



THE COMMONWEALTH OF MASSACHUSETTS
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July 8, 2026

OML 2026 – 76

VIA EMAIL ONLY

Alicia A. McNeil, Esq.
City Solicitor, City of Malden

legal@cityofmalden.org

RE: Open Meeting Law Complaint

Dear Attorney McNeil:

This office received a complaint from Jadeane Sica on January 8, 2026, alleging that the Malden City Council (the “Council”) violated the Open Meeting Law, G.L. c. 30A, §§ 18-25. The complaint was originally filed with the Council on November 19, 2025, and you responded on behalf of the Council by letter dated December 16, 2025.¹ The complaint alleges that the Council deliberated outside of a posted meeting.

Following our review, we find that the communications from Councillor Karen Colón Hayes to a quorum of the Council constituted an individual violation of the Open Meeting Law. In reaching this determination, we reviewed the Open Meeting Law complaint, the Council’s response, and the request for further review, with attachments. We also reviewed the notices, minutes, and recordings of meetings that the Council held on November 18 and December 16.² We reviewed minutes of a meeting the Council held on November 26, 2024. Finally, we reviewed minutes of a meeting the Personnel / Appointments Committee held on December 16 and minutes of a meeting the School Committee held on January 28, 2026.

¹ Hereinafter, all dates refer to the year 2025 unless stated otherwise.

² We accessed recordings of the November 18 and December 16 meetings at https://www.youtube.com/watch?v=t7mOmvDaKo&list=PLH-ccu2nqmdYDJUI06oEWXCEWT_TKn6UO&index=4 and https://www.youtube.com/watch?v=Nu4xH34by30&list=PLH-ccu2nqmdYDJUI06oEWXCEWT_TKn6UO, respectively.

FACTS

We find the facts as follows. The Council is comprised of eleven members; six councillors constitute a quorum. On September 17, James Holland, a member of the Northeast Metro Tech School Committee (the “Voke Committee”), passed away. On November 13, the Council posted notice of a meeting to be held on November 18. One of the topics to be discussed was the appointment of Jeffrey Donahue to succeed Mr. Holland on the Voke Committee. Mr. Donahue was recommended as the successor by Malden Mayor Gary Christenson. As to the appointment of Mr. Donahue, the notice of the November 18 meeting read:

432-25 Joint Appointment of the City Council and School Committee: Jeffrey Allen Donahue, 56 Tremont Street, Malden, as the Malden Representative of the Northeast Metro Tech School Committee, to fulfill the term left vacant by the passing of James Holland, per the Regional School District’s Community Agreement. Said term to commence upon confirmation by both bodies of the Malden City Council and School Committee.

Sponsors: Peg Crowe

On the day before the November 18 meeting, Councillor Ryan O’Malley telephoned Councillor Karen Colón Hayes. Councillor O’Malley asked Councillor Colón Hayes whether she had seen the notice of the next evening’s meeting. He drew her attention to the appointment of Jeffrey Donahue to the Voke Committee. Councillor Colón Hayes was “in shock,” as she later explained to the Council. Councillor O’Malley asked whether the opening had been posted. Councillors O’Malley and Colón Hayes agreed that the topic should not have been put on the docket, as it was the province of the Council and the School Committee to fill the vacancy on the Voke Committee. Councillor O’Malley indicated that former School Committee member Lenny Iovino had expressed interest in serving on the Voke Committee.³ Councillor Colón Hayes stated that she would call the Council President to discuss procedure and ask why the appointment was on the docket.

After ending her call with Councillor O’Malley, Councillor Colón Hayes contacted other members of the Council. She discussed the procedure of the appointment with Council President Amanda Linehan.⁴ She left a voice mail message with Councillor Peg Crowe:

Hey Peg. It’s Karen. I’m calling because I just saw Jeff Donahue’s name on the agenda and I am not pleased at all so I’ve been making some phone calls.

³ It is unclear from the record before us whether Councillors O’Malley and Colón Hayes discussed the possible appointment of Lenny Iovino during this phone call.

⁴ The full scope of the discussion between Councillor Colón Hayes and Council President Amanda Linehan is unclear from the record before us. In its response, the Council states that “the conversation was about the procedure of the appointment.” The voice mail that Councillor Colón Hayes left with Councillor Peg Crowe suggests that she expressed her displeasure to Council President Linehan that the appointment of Jeff Donahue was a topic on the notice.

I talked to [Council President Linehan]. I actually called Gary⁵ as well. I have serious concerns about him being on the board of anything. . . .

After detailing her concerns about Mr. Donahue, Councillor Colón Hayes continued in her voice mail:

And I'm thinking of what you all did with Lisette when you pulled back somebody who was actually appointed for reasons that were not even as clear as the ones for Jeff.⁶ . . . I'm hoping that this gets delayed or tabled or something until we find someone better who does not have a background like this. . . .

Councillor Colón Hayes then sent a text message to Councillor Ari Taylor:

Hi Ari- I've been making a lot of phone calls today because I just realized that Jeff donahue [sic] was on the agenda for tomorrow as an appointment to replace Holland for a position on the Voke. I strongly oppose this appointment for many reasons, but most recently he has verbally abused me in public. . . . Although I did not agree with what happened with Lisette's appointment being taken away due to some social media post, I believe this one has more merit as he was verbally abusive to a city councillor in public very recently.

The good news is, [Councillor] Ryan [O'Malley] spoke with Lenny Avino [sic], the former ward for school committee rep and he is very interested in the position. We have both called the Mayor and [Special Assistant to the Mayor] Maria Luise and we're hoping that this can quietly be [tabled] while we review and put forward Lenny's name.

I hope you agree with this suggestion. I'm going to try and table it tomorrow if the mayor doesn't take it off before then. Feel free to give me a call. I'm making the rounds[.]

Councilor Colón Hayes also contacted Councillor Chris Simonelli, sharing her hope that Lenny Iovino would be interested in filling the vacancy. Councillor Simonelli, who knew Mr. Iovino well, reached out to him. Mr. Iovino told Councillor Simonelli he was not interested, information that Councillor Simonelli then relayed to Councillor Colón Hayes. She expressed disappointment at the news but indicated in a text to Councillor Simonelli that “[w]e need a process anyway – we [c]annot just give someone a position! It has to be posted[.]” She forwarded to Councillor Simonelli old social media posts from Mr. Donahue and stated that “people are definitely speaking out against Jeff.” Councilor Colón Hayes reached out to Councillors Paul Condon and Carey McDonald but did not speak with them.

⁵ “Gary” presumably refers to Mayor Gary Christenson.

⁶ In late 2024, the Personnel / Appointments Committee recommended Lisette Alvarado to fill an unexpired term on the Community Preservation Committee. When the recommendation was sent to the City Council for appointment, Councillor Peg Crowe successfully moved to refer the position back to the Personnel /Appointments Committee to repost the position to seek additional candidates.

Also on November 17, Councillor Colón Hayes went for a hike with Councillor Stephen Winslow. At the end of the hike, the agenda item of Jeff Donahue's appointment was briefly discussed. The discussion concerned calls that Councillor Winslow had received about the topic, and the role of the City Council in appointing the successor to Mr. Holland.

The November 18 meeting went forward, as scheduled. When the Council reached paper 432-25, Assistant City Clerk Morgan Hunte read the Mayor's letter of appointment into the record. In his letter, Mayor Christenson recommended Mr. Donohue's appointment to the Voke Committee, citing his experience in the trades and as a former School Committee member. The Mayor asked that the Council move expeditiously with the appointment. After the letter of appointment was read, Councillor Sica expressed concern about Councilor Colón Hayes's communications with other councillors relative to the topic of the appointment.⁷ Following discussion, and upon motion by Councillor Taylor, the Council voted to refer the appointment to the Personnel / Appointment Committee.

The Personnel / Appointments Committee held a meeting on December 16. School Committee Vice Chair Jen Spadafora attended the meeting and explained a process whereby the vacancy would be publicly posted and the Council and School Committee would jointly appoint their preferred candidate. The Personnel / Appointments Committee was receptive to this procedure. Interviews were conducted in January 2026, after which Sean Salazar was appointed to fill the vacancy.

DISCUSSION

The Open Meeting Law was enacted "to eliminate much of the secrecy surrounding the deliberations and decisions on which public policy is based." Ghiglione v. Sch. Comm. of Southbridge, 376 Mass. 70, 72 (1978). Except when convened in executive session, "all meetings of a public body shall be open to the public." G.L. c. 30A, § 20(a). A "meeting" is defined, in relevant part, as "a deliberation by a public body with respect to any matter within the body's jurisdiction." G.L. c. 30A, § 18. The Open Meeting Law defines "deliberation" broadly as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction; provided, however, that 'deliberation' shall not include the distribution of a meeting agenda, scheduling information or distribution of other procedural meeting [information] or the distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed." Id. A one-way communication from one public body member to a quorum on matters within the body's jurisdiction constitutes deliberation for purposes of the Open Meeting Law, even if no other public body member responds. See OML 2026-21; OML 2021-178; OML 2012-73.⁸ Moreover, the Open Meeting Law does not carve out an exception to the definition of "deliberation" for discussions that do not result in a decision or vote. See OML 2021-178; OML 2020-93.

⁷ It is unclear from the record before us how the complainant learned of the communications.

⁸ Open Meeting Law determinations may be found at the Attorney General's website, www.mass.gov/ago/openmeeting.

A public body may not engage in serial communication whereby a quorum communicates in a non-contemporaneous manner outside of a meeting on a particular subject matter within the public body's jurisdiction. See McCrea v. Flaherty, 71 Mass. App. Ct. 637 (2008) (finding that private serial communications violate the spirit of the Open Meeting Law and may not be used to circumvent the intent of the law); see also OML 2024-223; OML 2020-160; OML 2012-84.⁴ Relaying the same information through separate telephone calls or separate text messages to individual members of a public body does not insulate communication from the requirements of the Open Meeting Law. See OML 2024-157 (finding separate, serial communication of overlay district map violated Law when it reached a quorum); OML 2023-224 (finding planning board violated Law when member telephoned each of his fellow members separately to gauge interest in amendment of proposal to be discussed at next meeting); OML 2020-160 (finding board violated Law when chair communicated to a quorum of the board by separate telephone calls).

Six councillors constitute a quorum of the Council. The Council appears to acknowledge that four councillors discussed the agenda item concerning appointment of Jeff Donahue to the Voke Committee. In her voice mail message to Councillor Crowe and in her text messages to Councillors Taylor and Simonelli, Councillor Colón Hayes communicated with her fellow councillors about matters within the Council's jurisdiction, including by explicitly expressing her strong opinion on a matter to be discussed at the next meeting and expressing hope that they would support her position. Thus, even without evidence that Councillors Crowe or Taylor responded to Councillor Colón Hayes, we find that the voice mail and texts constitute clear evidence of communication between four members on the same public business.

We further find that Councilor Colón Hayes communicated with at least two other Councillors about the notice topic, thereby reaching a quorum. The telephone call with Councillor O'Malley constituted communication about the agenda item. Councillors O'Malley and Colón Hayes did not simply discuss whether the appointment would be a topic of discussion at the next day's meeting. They shared their concerns about the appointment process itself. Councillor O'Malley believed that the position should be posted, as did Councillor Colón Hayes. As the latter subsequently told Councillor Taylor in a text message, she and Councillor O'Malley were "hoping that this can quietly be [tabled] while we review and put forward Lenny [Iovino]'s name." In light of the information before us, we find that Councillors Colón Hayes and O'Malley discussed the public business of the appointment which was scheduled to come before the Council the next day.

Councillor Colón Hayes also discussed the agenda item with Councillor Winslow. During a hike the day before the November 18 meeting, Councillor Winslow told Councillor Colón Hayes about calls he had received regarding the agenda item. Councillors Winslow and Colón Hayes also discussed the appointment procedure. Based on the information before us, we understand that Councillor Winslow also asked about the legislation or ordinance that dictated the procedure. This conversation concerned the same matter of public business that Councillor Colón Hayes had discussed with four other Councillors. When she discussed the matter with Councillor Winslow, Councillor Colón Hayes's individual communications reached a quorum of the Council and improper deliberation occurred. As the complainant notes, Councillor Colón Hayes engaged in "hub and spoke" communications wherein she reached out to individual members separately, the cumulative effect being a violation of the Open Meeting Law once the

communications involved six Councillors (Councillors Colón Hayes, Crowe, Taylor, Simonelli, O'Malley and Winslow).⁹

We note that Councillor Simonelli has maintained that when he spoke with Councillor Colón Hayes about the agenda item, he believed that she was speaking only with him about this topic. Moreover, there is no evidence that any of the other Councillors who engaged with Councillor Colón Hayes knew that she was speaking with a quorum of the Council. For these reasons, we find that the violation was an individual one, rather than a violation by the Council as a whole. See OML 2022-91; OML 2015-96.

We briefly address arguments made by Councillors O'Malley and Winslow that, for several reasons, their communications with Councillor Colón Hayes did not constitute deliberation. First, it is immaterial that Councillors O'Malley and Winslow initiated the contact with Councillor Colón Hayes. The definition of deliberation does not depend on who initiated contact; it simply requires communication "*between or among a quorum* of a public body on any public business within its jurisdiction." G.L. c. 30A, § 18 (emphasis added). Second, the brevity of communication has no place in our analysis. See, e.g., OML 2018-118 (Councillors who responded with "thumbs up" emoji or texted "I agree" in response to constituent's text message to quorum of Council engaged in deliberation.). Third, the discussions did not fall within the exception to the definition of deliberation for procedural meeting information. See OML 2016-7 (while communication for purpose of adding topic to meeting agenda is not deliberation, "discussing whether to include a topic in a meeting notice may lead to the type of discussion that the Open Meeting Law requires take place during a noticed meeting."); OML 2013-163 ("While the discussion that occurred by phone and email was partially about whether to add Dr. Murphy's proposal to the agenda, which may be considered administrative in nature, a quorum of the Committee discussed the merits of the proposal before reaching that conclusion," thereby engaging in improper deliberation outside of a properly posted meeting.).

As the Council acknowledged during its open meetings, Councillors previously have engaged in improper deliberation in violation of the Open Meeting Law. See, e.g., OML 2021-179. The Council is cautioned that the Open Meeting Law's definition of "deliberation" is very broad, and therefore public body members should use telephone calls, emails or text messaging to communicate among a quorum only for the limited purposes that are excluded from the Law's definition of "deliberation," such as distribution of a meeting agenda, scheduling information, or distribution of reports or documents that may be discussed at a meeting, provided that no opinion of a member is expressed. See OML 2021-61. Strict adherence to the rule against deliberations outside a meeting may make the meeting itself less efficient, as some fact-finding may need to occur in open session. However, a public body may not put efficiency over the requirements of the Open Meeting Law. See OML 2026-25 ("We recognize that the process of revising the letter

⁹ The Council maintains that communication between Councillor Colón Hayes and Council President Linehan was about the procedure of the appointment. Because we find that Councillor Colón Hayes' communications reached a quorum without taking into account her communication with Council President Linehan, we did not investigate the substance of that communication. We caution the Council, however, that discussion of a public body's operation is a matter within its jurisdiction and such discussions must therefore be reserved for a posted meeting. See OML 2022-161; OML 2021-130; OML 2017-91. Additionally, because we find that Councillor Colón Hayes' communications reached a quorum without taking into account Councillor Colón Hayes's attempts to reach Councillors Condon and McDonald, we did not investigate the content of any voice mail messages left with them.

during a posted meeting might have been cumbersome and time consuming. It was, however, what the law required.”)

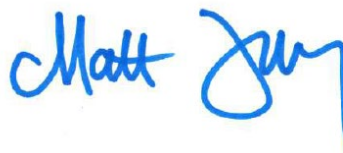
CONCLUSION

For the reasons stated above, we find an individual violation of the Open Meeting Law when Councillor Colón Hayes deliberated with other Councillors, reaching a quorum of the Council. We order immediate and future compliance with the Open Meeting Law, and we caution that similar future violations may be considered evidence of intent to violate the law.

We also order the release within **forty-five (45) days** of the date of this letter of any written communication, including emails and text messages, exchanged by Councillors about filling the Voke Committee vacancy left by the passing of Mr. Holland. We also order that the Council certify to our office that it has released the communications as ordered. See 940 C.M.R. 29.07(4).¹⁰

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

Sincerely,



Matthew Lindberg
Assistant Attorney General
Division of Open Government

cc: Jadeane Sica (via email: jbjs24@yahoo.com)
Malden City Clerk (via email: cdesiderio@cityofmalden.org)
Amanda Linehan (via email: alinehan@cityofmalden.org)

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

¹⁰ The Council may publicly release the communications by playing or reading their content during a meeting and listing the communications in the meeting minutes, or by referencing the communications during a meeting and posting the communications along with the minutes on the municipal website.