

# ETHICS COMMISSION

Tuesday, July 29, 2025 at 5:00 PM  
Via Zoom



## MEMBERS

Carolyn Braun  
Peter Goldman  
Jennifer Goodwin  
William Hayward  
Maria Maffucci  
Rosemary Paine  
Jennifer Wriggins

### REMOTE ACCESS INFORMATION:

The Ethics Commission will conduct this meeting remotely via Zoom pursuant to the Remote Meeting Policy. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live either in person or via Zoom, a recording will be available in the [Agenda Center](#) following the meeting.

<https://portlandmaine-gov.zoom.us/j/81575277112?pwd=2lomkGS8TZi6fP43xhsu0EVkP8s0qP.1>

### PUBLIC COMMENT INFORMATION:

### AGENDA:

1. **Call to Order**
2. **Roll Call**
3. **New Business**
  - i. Adopt a Remote Meeting Policy
  - ii. Elect a Chairman
  - iii. Elect Secretary
  - iv. FOAA Training
4. **Next Steps**
  - i. Future Meeting: Review/Adopt Rules & Procedures of Ethics Commission
5. **Next Meeting Date**
  - i. Set Date/Time of Next Meeting

**REMOTE PARTICIPATION POLICY**  
**OF THE**  
**ETHICS COMMISSION**

**ADOPTED on \_\_\_\_\_, 2025**

Pursuant to 1 M.R.S. § 403-B, and after public notice and a hearing, the Ethics Commission of the City of Portland, Maine, hereby adopts the following policy to govern remote methods of participation in public proceedings or meetings (collectively, “meetings”) of the Ethics Commission (hereinafter collectively referred to as the “Commission”).

In addition to conducting meetings with in-person participation, the Commission conducts meetings with two other types of participation: remote and hybrid.

Remote meetings allow Commission members and the public to participate only by telephonic or video technology allowing simultaneous reception of information, but may include other means necessary to accommodate disabled persons (referred to herein as “remote methods of participation”). Remote meetings will not be by text-only means such as e-mail, text messages, or chat functions.

Hybrid meetings allow Commission members and the public to participate in-person or by remote methods of participation. Members of the Commission are encouraged to participate in-person for hybrid meetings.

Prior to each meeting, the Chair or other presiding officer, in consultation with other members of the Commission if appropriate and possible, will determine whether participation at a meeting will be in person, remote, or hybrid in as timely a manner as possible under the circumstances. Any Commission member who is unable to attend a meeting in-person will notify the Chair or other presiding officer as far in advance as possible.

The public, City staff, complainants, requesters, and interested parties before the Commission will be provided a meaningful opportunity to attend a meeting via remote methods of participation when any member of the Commission participates via remote methods or when remote methods are available and operational at a given Commission meeting. If public input via remote methods is allowed or required at a meeting, an effective means of communication between the Commission and the public will also be provided. The public will also be provided an opportunity to attend the meeting in person unless there is an emergency or urgent situation that requires the entire Commission to meet only by remote methods.

Notice of all Commission meetings will be provided in accordance with 1 M.R.S. § 406, and the City Charter, City Code or policy, if applicable. When the public may attend via remote methods, the notice will include the means by which the public may access the meeting remotely and will provide a method for disabled persons to request necessary accommodation to access the meeting. The notice will also identify the location where the public may attend the meeting in person. The Commission will not restrict public attendance to remote methods except in the case of an emergency or urgent issue that requires it to meet using remote methods of attendance.

The Commission will make all documents and materials to be considered by it during a meeting available, electronically or otherwise, to the public who attend remotely to the same

extent customarily available to the public who attend in person, provided no additional costs are incurred.

All votes taken during a Commission meeting using remote methods will be by roll call vote that can be seen and heard if using video technology, or heard if using audio technology only, by other members of the Commission and the public. A member of the Commission who participates remotely will be considered present for purposes of establishing a quorum and voting.

This policy will remain in force indefinitely unless amended by the Commission.

DRAFT

# Freedom of Access Act

*1 M.R.S. § 401 et seq.*

July 29, 2025



01

## Purpose of the Law



# Freedom of Access Act

## Maine's "Right to Know" Law

The purpose of Maine's Freedom of Access Act, commonly referred to as FOAA, is to create transparency in the government.

As a governmental body, the Ethics Commission is subject to FOAA requirements.

# FOAA Requirements

## Public Proceedings

“the transactions of any functions affecting any or all citizens of the State by . . . any board, commission, agency or authority of any county, municipality, school district or any regional or other political or administrative subdivision or any advisory organization established, authorized or organized by law, resolve or executive order”

## Public Records

“any written, printed or graphic matter or any mechanical or electronic data compilation from which information can be obtained, directly or after translation into a form susceptible of visual or aural comprehension, that is in the possession or custody of an agency or public official of this State or any of its political subdivisions . . . and has been received or prepared for use in connection with the transaction of public or governmental business or contains information relating to the transaction of public or governmental business”

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## Public Proceedings



# Public Proceedings

What is a public proceeding?

Includes:

- Regularly scheduled meetings of public bodies
- Workshops & working sessions
- Strategy meetings & other informal meetings

Where business of the public body is being discussed between three (3) or more members of the public body



# Public Proceedings

What does FOAA require of a public proceeding?

Must be open to the public and any person must be permitted to attend

- Except where the law permits a body to meet in executive session

Notice of the meeting must be posted in advance

- Posting must be made in ample time to allow public attendance
- Notice must be disseminated in a manner reasonably calculated to notify the general public in the jurisdiction served

Record must be made of the meeting, including:

- Date, time, and place
- Members present and absent
- Motions and votes taken

# Communications Outside a Public Meeting

## Email Communications

Refrain from using email as a substitute for deliberating or deciding substantive matters properly confined to public proceedings.

## Non-Substantive Matters

Email is permissible to communicate with other members about non-substantive matters, such as scheduling meetings, developing agendas, and disseminating information and reports.



# Executive Sessions

When can a meeting be closed to the public?

Because FOAA creates a strong preference for transparency in government, there are only limited reasons permitted for a board or agency to meet in executive session - not open to the public.

- Before going into executive session, the statutory reasons for the ES must be placed on the record (Ex: “We are going into executive session pursuant to 1 M.R.S. §405(6)(D) to discuss contract negotiations with \_\_\_\_\_ union.”)
- Once in executive session, the board can only discuss the matter for which the executive session was called.

Final approval of rules, regulations, contracts, appointments, and other official actions cannot be approved in executive session.

# Reasons for Executive Sessions

- Employment, appointment, assignment, duties, promotion, demotion, compensation, evaluation discipline, resignation, or dismissal of employees or investigation or hearing of charges or complaints against a person
  - Only if public discussion could damage person's reputation or right to privacy
  - Person charged or investigated must be allowed to attend
  - Person charged or investigated can request that the discussion occur in open session
  - Person bringing charges, complaints, or allegations of misconduct must be allowed to attend
- Condition, acquisition, or use of real or personal property or disposition of publicly held property or economic development
  - If premature disclosure would prejudice the competitive or bargaining position
- Discussion of labor contracts and proposals and meetings with labor negotiators
- Consultations between a body and its attorney about legal rights and duties or litigation
- Discussion of confidential records
- Discussion or approval of exams for licensing, permitting, or employment purposes
- Discussion with a code enforcement officer regarding the prosecution of an enforcement matter

03

Public Records



# Public Records

What is a public record?

Almost everything that a municipal entity uses to store or transmit information is a public record.

- Paper & electronic documents (e.g. meeting minutes, agendas, notes, etc.)
- Emails & text messages
- Audio & video recordings

# Exclusions of Public Records

- Records designated confidential by law (e.g. personnel records)
- Privileged documents
- Personal information shared between a constituent and an elected official
- Collective bargaining preparation and negotiation materials
- Medical records and municipal ambulance reports
- Juvenile records and reports related to the investigation of a juvenile fire setter
- Information concerning minors related to recreational or other non-mandatory educational programs or services
- Security plans, safety procedures, and risks assessments to prevent acts of terrorism
- Architecture, design, and security information of technology infrastructure, systems, and software
- Social security numbers
- Personal contact information of employees
- Geographic information of recreational trails located on private land without public deed or guaranteed right of public access
- Email addresses obtained for the purpose of disseminated non-interactive notifications, updates, and cancellations
- Personal information regarding community well-being programs



# Public Record Requests

How do you respond to a public records request?

1. Acknowledge receipt of the request within five (5) working days
2. Make the records available within a reasonable period of time
  - a. Redact or withhold confidential information
  - b. Explain why certain information was redacted or withheld

## Permitted Actions

- Seek clarification from requester, if necessary
- Charge a reasonable fee for copying and for time spent retrieving, compiling & redacted records
  - Requires providing an estimate to the requester

Not required to answer questions or create records!

# 04

## Violations



# Violations

What is the penalty for violating FOAA requirements?

Willful violations of the law are punishable by a civil fine of up to:

- \$500 - first violation
- \$1,000 - second violation within four (4) years
- \$2,000 - third and subsequent violations within four (4) years

In an appeal, the Superior Court may:

- Order disclosure of wrongfully withheld public records
- Invalidate action taken illegally in executive session



*Questions?*