



Mead, Talerman & Costa, LLC  
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January 6, 2019

Director  
Division of Open Government  
Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108  
***Via Email Only***

**RE: Open Meeting Law Complaint  
Municipality: Town of Rehoboth – Finance Committee  
Complainant: Katherine Cooper  
Alleged Violation Date: 12/16/19  
Date Complaint Received: 12/27/19**

Dear Director:

In reference to the above captioned matter, I am Town Counsel to the Town of Rehoboth. The Town has received an Open Meeting Law Complaint from Katherine Cooper as noted above and attached as Exhibit A.

As Town Counsel, I was tasked with reviewing the complaints and investigating the allegations contained therein. As more fully set forth in my letter to Ms. Cooper, attached as Exhibit B, the Finance Committee has not violated the Open Meeting Law by failing to post a meeting despite the attendance of a quorum of the Committee at the meeting of another public body.

Sincerely,

Katherine McNamara Feodoroff, Town Counsel

Encls.

cc: Finance Committee  
Katherine Cooper

*Newburyport Office*  
30 Green Street  
Newburyport, MA 01950  
Phone 978.463.7700  
Fax 978.463.7747

# Exhibit A

(Complaint)



## OPEN MEETING LAW COMPLAINT FORM

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

Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: Katherine Last Name: Cooper

Address: 96 New Street

City: Rehoboth State: Ma Zip Code: 02769

Phone Number: 7745658250 Ext. \_\_\_\_\_

Email: kcooper@drregional.org

Organization or Media Affiliation (if any): Dighton Rehoboth Regional School Committee Chair

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): Rehoboth Finance Committee

Specific person(s), if any, you allege committed the violation: Michael Deignan, George Solas, Susan McBride

Date of alleged violation: 12/16/19

**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.

On 12/16/19, three out of five members of the Rehoboth Finance Committee attended a meeting for the Regional School District at 6:00pm. They discussed town finances and upcoming projects in a quorum without the proper posting. The meeting was a Superintendent Advisory meeting.

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.

Properly post quorums and retrain on the Open Meeting Laws.

**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.

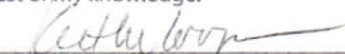
**II. Consulting With a Private Attorney.**

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: 

Date: 12/27/19

For Use By Public Body  
Date Received by Public Body:

For Use By AGO  
Date Received by AGO:

# **Exhibit B**

(Response to Complainant)



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January 6, 2019

Katherine Cooper  
96 New Street  
Rehoboth, MA 02769  
***Via Email Only***

**RE: Open Meeting Law Complaint**  
**Municipality: Town of Rehoboth – Finance Committee**  
**Complainant: Katherine Cooper**  
**Alleged Violation Date: 12/16/19**  
**Date Complaint Received: 12/27/19**

Dear Ms. Cooper:

In connection with the above-referenced matter, as Town Counsel, I have been tasked with reviewing your complaint, received by the Town on December 27, 2019, alleging that Finance Committee (the “Finance Committee”) violated the Open Meeting Law by attending the meeting of the Regional District’s Advisory Finance Committee (the “Regional Committee”) on December 16, 2019 without properly posting a meeting. In investigating this matter, I have reviewed your complaint and have corresponded with the Chair, Michael Deignan. Based upon my review of this matter, I respond to your complaint as follows:

There are five exceptions to the Open Meeting Law. Among those is the following relating to the aforementioned issue:

- Members of a public body may attend a meeting of another public body provided that they communicate only by open participation; however, they may not deliberate at such gatherings.

See G.L. c. 30A, § 18(c) (“attendance by a quorum of a public body at a meeting of another public body that has complied with the notice requirements of the open meeting law, so long as the visiting members communicate only by open participation in the meeting on those matters under discussion by the host body and do not deliberate”). Moreover, the Open Meeting Law defines deliberation 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.” To be a deliberation, the communication must involve a quorum of the public body.

This means that members of a public body (“visiting members”) may attend properly posted meetings of another public body (“host body”); those visiting members may also speak, albeit openly, on topics posted on the host body’s agenda. *In re William C. Mullin*, Opinion No. 2013-169, 2013 WL 11272263 (Nov. 12, 2013) attached. In *Mullin*, a quorum of the visiting body appeared at a host body’s meeting.

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The chairman of the visiting body made a presentation to the host body and another member of the visiting body spoke as well. However, the Division of Open Government found there was no violation, as there was no deliberation among the members of the visiting body.

Conversely, the Division of Open Government found a violation in *In re Fred E. Turkington, Jr.*, Opinion No. 2012-22, 2012 WL 12527828 (Mar. 20, 2012). In that case, the visiting members, appearing as a quorum before the host body, were present as applicants. The visiting members sat together as a board, discussing as a group with the host board its application which resulted in modifications and agreement. Both the visiting and host boards worked together, as clear groups, to reach a consensus. This constituted a violation of the Open Meeting Law. *Id.*; see also *In re Stephen J. Correia*, Opinion No. 2011-16, 2011 WL 13062058 (May 4, 2011) (“Here, the Board deliberated by sitting together as a quorum at the front table facing the audience and addressing issues raised by members of the public that were within the jurisdiction of the Board. At times, Board members addressed each other directly and responded to comments made by other Board members. Had the Board members participated merely as individual audience members, this exception to the definition of meeting likely would have applied. When members of a public body attend a meeting or forum of another public body and participate as members of the public, communicating openly and not between or among a quorum of the public body, such communications do not constitute deliberation. A sub-quorum of the Board also could have participated in the panel, and addressed one another directly, without deliberation occurring, provided that the sub-quorum was not acting as a subcommittee.”)

In this case, three members of the Finance Committee attended the Regional Committee meeting. Pursuant to the Regional School Agreement, two members of the Finance Committee are appointed to the Regional Committee; the appointees are George Solas and Susan McBride. Those members participated in the deliberations of the Regional Committee as members of that committee. Michael Deignan, the third member of the Finance Committee who attended the meeting, sat in the audience, apart from the Solas and McBride. Other than to exchange pleasantries, Michael Deignan never interacted with the other Finance Committee members.<sup>1</sup> Further, Michael Deignan did not participate at all in the meeting, publicly or privately. The only individual Michael Deignan interacted with during the meeting was another member of the public, who asked him to identify someone who was speaking at the time. Therefore, the Finance Committee did not deliberate during the Regional Committee Meeting, thereby complying with the exception to the Open Meeting Law which allows a quorum to attend the meeting of another public body.

Based on the foregoing, the Finance Committee did not violate the Open Meeting Law by failing to post a meeting of the Finance Committee despite that a quorum attended the meeting of the Regional Committee. Consequently, the Finance Committee respectfully requests that this matter be dismissed without further action. Thank you for your attention to this matter.

Sincerely,



Katherine McNamara Feodoroff, Town Counsel

cc: Finance Committee  
Division of Open Government

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<sup>1</sup> Michael Deignan also did not communicate with the member of the Finance Committee before or after the meeting.