
Date Received by AGO

Section 23. Enforcement of Open Meeting Law; Complaints; Hearings; Civil Actions

(a) Subject to appropriation, the attorney general shall interpret and enforce the open meeting law.

(b) At least 30 days prior to the filing of a complaint with the attorney general, the complainant shall file a written complaint with the public body, setting forth the circumstances which constitute the alleged violation and giving the body an opportunity to remedy the alleged violation; provided, however, that such complaint shall be filed within 30 days of the date of the alleged violation. The public body shall, within 14 business days of receipt of a complaint, send a copy of the complaint to the attorney general and notify the attorney general of any remedial action taken. Any remedial action taken by the public body in response to a complaint under this subsection shall not be admissible as evidence against the public body that a violation occurred in any later administrative or judicial proceeding relating to such alleged violation. The attorney general may authorize an extension of time to the public body for the purpose of taking remedial action upon the written request of the public body and a showing of good cause to grant the extension.

(c) Upon the receipt of a complaint by any person, the attorney general shall determine, in a timely manner, whether there has been a violation of the open meeting law. The attorney general may, and before imposing any civil penalty on a public body shall, hold a hearing on any such complaint. Following a determination that a violation has occurred, the attorney general shall determine whether the public body, 1 or more of the members, or both, are responsible and whether the violation was intentional or unintentional. Upon the finding of a violation, the attorney general may issue an order to:

- (1) compel immediate and future compliance with the open meeting law;
- (2) compel attendance at a training session authorized by the attorney general;
- (3) nullify in whole or in part any action taken at the meeting;
- (4) impose a civil penalty upon the public body of not more than \$1,000 for each intentional violation;
- (5) reinstate an employee without loss of compensation, seniority, tenure or other benefits;
- (6) compel that minutes, records or other materials be made public; or
- (7) prescribe other appropriate action.

(d) A public body or any member of a body aggrieved by any order issued pursuant to this section may, notwithstanding any general or special law to the contrary, obtain judicial review of the order only through an action in superior court seeking relief in the nature of certiorari; provided, however, that notwithstanding section 4 of chapter 249, any such action shall be commenced in superior court within 21 days of receipt of the order. Any order issued under this section shall be stayed pending judicial review; provided, however, that if the order nullifies an action of the public body, the body shall not implement such action pending judicial review.

(e) If any public body or member thereof shall fail to comply with the requirements set forth in any order issued by the attorney general, or shall fail to pay any civil penalty imposed within 21 days of the date of issuance of such order or within 30 days following the decision of the superior court if judicial review of such order has been timely sought, the attorney general may file an action to compel compliance. Such action shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets. If such

body or member has not timely sought judicial review of the order, such order shall not be open to review in an action to compel compliance.

(f) As an alternative to the procedure in subsection (b), the attorney general or 3 or more registered voters may initiate a civil action to enforce the open meeting law.

Any action under this subsection shall be filed in Suffolk superior court with respect to state public bodies and, with respect to all other public bodies, in the superior court in any county in which the public body acts or meets.

In any action filed pursuant to this subsection, in addition to all other remedies available to the superior court, in law or in equity, the court shall have all of the remedies set forth in subsection (c).

In any action filed under this subsection, the order of notice on the complaint shall be returnable not later than 10 days after the filing and the complaint shall be heard and determined on the return day or on such day as the court shall fix, having regard to the speediest possible determination of the cause consistent with the rights of the parties; provided, however, that orders may be issued at any time on or after the filing of the complaint without notice when such order is necessary to fulfill the purposes of the open meeting law. In the hearing of any action under this subsection, the burden shall be on the respondent to show by a preponderance of the evidence that the action complained of in such complaint was in accordance with and authorized by the open meeting law; provided, however, that no civil penalty may be imposed on an individual absent proof that the action complained of violated the open meeting law.

(g) It shall be a defense to the imposition of a penalty that the public body, after full disclosure, acted in good faith compliance with the advice of the public body's legal counsel.

(h) Payment of civil penalties under this section paid to or received by the attorney general shall be paid into the general fund of the commonwealth.