

The Response from the Attorney General's office

Good Morning Tom,

Thank you for contacting the Division. If you are concerned that a member(s) is communicating via email, then perhaps the best solution at this point would be to discuss it during an open meeting and remind the members of their obligations under the Open Meeting Law. The 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. 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. Any communication among a quorum of a public body on matters that are pending or will come before it and within the public body's jurisdiction is considered deliberation. Moreover, the expression of an opinion of one public body member on matters within the body's jurisdiction to a quorum of a public body is a deliberation, even if no other public body member responds. This also applies to serial communications where members individually discuss matters with one other member but then end up reaching a quorum in a serial fashion.

You could also make the emails that you have received public by reading their content during a meeting and listing the emails in the meeting minutes, or by referencing the emails during a meeting and posting the e-mails along with the minutes on the municipal website. Perhaps other members will follow your lead if they have also received similar emails or you could suggest that emails be released so that your public body does not end up being in violation of the Open Meeting Law. Finally, you could always file an Open Meeting Law complaint against your own public body and address the issue in that way. I hope this information was helpful.

Sincerely,

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