

CHARTER REVIEW COMMITTEE
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<https://www.mass.gov/info-details/frequently-asked-questions-about-the-open-meeting-law#frequently-asked-questions-about-the-open-meeting-law:-deliberation-and-electronic-communication->

Frequently asked questions about calculation of quorum and majority

What is a quorum of a public body?

The Open Meeting Law defines a quorum as a simple majority of the members of a public body, unless otherwise provided in a general or special law, executive order, or other authorizing provision. G.L. c. 30A, § 18. If a quorum of a public body wants to discuss public business within that body’s jurisdiction, they must do so during a properly posted meeting. See *id.*

How does a public body determine what constitutes “a simple majority of the members,” for purposes of calculating quorum, when there are vacancies?

When there is a vacancy on a public body, a quorum is still measured by the number of members of the public body as constituted. See *Gamache v. Town of Acushnet*, 14 Mass. App. Ct. 215, 219 (1982) (noting that a Town bylaw established a board of appeals of five members, and a temporary vacancy did not alter that bylaw). However, a general or special law, executive order, or other authorizing provision may provide for the quorum of a public body to be a majority of the members serving on the body. See G.L. c. 30A, § 18. The Open Meeting Law does not define what constitutes an “authorizing provision,” but where a general or special law sets a body’s or type of body’s number of members or quorum requirement, no other provision can set a different number or requirement. And where a general law says that a body or type of body has a set number of members, then unless a general or special law says otherwise, G.L. c. 4, § 6, clause 5, sets the quorum at a majority of that number, and no other provision can set a different quorum requirement.

Examples:

EX 1 A public body has seven (7) members, therefore a quorum is four (4) members. If the same seven-member public body has two (2) vacancies, then there are only five (5) members serving on the public body. By default, a quorum is still measured as four (4) members.

EX 2 A general law creates a seven (7) member public body and states that a quorum of that body shall be a majority of the members serving on the body. There are two (2) vacancies on the public body, leaving (5) members serving. Because the general law creating the body specifies that quorum is measured as a majority of the five (5) serving members, quorum is now three (3) members.

Frequently asked questions about the Open Meeting Law: deliberation and electronic communication

May a public body member communicate with other public body members over email?

Yes, but only in limited circumstances. A member of a public body may email other public body members on matters within jurisdiction of a public body so long as the email does not reach a quorum of the public body. Communications between and among a quorum of a public body on matters within the jurisdiction of the public body must occur during a noticed meeting. G.L. c. 30A, §§ 18, 20. A public body member may lawfully email a quorum of the public body only to discuss scheduling a meeting, distribute a meeting agenda, or to distribute reports or documents to be discussed at a meeting, provided that no opinion of a member of the public body is expressed. See G.L. c. 30A, § 18.

May members of a public body communicate with the public through social media platforms such as Facebook, Twitter, and webpages?

Yes, members of public bodies may communicate with members of the public through any social media platform. However, members of public bodies must be careful not to engage in deliberation with the other members of the public body through such communications. If a member of a public body communicates directly with a quorum of the public body over social media platforms such as Facebook or Twitter, that communication may violate the Open Meeting Law. Public body members should proceed with caution when communicating via these platforms.¹

¹ Office of Attorney General Maura Healey, Retrieved May 2021)