



## City of Lowell - Law Department

375 Merrimack Street, 3<sup>rd</sup> Floor • Lowell MA 01852-5909  
Tel: 978.674.4050 • Fax: 978.453.1510 • www.lowellma.gov

Corey F. Williams  
*City Solicitor*

Michael Broderick  
John J. McKenna  
*1<sup>st</sup> Assistant City Solicitors*

Garrett Beaulieu  
Christopher Blake  
Timothy A. French  
Olivia C. Hart-Paulson  
Thomas G. Wood  
*Assistant City Solicitors*

### MEMORANDUM

**TO:** Lowell School Committee

**FROM:** Corey F. Williams, City Solicitor *CFW*

**CC:** Liam Skinner, School Superintendent

**DATE:** January 21, 2025

**SUBJECT: MOTION RESPONSE:**

- 1. Request Superintendent to report on the number of cases of student litigation in terms of staff on student cases so that we can get put a corrective action plan together and reduce litigation.**
- 2. Request the City Law Office provide the committee with a report that cites when the Mayor, the Superintendent, or anyone has the authority to remove a member's motion from the School Committee Agenda prior to public notice and discussion of said motion.**

- 
1. There are currently no cases in the Solicitor's office related to "staff on student" litigation.
  2. There is only one person with the authority to remove a member's motion from the SC agenda prior to public notification and that is the SC member who initially submitted the motion to be removed. It would not be inappropriate, nor uncommon, for an elected member of a public body to request withdrawal of a motion they sponsored. If this occurs prior to publication of the agenda, the process is straightforward and a simple request to the Superintendent (who is tasked with preparing the agenda) not to include said motion on the agenda is sufficient. If this occurs after the agenda is published, the SC member would publicly make a motion to withdraw the motion at the SC meeting.

The Mayor, as Chair of the SC, does not have the authority to exclude a member's motion from the agenda. In reaching this conclusion, a two-part analysis was used: 1. Does the SC have an internal policy governing the matter and, 2. Does removal of a member's motion constitute a violation of the Open Meeting Law.

1. The SC does have an internal policy governing a member's motion being placed on the agenda. Under the School Committee Policy Manual (see relevant provision attached), it states, "*Items of business shall be included on the agenda at the request of any Committee member.*" The key word being "shall," as this indicates there is no discretion when it comes to a member's motion being placed on the agenda. This specific policy is important because without it, the decision to exclude a member's motion from the agenda would arguably fall within the Mayor's discretion. As the presiding officer, the Chair is tasked with preserving decorum and order, speak to points of order in preference to other members, shall decide all questions of order, etc. So again, without the current policy in place, arguably, the decision to exclude a member's motion could be determined by the Mayor.
2. Given that the SC has a controlling policy on the matter in question, the second part of the analysis is essentially moot. However, this exact issue was addressed by the Attorney General's office in a July 15, 2024 Open Meeting Law determination (OML 2024 – 127). The determination, in part, reads as follows:

*"Finally, we understand the complaints to allege that meeting topics requested by Committee members are not included on notices. The Open Meeting Law does not require the chair to add topics to a meeting notice that are requested by fellow members of the public body. The Open Meeting Law requires that the notice for every meeting include, among other things, "a listing of topics that the chair reasonably anticipates will be discussed at the meeting." G.L. c. 30A, s. 20(b). Therefore, even if true, an allegation that the Chair or another individual, such as the Committee's administrative assistant, declined to include notice topics does not constitute a violation of the Open Meeting Law. See OML 2023-11; OML Declination 4-2-24 (Massachusetts State Rehabilitation Council's State Plan Committee). However, we do encourage public bodies to be responsive to issues raised by members of the public body."*

Interestingly enough, when applying the Open Meeting Law to the facts of the situation, it is not a violation of OML for the Mayor to exclude a member's motion from the agenda – as it is not a requirement under the law. However, there is an important distinction between OML and SC Policy in this situation. Just because something isn't a violation of OML does not then provide authority to violate SC policy.

Lastly, the Superintendent (or anyone else) does not have the authority to exclude a member's motion from the agenda. Motions sponsored by SC members is a legislative function of government, and therefore does not fall under the purview of the Superintendent (or anyone else).

- ▾ Lowell - Online Policy Ma
- SCHOOL COMMITTEE I
- SECTION A - FOUNDA
- ▾ SECTION B - BOARD C
- File: BA - SCHOOL C
- File: BAA - EVALUAT
- File: BB - SCHOOL C
- File: BBA - SCHOOL
- File: BBAA - SCHOOL
- File: BBAB - SCHOOL
- File: BBBA/BBBB - S
- File: BBBC - SCHOOL
- File: BBBD - UNEXPI
- File: BBBE - CODE O
- File: BCA - SCHOOL
- File: BDA - SCHOOL
- File: BDB - SCHOOL
- File: BDC - APPOINT
- File: BDD - SCHOOL
- File: BDE - SUBCOM
- File: BDF - ADVISOR
- File: BDFA - SCHOOL
- File: BDFA-E-1 - SCH
- File: BDFA-E-2 - SUB
- File: BDFA-E-3 - CON
- File: BDG - SCHOOL
- File: BE - SCHOOL C
- File: BEA - REGULAF
- File: BEA-E - SCHOO
- File: BEB - SPECIAL I
- File: BEC - EXECUTIV
- File: BED - SCHOOL
- File: BEDA - NOTIFIC
- File: BEDB - AGEND
- File: BEDB-E - AGEN
- File: BEDC - QUORUI
- File: BEDD - RULES (
- File: BEDF - VOTING
- File: BEDG - MINUTE
- File: BEDH - PUBLIC
- File: BEE - SPECIAL I
- File: BG - SCHOOL C

**File: BEDB - AGENDA PREPARATION AND DISSEMINATION**

The superintendent, shall prepare an agenda for each regular and special meeting of the School Committee. In so doing, he/she will consult as he/she finds necessary with the Committee chairman and appropriate members of the administrative staff.

The committee shall follow the order of business set up by the agenda unless altered by a majority vote of the members present. Items of business not on the agenda may be discussed and acted upon if a majority of the Committee agrees to consider them. The School Committee however, may not revise policies, nor adopt new ones, unless such action has been scheduled.

Items of business shall be included on the agenda at the request of any Committee member. Items of business may also be suggested by any staff member, employee organization, to citizen of the city of Lowell; the inclusion of such items shall be at the discretion of the superintendent.

The agenda will also be made available to the press, representatives of community groups, and to all others upon request.

Current Practice Codified 1978

Adoption date: Date of Manual Adoption

CONTRACT REF.: United Teachers of Lowell, XXVI

Motions and correspondence must be filed at least 48 hours prior to the meeting and the agenda in the hands of the committee members 48 hours prior to the meeting.

Adopted: January 6, 1992

Committee rule adopted January 6, 1992 Revised: Date of manual adoption