BOARD OF ETHICS AND
GOVERNMENT ACCOUNTABLITY

BEST PRACTICES REPORT 2025

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I. Introduction

The District of Columbia Board of Ethics and Government Accountability ("BEGA" or "Board") is an independent agency that administers and enforces the District of Columbia government's (the "District") Code of Conduct and the laws that promote an open and transparent District government. BEGA was established in 2012 pursuant to Section 202(a) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (the "Ethics Act").[1]

In establishing BEGA, the Council determined that the creation of an independent agency with enforcement authority over a comprehensive code of conduct would "promote a culture of high ethical standards in District government" in an effort "to restore the public's trust in its government" after misconduct allegations involving multiple Members of the Council.[2]

The Ethics Act, along with the BEGA Amendment Act of 2018, established two independent and co-equal offices within BEGA – the Office of Government Ethics ("OGE") and the Office of Open Government ("OOG").[3] OGE has responsibility for training, advice, and enforcement of the District's Code of Conduct, as well as overseeing the Financial Disclosure System and the Lobbyist Reporting System. OOG is responsible for enforcing the Open Meetings Act ("OMA"), handling and resolving complaints of violations of the OMA, and providing training and advice regarding the OMA.[4] OOG also provides training and advice on compliance with the District's Freedom of Information Act of 1976 ("FOIA").[5] The Board provides oversight over the operations of OGE and OOG, including appointing directors for both OGE and OOG who report directly to the Board and execute each office's respective mission.

BEGA continues to advance its mission of promoting an ethical, transparent, and open District of Columbia government. In FY2025 and FY2026 to date, the Board approved 13 negotiated dispositions resolving Code of Conduct violations and conducted one adversarial hearing, resulting in a total of $73,350 in civil penalties. The Director of Government Ethics issued one $500 ministerial fine and three public reprimands. OGE issued one advisory opinion providing guidance on the lobbyist registration and reporting requirements; provided informal ethics advice for over 354 inquiries; conducted more than 101 trainings on various ethics topics; and trained more than 16,231 employees and public officials. During 2025, OGE continued its oversight of the District's Lobbyist Registration and Reporting System by managing 571 registration reports; 91 registration terminations, and 1,805 lobbying activity reports. OGE also administered the District's Financial

[1] Effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 1-1161.01 *et seq*.).

[2] *Id.* at 2, 11.

[3] The BEGA Amendment Act of 2018 was passed as a subtitle of The Fiscal Year 2019 Budget Support Act of 2018 (D.C. Law 22-168; D.C. Act 22-442, effective October 30, 2018). In addition to clarifying BEGA's structure, the subtitle requires that the Mayor appoint at least one member of the Board with experience in open government and transparency (D.C. Official Code § 1–1162.03(g)(2)).

[4] D.C. Official Code § 2-571, *et seq*.

[5] D.C. Official Code § 2-573, *et seq*.

Disclosure Statement Program, involving 9,963 employees and public officials designated as confidential and public financial disclosure required to report on activity for calendar year 2024.

In FY2025 and FY2026 to date, OOG issued eleven OMA and three FOIA advisory opinions and dismissed four OMA complaints. OOG continued its efforts to train the District's public bodies on the Open Meetings Act and the District's Freedom of Information Act, conducting twenty-five OMA trainings and fifteen FOIA trainings during this same period. OOG also continued to provide administrative support to public bodies on compliance with the OMA through the operation of the District's central meeting calendar, as well as providing training in parliamentary procedure through its operation of the District's Robert's Rules of Order Training Portal to assist District public bodies with the efficient operation of meetings. OOG conducted six live training courses on Robert's Rules of Order.

BEGA has continued its outreach to District government employees and officials including through regular training, on-demand training programs, and its annual Ethics Week. Almost 400 participants attended Ethics Week 2025 which was held in October 2025 with the theme "Keeping Government Transparent and Ethical." Both OGE and OOG presented programs on the operations of their respective offices and conducted courses designed to encourage employees to comply with ethics, open meetings, and FOIA laws. The weeklong conference included several sessions discussing the rules governing outside employment by District employees along with a Continuing Legal Education (CLE)-accredited legal ethics course jointly hosted with the DC Bar. We also provided training on Robert's Rules of Order. All the Ethics Week sessions were well-attended, and the programs were positively received by participants.

The BEGA Amendment Act of 2018 revised the Board's annual assessment to permit the Board to provide general commentary on best practices to improve the District's public integrity laws and to provide a discussion of open government related issues.[6] Accordingly, by December 31st of each year, the Board shall provide a report to the Mayor and Council with recommendations on improving the District's government ethics and open government and transparency laws, including: (l) An assessment of ethical guidelines and requirements for employees and public officials; (2) A review of national and state best practices in open government and transparency; and (3) Amendments to the Code of Conduct, the Open Meetings Act, and the Freedom of Information Act of 1976.[7]

In anticipation of this report, the Board directed its staff to review both the OGE and OOG's activities in carrying out their respective missions; research and assess trends in public integrity laws and enforcement; and to confer with government ethics and open government experts. What follows is the Board's 2025 annual assessment (Best Practices Report) along with its

[6] Before the passage of the BEGA Amendment Act of 2018, BEGA was required to address seven specific questions in its annual assessment. Those questions were whether the District should: 1) adopt local laws similar in nature to federal ethics laws; 2) adopt post-employment restrictions; 3) adopt ethics laws pertaining to contracting and procurement; 4) adopt nepotism and cronyism prohibitions; 5) criminalize violations of ethics laws; 6) expel a member of the Council for certain violations of the Code of Conduct; and 7) regulate campaign contributions from affiliated or subsidiary corporations. BEGA has addressed these very specific questions in previous reports, which can be found on BEGA's website, https://bega.dc.gov/.

[7] D.C. Official Code § 1-1162.02(b).

recommendations for actions to be taken by the Council and/or the Mayor to further strengthen the District's public integrity and transparency laws.

II. Assessment of Ethical Guidelines and Requirements for Public Employees and Officials

The Ethics Act was passed to provide the District with a more robust ethics framework to effectively promote a culture of high ethical conduct. The Act sought to subject all employees to the Code of Conduct, require ethics training for District officials and employees, centralize enforcement authority under BEGA, and allow for the imposition of meaningful penalties for misconduct.[8]

The Office of Government Ethics serves as the ethics authority for the District. The Director of Government Ethics oversees OGE's small staff of attorneys, investigators, one auditor and administrative support staff as the agency administers the provisions of the District's Code of Conduct. OGE has authority over the District government's workforce, including ethics oversight of the Mayor, D.C. Council, and Advisory Neighborhood Commissioners. The primary duties of the OGE are to investigate alleged ethics laws violations by District government employees and public officials, provide informal and binding ethics advice, and conduct mandatory training on the Code of Conduct. OGE is also responsible for oversight of lobbyist registration and activity, and compliance with Financial Disclosure Statement filing requirements for employees and elected officials.

A. Outside Employment/Outside Activity

During and after the pandemic BEGA began tracking a noticeable uptick in ethics violations that involved outside employment. To date, outside employment is the most-often violated ethics rule. BEGA has addressed this issue in several ways.

1. Summary of Enforcement Actions

Consistent with the trends identified in BEGA's prior Best Practices Reports, the Board has continued to see an increase in violations of the Code of Conduct stemming from outside activity by District employees. These matters involve violations of the Code of Conduct by District employees engaging in their outside employment or other activities during their District tour of duty or where their outside employment creates conflicts with other provisions of the Code of Conduct, such as the prohibition on taking official action that impacts their personal financial interests or the prohibition on representing a third party before the District. In FY 2025 and FY

[8] *See generally*, Report of the Committee on Government Operations on Bill 19-511, the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Act of 2011 (Council of the District of Columbia, December 5, 2011) (Ethics Act Committee Report).

2026 to date, violations of the outside activity restrictions accounted for 10 of the 13 negotiated dispositions approved by the Board, resulting in $37,850 in civil penalties.[9]

In Case No. 27-0007-F In re M. Davis, the Board approved a negotiated disposition with Respondent, an officer with the Metropolitan Police Department ("MPD"), for three counts of using government time and resources for other than official business or government approved or sponsored activities in violation of DPM § 1807.1(b). Respondent worked at Giant Food Store during the same time he reported working for MPD on 193 occasions between August 2021 and June 2023, posted an Instagram video of himself in a move theater at a time he was scheduled to work overtime for MPD, and used a MPD vehicle to transport himself to and from his outside employment at Giant. Respondent Davis agreed to pay a $10,500 civil penalty.

The Board also approved several negotiated dispositions with District of Columbia Public School ("DCPS") employees who were engaged in outside consulting, teaching, or operating a business. Two matters, Case No. 25-0008-F In re M. Stinson and Case No. 24-0103-P In re A. Carruthers, involved DCPS Instructional Superintendents who worked for Relay Graduate School of Education ("Relay"), a DCPS contractor. Respondent Stinson agreed to a $15,000 civil penalty in connection with four violations of the Code of Conduct: (1) using her position to influence a subordinate principal to fund business between the principal's school and Relay in violation of D.C. Official Code § 1-1162.23(a); (2) misrepresenting the income from her outside employment with Relay in 2021 and 2022 on her Financial Disclosure Statement in violation of D.C. Official Code § 1-1162.24(a)(1); (3) reporting a full day of work for the District or taking sick leave when she was engaged in her outside employment in violation of § 1807.1(b) of the DPM; and (4) using her District government email to send and receive correspondent regarding her outside consulting business in violation of § 1808 of the DPM. The negotiated disposition with Respondent Carruthers included a $2,500 civil penalty for violations of sections §§ 1807.1(b) and 1800.3(j) of the DPM . Respondent Carruthers provided services to Relay during her District tour of duty, used District email to communicate with Relay, and negotiated for outside employment for services closely related to her official government duties.

Two other matters involved DCPS employees engaging in outside employment that violated DPM § 1807.1(h) by representing a third party in a matter before the District. In Case No. 24-0073-P In re A. Barnes-Johnson, Respondent agreed to a $350 civil penalty for signing and submitting invoices for requests for funding and/or reimbursement requests to DCPS for funds to be disbursed to her catering business. The respondent in Case No. 24-0065-P In re V. Duckett agreed to a $3,000 civil penalty for two counts of violating DPM § 1807.1(h) by signing a Memorandum of Agreement with DCPS to operate before and after school care and signed 15 Building Use Agreements with the Department of General Services to allow the programs to operate in DCPS

[9] Two matters, Case No. 24-0009-F In re A. Chapman and Case No. 24-0124-P In re A. Smith, both involve violations of § 1807 of the DPM, but did not include any alleged outside employment or other outside activity by respondents. Respondent Chapman agreed to a $4,000 civil penalty for violations of §§ 1807.1(b) and 1808.1 of the DPM stemming from her submission of false time sheets and unauthorized access to information about other DCPS employees. Respondent Smith agreed to a $2,500 civil penalty for a violation of DPM § 1807.1(b) in connection with her use of official time for other than official business. Respondent Smith reported working a regular full-time schedule while she was on vacation, including outside the country. The last matter, Case No. 25-0029-P In re D. Jackson, involved the misuse of public office for private gain and use of government property for other than authorized purposes and did not include any outside employment component.

schools on behalf of her LLC that operated before and after school care and summer camp programs.

An additional two matters stemmed from District employees engaging in outside employment during their District tour of duty. In Case No. 25-0001-F In re A. Lozada, the Board approved a $2,500 civil penalty for violations of DPM §§ 1807.1(a) and (b) by Respondent Lozada, an employee of the Office of Labor Relations and Collective Bargaining, for conducting physical training and fitness classes during her District tour of duty. The Respondent in Case No. 25-0070-P In re T. Clements agreed to a $500 civil penalty for using government time and resources to assemble jewelry for her outside business during her tour of duty at the Department of Motor Vehicles.

The final two negotiated dispositions approved by the Board since the start of FY 2025 also stemmed from the employees' outside activities. In Case No. 24-0141-P In re B. Irving, the Board approved a negotiated disposition and $2,000 civil penalty with Respondent Irving, a member of the DCHFA Board of Directors, for four counts of failing to submit a full and complete financial disclosure statement in violation of D.C. Official Code §1-1162.24(a)(1). Respondent Irving failed to disclose his work at a development and construction company he founded and failed to disclose ownership interest in real property in the District on his financial disclosure statements. The last matter, Case No. 24-0124-P In re N. Smith, a former DCPS principal, formed a nonprofit organization to avoid the donations process put in place by the Office of Partnerships and Grants and DCPS Central Office and accepted a $20,000 donation for use by the nonprofit to support her DCPS high school. The Board approved a negotiated disposition that included a reprimand but no civil penalty for Respondent Smith.

In addition to the negotiated dispositions approved by the Board, the Director of Government Ethics issued four ministerial fines since the start of FY 2025 stemming from the employees' outside activities. The Director of Government Ethics imposed a $500 fine in Case No. 24-0134-P In re C. Jones for an employee's failure to disclose a property management company that he owned with his spouse on his public financial disclosure statements in 2019, 2020, 2021, and 2022 in violation of D.C. Official Code § 1-1162.24(a)(1). The Director also issued a public reprimand to the respondent in Case No. 25-0064-P In re M. Whittier for violating DPM § 1807.1(b) by engaging in outside employment during her District tour of duty and in Case No. 24-0112-P In re M. Williams for violating D.C. Official Code § 1807.1(b) by using government time and resources to conduct business during his tour of duty and using his government email on behalf of a nonprofit organization in which he maintained a financial interest. The last matter, Case No. 25-0053-P In re J. Dempson, the Director issued a public reprimand to a DYRS employee who disclosed confidential information about a former juvenile detention resident to collect a monetary award in a MPD investigation.

2. Creation and Implementation of Outside Employment Training

BEGA believes that information is the first line of defense against ethics violations. As outlined in the 2024 Best Practices Report, BEGA took proactive steps to increase awareness of the outside employment and outside activity restrictions that apply to all District public officials and employees. To combat the rise in outside employment ethics violations, BEGA drafted an ethics

training specifically dedicated to outside employment. The training is conducted quarterly via Webex and agencies can request BEGA to come to their work site and conduct the training *ad hoc*. In addition to creating pre-scheduled training dates and collaborating with agencies, BEGA has also made the outside employment training available in our on-demand ethics learning management system. Employees can now take outside employment training at their convenience.

3. Office of the D.C. Auditor Outside Employment Recommendations

In light of publicized cases of outside employment by District employees, the Office of the District of Columbia Auditor ("ODCA") conducted a review of the District's laws, regulations, and policies on outside employment and issued a Management Alert Report ("MAR") recommending that the District consider requiring review and approval of all District employees' outside employment.[10] BEGA supports the recommendation to require pre-approval for employees who seek to engage in outside employment and has recommended that employees receive prior approval before engaging in outside employment in each of its annual Best Practices Reports since 2021.[11]

ODCA reviewed existing District rules and regulations governing outside employment in the D.C. Code, D.C. Municipal Regulations, and District Personnel Manual, and noted that although there were general prohibitions on outside employment, there is no District- wide requirement that an employee seek approval or even inform their agency's management about any outside employment. ODCA also suggests that there is no mechanism in place dealing with how agencies should handle potential violations, noting specifically the lack of coordination between the responsibilities of the DC Department of Human Resources ("DCHR") and BEGA.

As part of its ongoing focus on the rules governing outside employment, BEGA invited ODCA to present its findings and recommendations at Ethics Week 2025. The presentation from ODCA, entitled "An Outside Employment Conversation with the D.C. Auditor's Office", also highlighted requirements in surrounding jurisdictions, highlighting requirements in Prince George's County and Montgomery County. Before engaging in employment outside of Prince George's County government, employees and county officials are required to submit a request for approval to the County's Office of Ethics and Accountability.[12] The request, which is submitted through a web-based portal must be reviewed and approved by the employee's department head. Montgomery County also requires that county employees receive approval from the County Ethics Commission prior to engaging in outside employment.[13] Montgomery County maintains a public portal listing

[10] ODCA Management Alert: District Should Consider Requiring Review and Approval of All District Employees' Outside Employment ("ODCA MAR"), April 11, 2025, *available at* https://dcauditor.org/report/district-should-consider-requiring-review-and-approval-of-all-district-employees-outside-employment/ (last visited Nov. 12, 2025).

[11] *See* BEGA's Best Practices Reports for 2021, 2022, 2023, and 2024, available at https://bega.dc.gov/page/best-practices-report.

[12] *See id.* at 5; *see also* https://www.princegeorgescountymd.gov/departments-offices/ethics-accountability/secondary-employment (last visited Nov. 12, 2025).

[13] *See* ODCA MAR at 5; *see also* https://www.montgomerycountymd.gov/ethics/oe/OERequirements.html (last visited Nov. 12, 2025).

all approved outside employment for county employees, including the name of the outside employer, any conditions on the employment, and the date the approval will expire.[14]

4. Review of Outside Employment Approval Process for Other Jurisdictions

In addition to the information outlined by ODCA for local jurisdictions, BEGA also conducted a review of outside employment policies in comparable major metropolitan areas. We contacted ethics officials from Atlanta, Chicago, Denver, Los Angeles, New York City, and Philadelphia to discuss how they handled approvals for outside employment for employees and public officials.

City of Atlanta

Atlanta requires that employees engaging in outside employment receive approval from their department heads and certify that they understand the city's policies on outside employment, which include provisions of the Code of Conduct relating to the use of city resources and conflicts of interest.[15] In 2024, the Atlanta Ethics Board and the city's Department of Human Resources developed and adopted a "New Hire and Promotion" Ethics Disclosure Form which requires that newly hired and promoted city employees disclose financial interests, including outside employment, before starting work with the city or taking on a new role. The form advises employees on the process for disclosing conflicts and recusal process, along with advising on the requirement, if applicable, to file annual financial disclosure reports. The form requires sign-off from the employee and the Human Resources Director or designee.

City of Chicago

The outside employment approval process in Chicago is governed by the city's Personnel Rules, which require employees seeking outside employment for compensation or engaging in outside business activities to submit a request for approval to their department head, who retains discretion to disapprove any outside employment application.[16] Under Chicago's Personnel Rules, department heads and certain non-clerical employees of the Mayor's Office are prohibited from engaging in outside employment. For uncompensated outside activity such as service on a board, employees are encouraged to seek departmental approval but approval is not required under the Personnel Rules. The Chicago Board of Ethics is involved in the outside employment process only where the employee or department believe there is a potential conflict of interest. Requests for

[14] *See* https://data.montgomerycountymd.gov/Government/Outside-Employment/j6hr-qfpx/data_preview (last visited Nov. 12, 2025).

[15] See Atlanta, Ga., Code of Ordinances §§ 114-436, 114-437; *see also* https://www.atlantaethics.org/docindexer/form_outside_employment.pdf (last visited Nov. 12, 2025).

[16] *See* Chicago, Ill, Personnel Rule XX, § 3 (requiring city employees to obtain written permission for dual employment or outside business activities and prohibiting employes of the Mayor and city department heads from engaging in outside employment).

approval are made using a standard form[17] and records of outside employment approvals are maintained in an employee's personnel file.

City of Denver

Denver also requires prior approval from a city officer or employee's appointing authority before an employee may engage in paid outside employment or outside activity and annual reporting of the outside employment or activity.[18] Records of outside activity are maintained in the employee's personnel file. City agencies are able to impose additional standards for which outside activities they will approve, for example, not approving outside employment in the city to avoid potential appearance concerns. The regulations recommend, but do not require, consulting the Denver Board of Ethics in the event of a potential conflict of interest and the board does not receive copies of the outside employment requests. Failure to receive approval for the outside employment would constitute a violation of the city's Code of Conduct.[19]

City of Los Angeles

Los Angeles requires that "city officials" other than elected city officers obtain approval prior to accepting outside earned income or employment.[20] "City officials" include elected city officers, board and commission members, consultants, and employees who are required to file a statement of economic interests, unlike "city employees" who are not required to file a statement of economic interests.[21] City officials who are permitted to engage in outside employment follow a multi-step process for approval, starting with approval from the official's department head after an assessment of whether the outside employment is with a "restricted source."[22] A restricted source for this purpose includes lobbyists, city contractors, individuals who during the preceding 12-months sought to influence the official in their official actions or had a matter pending before the official or the public body on which the official is a voting member.[23]

For employment with a restricted source, even if approved by the department head or appointing authority, the city official must still receive prior written approval from the Ethics Commission, which treats requests for approval as a public request for formal advice from the Ethics Commission. In assessing whether to approve requests for outside employment, the department head or appointing authority and the Ethics Commission consider, among other factors, whether the outside employment would create the appearance of the use of public office for private gain; whether the official could be required to take official city action in a manner that would affect the financial interests of the employer; as well as whether the time demands for the position would

[17] *See* https://www.chicago.gov/content/dam/city/depts/ethics/general/Publications/DualEmployment.pdf (last visited Nov. 12, 2025).

[18] *See* Denver, Co., Rev. Muni. Code Chap. 2, Art. IV, § 2-63.

[19] *See id* at §2-63(a).

[20] *See* Los Angeles, Cal., Muni. Code § 49.5.7.C.

[21] *See id* at § 49.5.2.C.

[22] *See id* at § 49.5.7.C.

[23] *See id* at § 49.5.2.J.

render the official less effective in the performance of their official duties.[24] Requests for the Ethics Commission to approve outside employment with a restricted source are rare, with the last request on the city's public data portal dating back to 2011.[25]

New York City

New York City requires preapproval from the employee's agency and the city's Conflicts of Interest Board for full-time employees who are seeking employment with a private business or nonprofit organization that does business with any city agency and for part-time employees who want to work for an entity that does business with the employee's agency.[26] City employees must submit a request for a "moonlighting waiver" to the city's Conflicts of Interest Board either using an online portal or through their agency's ethics liaison. The agency must approve the request before it will be considered by the Conflicts of Interest Board. The board maintains a public record of the waivers, which are available for inspection at their office or through an online Freedom of Information Law request. City agencies maintain records of requests approved by the agency and may also have stricter rules in place regarding which requests they will approve.

Outside employment with an entity that does not do business with the city is not subject to the waiver process but may be subject to the additional agency-specific restrictions. The New York City Department of Buildings, for example, requires approval from the agency for all outside employment, not just employment that requires a moonlighting waiver, and advises employees that approval for work regulated by the agency is unlikely.[27]

City of Philadelphia

Philadelphia requires that executive branch officers and employees receive prior written approval from their supervisor and appointing authority before engaging in outside employment or self-employment at the time of appointment and within 14 days of any changes.[28] The human resources office for each agency maintains records of approvals or rejections, reviews the lists of requests annually, and submit updated lists of all city officers and employees who were approved for or hold outside employment in the prior calendar year or were rejected for outside employments to the Office of Human Resources. The Office of Human Resources then produces a non-public annual report for the Mayor and the Philadelphia Board of Ethics that includes outside employment information for the prior calendar year by January 31. Officers and employees whose requests are not approved may appeal the decision to their employing authority.

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[24] *See id* at § 49.5.7.C.3.

[25] *See* https://ethics.lacity.gov/data/more/formal-advice/ (last visited Nov. 12, 2025).

[26] *See* New York, NY, City Charter, Ch. 68, section 2604.a; *see also* https://www.nyc.gov/site/coib/contact/get-a-waiver.page (last visited Nov. 12, 2025).

[27] *See* https://www.nyc.gov/html/conflicts/downloads/pdf2/leaflets/dob_headsup.pdf (last visited Nov. 12, 2025).

[28] Philadelphia Mayor James F. Kenney Executive Order 2016-12, https://www.phila.gov/media/20210602144918/executive-order-2016-12.pdf (last visited Nov. 12, 2025); *see also* https://www.phila.gov/media/20200423151437/Outside-self-employment-request-form.pdf (last visited Nov. 12, 2025).

The Office of the Chief Integrity Officer for Philadelphia is authorized to issue waivers or restrictions under certain conditions. The requests must be received in advance and the Chief Integrity Office must determine that "such waiver or rejection would not be inconsistent with the efficient, accountable, and transparent operation of government."[29] The executive order allows individual city department, agencies, and offices to adopt stricter outside employment policies. The executive order also does not apply to the city's independent agencies, which are still subject to the ethics rules and conflict-of-interest rules administered by the city's Board of Ethics.

B. Financial Disclosure

Financial disclosure is necessary to ensure ethical compliance and transparency, thereby promoting the public's trust in the District government. In 2011, the Council of the District of Columbia ("the Council"), passed the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 ("Ethics Act"), effective April 27, 2012.[30] Prior to passage of the Ethics Act, financial disclosure in the District of Columbia had been a patchwork of different requirements. With the establishment of BEGA, the Ethics Act brought the financial disclosure process under the agency's jurisdiction. The District's financial disclosure program is managed by OGE, with the assistance of agency Ethics Counselors who help OGE administer the program at their respective agencies.

In the District, those employees and public officials who are identified by their agency as a Financial Disclosure Statement ("FDS") filer and are therefore required to file a FDS, must complete a 15-question form and provide information on their outside business activities, their spouses work, their debts, property, assets, licensure and any ongoing economic benefits or gifts they receive. The form is completed annually between April and May via BEGA's FDS e-filing system.

The Ethics Act defines a filer as:

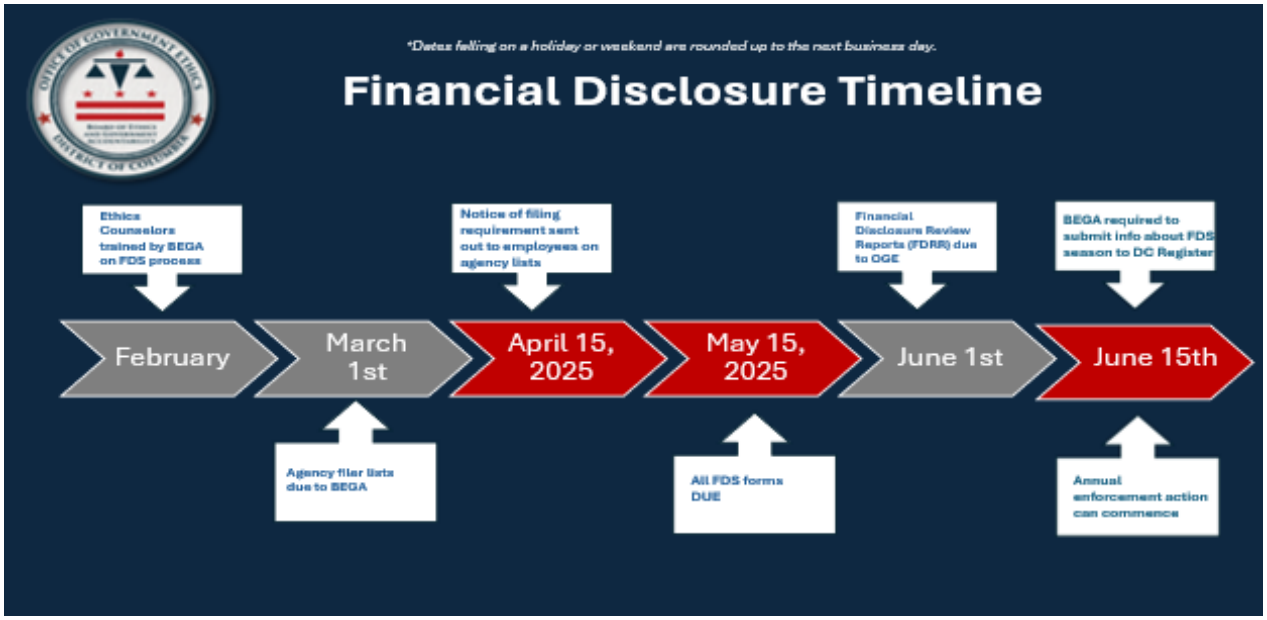
> a candidate; the Mayor, Chairman, and each member of the Council of the District of Columbia holding office under D.C. Official Code § 1-201.01; the Attorney General; a Representative or Senator elected pursuant to D.C. Official Code § 1-123, *et seq*; an Advisory Neighborhood Commissioner; a member of the State Board of Education; a person serving as a subordinate agency head in a position designated as within the Executive Service; members of the Washington Metropolitan Area Transit Authority Board of Directors appointed by the Council pursuant to D.C. Official Code § 9-1107.01(5)(a); A Member or Alternate Member of the Washington Metrorail Safety Commission appointed by the District of Columbia pursuant to Article III.B. of the Metrorail Safety Commission Interstate Compact [§ 9-1109.11(III)(B)]; a member of a board or commission listed in D.C. Official Code § 1-523.01(e); a District of Columbia employee, except an employee of the Council, paid at a rate of Excepted Service 9 or above, or its equivalent, who makes decisions or participates substantially in areas of contracting, procurement,

[29] *Id* at section 6(b).

[30] *See* D.C. Law 19-214; D.C. Official Code § 1-1161.01 *et seq*.

administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or acts in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest; and any additional employees designated by rule by the Board of Ethics and Government Accountability who make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or act in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest; and an employee of the Council paid at a rate equal to or above the midpoint rate of pay for Excepted Service 9.[31]

As a practical matter, the Ethics Act delineates between "public filers" and "confidential filers" for purposes of Financial Disclosure. A "public filer" is any employee who meets the aforementioned definition and who was paid at a rate of Excepted Service 9 in the calendar year that proceeded the filing requirement. Public filer responses to the FDS form are made publicly available on the BEGA website. A "confidential filer" is an employee who meets the definition of a filer but who was paid at a rate below Excepted Service 9 in the calendar year that proceeded the filing requirement. Confidential filer responses are not made public and are reviewed by the Ethics Counselor at the employee's agency.



Each District government agency or office submits a list of Financial Disclosure Statement ("FDS") filers to BEGA on or before March 1st each year. Between March 1st and April 15th BEGA reviews and processes the lists. The BEGA team then has that filer information uploaded to the FDS e-filing system, and a filer profile is created for each of the agencies' filers. On April 15th each year, BEGA notifies public filers of their filing obligation and provides them with filing instructions. Also, on April 15th, Ethics Counselors notify confidential filers of their filing obligation and provide them with filing instructions. Filers then have 30 days to complete and

[31] D.C. Official Code § 1-1161.01(47)(J).

submit their FDS form and the filing deadline is May 15th each year. Members of the Council file financial disclosure statements twice per year, May 15th and November 15th.

Those who fail to timely submit the form face a $300 fine. BEGA begins imposing fines for failure to timely file and auditing the FDS forms in late June. Fines are collected from current employees by garnishment; fines for past employees are collected through the Central Collection Unit's collections process.

The 2025 Financial Disclosure season saw almost 10,000 employees reporting as Financial Disclosure Statement filers with about 4,700 employees earning a salary that made them public filers and about 5,300 employees earning a salary that made them confidential filers. The program generally averages around 8,000 filers a year.

In 2024, BEGA used its rulemaking authority to designate members of 47 boards and as individuals required to file Financial Disclosure Statements.[32] The rulemaking was BEGA's first time using its designation authority. BEGA attorneys reviewed the enabling statute of every board, commission and similar entity existing at the time and made determinations that the members of the 47 aforementioned entities make decisions or participate substantially in areas of contracting, procurement, administration of grants or subsidies, developing policies, land use planning, inspecting, licensing, regulating, or auditing, or act in areas of responsibility that may create a conflict of interest or appearance of a conflict of interest, and are therefore Financial Disclosure Statement filers. The designation of these particular boards as filers will allow BEGA and the general public to assess whether the board members have financial conflicts of interest or if there is an appearance of a conflict of interest between their personal financial interests and their official District government responsibilities.

The Council passed emergency and temporary legislation amending 3 DCMR § 5710 to add subsection 5710.03 stating that the designation of new boards and commission members as financial disclosure filers "shall not apply before January 1, 2026."[33] The Council is currently considering B26-0325, the Board of Ethics and Government Accountability Authority Clarification Amendment Act of 2025, which would remove the Board's authority to designate additional employees as public officials for the purposes of filing financial disclosure statements. To allow additional time to consider B26-0325, on December 2, 2025, the Council considered emergency and temporary legislation that would extend the effective date of BEGA's designation

[32] *See* 71 DCR 015873 (Dec. 20, 2024).

[33] B26-0239, the Uniform College Athlete Name, Image, or Likeness Emergency Amendment Act of 2025 became Act A26-0069, and expired on April 17, 2025. The temporary measure, B26-0240, the Uniform College Athlete Name, Image, or Likeness Temporary Amendment Act of 2025, was signed by the Mayor on June 25, 2025 and enacted with Act Number A 26-0093, transmitted to Congress on July 10, 2025, and on September 12, 2025, became Law L26-0026, effective from August 21, 2026 and expiring on April 3, 2026.

of new board and commission members as financial disclosure filers to specify that the rulemaking "shall not apply before April 3, 2026,"[34] the date the current temporary legislation is set to expire.

The District's 15-question financial disclosure statement contains a thorough cross-section of financial interest inquiry and is more robust than any current or past financial disclosure requirements in the District. Financial disclosure requirements are not uncommon for board members. Members of boards or commissions that are listed in D.C. Official Code § 1-523.01(e) are statutorily required to file statements.[35] The Prince George's County Code of Ethics requires all elected officials, candidates for county elective office, managerial level employees, and volunteer members of county boards and commissions to file annual, public disclosure statements.[36] Pursuant to Baltimore City Code, any uncompensated appointee of the Mayor or uncompensated appointee of the President can be designated to file a Financial Disclosure Statement in Baltimore City.[37] The State of Virginia provides that "…[any] persons occupying such offices or positions of trust or employment in state government, including members of the governing bodies of authorities…" can be designated to file a financial disclosure statement.[38] Despite our rulemaking, not all District government boards and commissions are required to file a Financial Disclosure Statement.

Financial disclosure is an important tool to maintain transparency in District government. The financial disclosure process promotes public trust in the District government by ensuring transparency in public official's financial interests. The goal is to screen potential conflicts so that we can avoid them before they become actual conflicts or otherwise harm the public's trust. It is standard amongst local jurisdictions to build in the authority to designate tribunals and bodies. BEGA is solely responsible for ensuring that employees and public officials adhere to the Code of Conduct and the monitoring of financial disclosure filings is key to maintaining compliance.

C. Registration Exemption for Not-for-Profit Organizations

As detailed in the 2023 and 2024 Best Practices Report, among the list of exemptions to the District's lobbying registration and reporting program is the exemption for registration and reporting for "[a]n entity specified in § 47-1802.01(4), whose activities do not consist of lobbying, the result of which shall insure to the financial gain or benefit of the entity."[39] The reference to § 47-1802.01(4) appears to be a drafting error; no such provision exists in the current code. D.C.

[34] D.C. Law B26-0518, District of Columbia Boards and Commissions Financial Reporting Emergency Amendment Act of 2025 and B26-0519, District of Columbia Boards and Commissions Financial Reporting Temporary Amendment Act of 2025.

[35] *See* D.C. Official Code § 1-523.01(e).

[36] *See* Prince George's Cnty, Md., Code of Ordinances § 2-294.

[37] *See* Balt., Md., City Code, Art. 8, § 7-14

[38] Va. Code § 2.2-3114.

[39] D.C. Official Code § 1-1162.28(a)(4).

Law 13-305, the "Tax Clarity Act of 2000" rewrote the District tax code provisions on exempt organizations to mirror the federal code.[40] The language of the pre-2001 § 47-1802.01(4) is now housed in § 47-1802.01(a)(3).[41] This language parallels the language at section 501(c)(3) of the Internal Revenue Code while current § 47-1802.01(a)(4) reflects the language at § 501(c)(4) of the Internal Revenue Code.[42]

The legislative history of the Ethics Act is also not instructive regarding the reference to § 47-1802.01(4) as the Committee Report provides that there is an exception for "an entity specified in D.C. Official Code § 47-1802.01(4)," but does not include an explanation for the inclusion of the provision.[43] A review of the predecessor provision to § 1-1162.28(a)(4), § 1-1105.03, indicates that the lobbying exemption to registration initially applied to "any entity specified in section (1)(d) of title II of the District of Columbia Income and Franchise Tax Act of 1947…no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation."[44] The language in District of Columbia Income and Franchise Tax Act of 1947 suggests that the exemption for lobbying initially applied to section 501(c)(3) organizations.[45]

While the language of this exemption is ambiguous, the Ethics Act already includes a reduction of the lobbying registration fee for section 501(c)(3) organizations, from $350 to $100.[46] Although the Office of Government Ethics has interpreted the exemption to apply to the District equivalent of section 501(c)(4) organizations,[47] this preference for section 501(c)(4) organizations alone is an outlier among other jurisdictions.[48] Indeed, most jurisdictions, including the federal lobbying disclosure program, do not differentiate between nonprofit organizations and other organizations that meet the lobbying registration requirements.[49] While public policy and the nature of 501(c)(3)

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[40] D.C. Law 13-305, effective June 9, 2001; *see* generally, Report of the Committee on Finance and Revenue on Bill 13-586, The Tax Clarity Act of 2000 (Council of the District of Columbia, Sept. 28, 2000) at 4.

[41] *See id.*; 26 U.S.C. § 501(c)(3).

[42] D.C. Official Code § 47-1802.01(a)(4); 26 U.S.C. § 501(c)(4).

[43] *See* Ethics Act Committee Report at 35.

[44] District of Columbia Campaign Finance Reform and Conflict of Interest Act, 88 Stat. 462, Pub. L. 83-376, title V, §510 (Aug. 14, 1974).

[45] District of Columbia Revenue Act of 1947, 61 Stat. 328, 80 Pub. L. 195 (July 16, 1947).

[46] *See* D.C. Official Code § 1-1162.27(b)(2).

[47] BEGA Advisory Opinion, Lobbying Requirements for a Non-Profit Organization and its Executive Director at n.1, Nov. 8, 2019, https://bega.dc.gov/publication/lobbying-requirements-non-profit-organization-and-its-executive-director(citing the language at D.C. Official Code § 47-1802.01(a)(4) for organizations exempt from registration).

[48] *See, e.g.,* Ind. Code Ann. § 2-7-2-1(c) (reducing registration fee from $200 to $100 for section 501(c)(3) or 501(c)(4) organizations and the lobbyist performs services as part of their salaried responsibilities); Nev. Rev. Stat. Ann. §218H.500.2(c) (providing for maximum fee of $100 for lobbyist whose lobbying activities are on behalf of section 501(c)(3) organizations).

[49] *See, e.g.*, 2 U.S.C. § 1601, *et seq.* While the federal lobbying program does not exclude nonprofit organizations from registration and reporting if they meet the thresholds, there is a provision that section 501(c)(4) organizations are not eligible to receive federal funds in the form of an award, grant, or loan if they engage in lobbying activities. *See id* at §1611. *But see* Chicago Municipal Code § 2-156-220(e) (excluding individuals acting on behalf of non-profit entities that "(1) undertake nonpartisan analysis, study, and research; (2) provide technical advice or assistance; or (3) examine or discuss broad social, economic, and similar problems").

and 501(c)(4) entities can justify a fee reduction for these nonprofit organizations, BEGA has not identified a practical or public policy purpose for completely exempting 501(c)(4) entities from registration and reporting requirements.

III. Review of National and State Best Practices in Open Government and Transparency

OOG is composed of the Director of Open Government, a small staff of attorneys, a paralegal and an information technology specialist dedicated to ensuring the District government operations are transparent and open to the public, and promote civic engagement. OOG ensures that the District's public bodies, boards and commissions, and the Council comply with the OMA by providing formal and informal advice to public bodies regarding the OMA's requirements for compliance. OOG also conducts training for public bodies and members of the public regarding the OMA and engages in community outreach. In addition to enforcing the OMA, OOG also ensures that District agencies are complying with D.C. FOIA by providing advisory guidance on the implementation of D.C. FOIA, as well as assisting members of the public in filing D.C. FOIA requests and providing training to D.C. FOIA Officers, Advisory Neighborhood Commissioners, and members of the public.

A. Recent Changes to Open Meetings Laws (2024–2025)

This section provides a comparative legal analysis of recent changes to open meetings laws across several U.S. jurisdictions between 2024 and 2025 and examines their implications for the District of Columbia. Nationally, legislative reforms have largely emphasized increased transparency through hybrid access, enhanced public notice, and mandatory governance training. In contrast, recent legislation enacted by the D.C. Council represents a departure from this trend, by broadening the permissible scope of closed meetings under the District's Open Meetings Act. The divergence raises important considerations for transparency, public trust, and statutory alignment with broader open government standards respecting open government laws in the District of Columbia.

The following states enacted noteworthy legislative updates relevant to open meetings in 2024-2025.

1. Iowa

Iowa[50] made two significant rounds of changes to its open meetings framework in 2024 and 2025. Effective July 1, 2024, Iowa Code § 21.8 was amended to require governmental bodies to make electronic participation options available to members for official meetings (e.g., hybrid, teleconference, or virtual formats). In 2025, House File 706—signed into law on June 6, 2025, effective July 1, 2025—expanded enforcement by increasing civil penalties for violations, mandating Sunshine law training for newly elected or appointed officials (new Iowa Code §

[50] Iowa O Pub. Info. Bd., Advisory Op. 24AO:0006 (2024), *available at* https://ipib.iowa.gov/24ao0006-chapter-21-recent-law-changes.

21.12), authorizing the Iowa Public Information Board (IPIB) to impose equivalent civil penalties, and adding specific public-records security exceptions in Iowa Code § 22.7.

2. Vermont

In 2024 and 2025, Vermont enacted the most significant Open Meeting Law (OML) updates since the pandemic era.[51] Key changes are as follows: (1) statewide rules for hybrid meetings and recordings; (2) express authority for advisory bodies to meet remotely without a physical location; (3) annual OML training requirements for specified officers; (4) flexible switching between physical and electronic formats during a "local incident"; (5) mandatory posting of meeting recordings for defined periods; and (6) new executive-session grounds and clarifications adopted in 2025, including cybersecurity and disruptive-meeting provisions.

The 2024 legislation also added new definitions to the Open Meeting Law, including "advisory body," "hybrid meeting," and "undue hardship."[52] Second, meeting requirements were set forth depending on the type of body in 1 V.S.A. § 312. Vermont non-advisory bodies must hold regular and special meetings in hybrid format (physical location and electronic platform), electronically record meetings, and retain/post recordings for at least 30 days following approval/posting of minutes.[53] Vermont's local non-advisory bodies may meet in-person or hybrid; must audio/video record and post for a minimum of 30 days after the approval and posting of the official minutes, unless recording imposes an undue hardship.[54] Both state and local advisory bodies may meet entirely remotely without staffing a physical meeting location under the new framework.[55]

Vermont also enhanced the rights of members of the public and the press respecting meetings. A member of the public or the press may request a physical location or electronic/telephonic access to a regular meeting, and the public body must grant the request unless an all-hazards event, a "local incident," or "undue hardship" applies to the meeting.[56]

The legislation also included a temporary exemption to the OML. Until January 1, 2025, Vermont non-advisory bodies and communications union districts were not required to designate a physical location or hold hybrid regular or special meetings.[57] The state instituted, beginning January 1, 2025, annual OML training be required for chairs of state non-advisory bodies and for the

[51] *See* Act 133 (S.55) (2024) (amending 1 V.S.A. § 310-314); Act 51 (S. 69) (2025) (amending 1 V.S.A. §§ 301, 312, and 313 and 13 V.SA. § 1026).

[52] See Act 133 (S.55), Sec. 2

[53] *Id*, Sec.2.

[54] Id, Sec. 3.

[55] *Id*.

[56] *Id*.

[57] *Id.*, Sec. 4.

municipal legislative body chair, town manager, and mayor. Training will be developed by the Secretary of State of Vermont.[58]

Finally, Vermont also provided declared state of emergency and "local incident" flexibility respecting meetings and added a website complaint procedure. The amendment to 1 V.S.A. § 312a permits switching between physical and electronic meeting formats when a "local incident" directly impedes holding the meeting.[59] Municipalities with websites must post how to submit OML complaints to the body or the Vermont Attorney General.[60] Respecting election-related recordings, 17 V.S.A. §§ 2640, 2680, the amendments require video-recording of specified informational meetings and hearings and require posting for defined periods around Town Meeting Day and Australian (i.e. secret) ballot questions.[61]

3. Oregon

In 2024, Oregon implemented the most significant updates to its Public Meetings Law in decades. House Bill 2805, operative January 1, 2024, made the following changes: expanded the Oregon Government Ethics Commission's (OGEC) authority to enforce the Public Meetings Law; created a mandatory written grievance prerequisite before OGEC investigates complaints; clarified that certain communications (including serial communications and use of intermediaries) can constitute a "meeting,"; and established training requirements for many governing bodies.[62] OGEC then adopted Division 50 administrative rules (effective Oct. 1, 2024) that define key terms, detail notice, minutes and recording availability, grievance timelines (30-day filing; 21-day response), and the serial communications prohibition.[63]

In 2025, Oregon passed legislation requiring the governing bodies of school districts, education service districts, community colleges, and public universities to record and post most meetings (video where practicable; audio when broadband is unavailable) within seven days and confirmed that the requirement applies to full board meetings and not subcommittees.[64]

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[58] *Id*., Sec. 5.

[59] *Id*., Sec. 6.

[60] *Id*., Sec. 7.

[61] *Id*., Secs. 8–9 (amending 17 V.S.A. §§ 2640, 2680).

[62] *See* H.B. 2805, 82nd Leg., Reg. Sess. (Or. 2023) (effective Jan. 1, 2024), amended Or. Rev. Stat. § 192.610 et seq., expanding the definition of a meeting and empowering the Oregon Government Ethics Commission to enforce compliance.

[63] H.B. 2805 clarifies that purely factual/educational or non-substantive scheduling communications are not "meetings," which OGEC codified at Or. Admin. R. 199-050-0015(3) (2024).

[64] *See* S.B. 1109, 83rd Leg., Reg. Sess. (Or. 2025) (effective May 28, 2025, retroactive application to Jan. 1, 2025) clarifying the application of S.B. 1502, 82nd Leg., Reg. Sess. (Or 2024) (effective Jan. 1, 2025) to public bodies of educational institutions.

4. Colorado

In March 2024, updates to the Colorado Sunshine Law clarified the treatment of electronic communications such as email and text messages in the context of elected officials' informal discussions.[65] The 2024–2025 legislative sessions marked a significant period of reform and recalibration in Colorado's Open Meetings Law (COML), through two major enactments—Senate Bill 24-157 and House Bill 25-1242—and a companion accessibility measure (House Bill 24-1168). This legislation exempted the state legislature from parts of COML by allowing legislators to communicate via email, text, and phone outside of public meetings without it being considered a meeting. The General Assembly addressed the evolving balance between legislative efficiency and public transparency in the digital age with this legislation. However, these changes drew criticism for decreasing government transparency. Colorado also temporarily expanded the definition of "state public body" to expressly include the General Assembly and its committees, while carving out exemptions for certain written communications among legislators. However, in 2025, those changes were repealed to restore parity among all state and local public bodies under the COML framework. Parallel legislation (House Bill 24-1168) advanced accessibility standards for electronic and hybrid meetings, effective July 2025.[66]

5. Washington

During the 2024–2025 legislative cycle, the Washington Legislature enacted notable amendments to the Open Public Meetings Act.[67] The amendments require explicit public notice of comment opportunities prior to meetings. A principal change, effective June 6, 2024, mandates that when a public agency is statutorily required to solicit written public comment for a fixed period, the notice must specify both the first and last date and time by which written comment may be submitted.[68]

Other relevant, recent changes include the earlier 2022 amendments via ESHB 1329 (effective June 9, 2022) clarifying the need for a physical meeting location (absent certain exceptions) and reinforcing public comment opportunities at regular meetings where final action is taken. These amendments have further refined agencies' notice obligations and reinforce public-comment transparency in agenda-driven decision-making.

6. Utah

In 2024, Utah revised the state's Open and Public Meetings Act, to remove obsolete provisions and clarify the statutory definition of a meeting.[69] Utah's 2024 legislative revision of the Open and Public Meetings Act via House Bill 36 represents a targeted update, as opposed to a wholesale

[65] *See* H.B. 24-1181, 74th Gen. Assemb., 2d Reg. Sess. (Colo. 2024) (amending Colo. Rev. Stat. § 24-6-401 *et seq*.).

[66] *See* https://coloradofoic.org/colorado-lawmakers-advance-bill-to-livestream-many-government-meetings-and-require-remote-public-comment/.

[67] *See* S.B. 6156, 68th Leg., Reg. Sess. (Wash. 2024) (amending Wash. Rev, Code § 42.30.250).

[68] *See* S.H.B. 1105, 68th Leg., Reg. Sess. (Wash. 2024).

[69] *See* H.B. 36, 2024 Gen. Sess. (Utah 2024) (amending Utah Code Ann. §§ 52-4-101 *et seq*.).

overhaul of the open meetings laws, with meaningful practical implications for how public bodies execute open-meetings responsibilities in an increasingly electronic/hybrid era of public meetings. The amendments to the Open and Public Meetings Act primarily involve refinements to definitions (including "anchor location," "electronic meeting," and "meeting"), elimination of obsolete language pertaining to posting written notice of electronic meetings, and other conforming changes.[70]

B. Recent Changes to the D.C. Open Meetings Act

The Open Meetings Act ("OMA")[71] has seen several significant changes and clarifications over the last year. These changes have been primarily concerned with six aspects of the statute.

First, to continue to deal with the evolution of open meetings of public bodies from purely in-person events to ever more frequently hybrid and virtual gatherings, the Council once again "extend[ed] the temporary authority for public bodies to hold meetings virtually as opposed to requiring in-person meetings."[72]

Second, considering the transfer of federal power in January of 2025, and in anticipation of potential threats to the District's safety and autonomy, the Council further enhanced the ability of public bodies to be briefed relative to potential terror and public health threats in closed sessions, while providing that such exemption cannot shield official action.[73]

Third, the Council refined the definition of its own meetings to establish that, relative to the OMA, Council meetings are "regular or additional legislative meeting[s], and committee meetings where votes are taken."[74] It clarified that both "meetings and gatherings of councilmembers" were to be subject to the Council's own rules if and when it adopted same.[75] The Council also specifically

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[70] *See id.*

[71] D.C. Official Code §§ 2-571 – 2-579.

[72] On February 3, 2025, Council Chairman Phil Mendelson introduced B26-0087, the Virtual Open Meetings Authority Extension Emergency Amendment Act of 2025, and B26-0088, the Virtual Open Meetings Authority Extension Temporary Amendment Act of 2025. On February 4, 2025, the Council of the District of Columbia voted unanimously on both measures to extend the temporary authority for public bodies to hold meetings virtually as opposed to requiring in-person meetings. The emergency measure was transmitted to the Mayor on February 7, 2025, enacted without the Mayor's signature on February 26, 2025, as Act A26-0019, and expired on May 26, 2025. On March 19, 2025, the temporary measure was enacted without the Mayor's signature (Act Number A26-0026), on March 25, 2025, was transmitted to Congress, and on May 16, 2025, became Law L26-0005, effective from May 6, 2025.

[73] On March 28, 2025, Council Chairman Phil Mendelson introduced PR26-0156, The Open Meetings Clarification Emergency Declaration Resolution of 2025, which declared *inter alia* the existence of an emergency due to the need to allow public bodies to be briefed about potential terrorist or public health threats, so long as no official action is taken.

[74] *See* PR26-0156, The Open Meetings Clarification Emergency Declaration Resolution of 2025, which, on April 1, 2025, the Council passed by a 10-2 vote, becoming Resolution R26-0091.

[75] B26-0199, the Open Meetings Clarification Emergency Amendment Act of 2025, and B26-0200, the Open Meetings Clarification Temporary Amendment Act of 2025 , amending D.C. Official Code § 2-574(1)(C); the

exempted meetings between itself and the Mayor from the OMA, again providing that no official action takes place.[76]

On April 22, 2025, the Director of Open Government testified at a hearing of the Council's Committee of the Whole regarding the Council's Bills 26-0199 and 26-0200, the "Open Meetings Clarification Emergency Amendment Act of 2025" and "Open Meetings Clarification Temporary Amendment Act of 2025," making the case that the Council was able to change its own Council Period (CP) rules[77] relative to gatherings and meetings where no official action takes place, and urging the Council to not make a revision directly to the OMA. Specifically, the Director testified that the change to D.C. Official Code § 2-575(f)[78] "obliterates the transparency protections of the OMA respecting Council meetings" and was "ill-advised and an affront to maintaining an open government."[79]

Fourth, the Council clarified that a meeting, held in-person or "by video conference, telephone conference, or other electronic means,"[80] is "deemed open to the public if the public body takes steps reasonably calculated to allow the public to view or hear the meeting while the meeting is taking place, or, if doing so is not technologically feasible, as soon thereafter as reasonably practicable,"[81] altering the prior requirement of "[r]easonable arrangements…made to accommodate the public's right to attend the meeting"[82] with the "view or hear"[83] language.

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emergency measure became Act 26-0041, and expired on July 6, 2025, while the temporary measure became Law L26-0024, effective from August 16, 2025, and expiring on March 29, 2026.

[76] D.C. Official Code § 2-575(4)(h), created in both B26-0199 and B26-0200, emergency and temporary measures, amending the OMA.

[77] PR26-00001, Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 26, Resolution of 2025, adopted January 2, 2025.

[78] The Permanent Version language at § 2-575(f) reads "[n]otwithstanding any provision of this chapter, the Council may adopt its own rules to ensure the District's open meetings policy, as established in § 2-572, is met with respect to Council meetings; provided, that the rules of the Council shall comply with this section and the definition of meeting in § 2-574(1); provided further, that until the Council adopts rules pursuant to this subsection, this subchapter shall apply to the Council." The temporarily amended language reads "[n]otwithstanding any provision of this chapter, the Council may adopt its own rules to ensure the District's open meetings policy, as established in § 2-572, is met with respect to gatherings of councilmembers; provided, that unless the Council adopts rules pursuant to this subsection, this subchapter shall apply to the Council." The key distinction is the change in language from "Council meetings" to "gatherings of councilmembers."

[79] Testimony of Niquelle M. Allen, Esq., Director of Open Government, Board of Ethics and Government Accountability, before the Council of the District of Columbia, Committee of the Whole, 4 (Tuesday, April 22, 2025).

[80] D.C. Official Code § 2-577(a)(1).

[81] B26-0199 & B26-0200, amending § 2-575(a) "a meeting shall be deemed open to the public if," by adding a subsection (4) which states that "[t]he public body takes steps reasonably calculated to allow the public to view or hear the meeting while the meeting is taking place, or, if doing so is not technologically feasible, as soon thereafter as reasonably practicable." A parallel change was made at D.C. Official Code § 2-577(a)(1).

[82] Permanent text of D.C. Official Code § 2-577(a)(1).

[83] D.C. Official Code §§ 2-575(a), 2-577(a)(1).

Fifth, the Council relaxed the notice requirement within D.C. Official Code § 2-576(1) by changing the language from "[e]xcept for emergency meetings, **a public body shall provide notice** as early as possible, but not less than 48 hours or 2 business days, whichever is greater, before a meeting,"[84] to "**[a] public body shall attempt to provide**."[85]

Sixth, and finally, the Council exempted the Criminal Justice Coordinating Council ("CJCC")[86] from the requirements of the OMA.[87] Notably, the Council also made specific data and records that the CJCC receives from a "court, federal agency, or federally established agency" exempt from the requirements of DC FOIA.[88]

C. Comparative Analysis of D.C. and Other States

Across jurisdictions, states are codifying hybrid participation and strengthening procedural safeguards to facilitate public access. Iowa, Vermont, and Oregon, illustrate a clear movement toward embedding remote access rights and accountability training in statute. Conversely, the District of Columbia's 2025 emergency and temporary legislation broadens closed-meeting exemptions, prioritizing administrative flexibility at the expense of transparency. While other states are expanding definitions of "meeting" to encompass electronic deliberations, the District's current posture temporarily restricts public access, potentially narrowing the OMA's reach and undermining public trust.

The District's temporary expansion of closed-meeting authority creates potential inconsistencies in the law. Broader exemptions could invite challenges grounded in due process, administrative fairness, or constitutional principles of open governance. The District of Columbia's 2025 emergency and temporary amendments represent a notable departure from the prevailing national trajectory of transparency reform. Absent corrective legislation or administrative rulemaking reaffirming the OMA's core purpose, the District may face reputational and compliance risks. Accordingly, policymakers should prioritize codifying hybrid participation and narrowing discretionary exemptions to uphold the principles of open government.

[84] Permanent Version of D.C. Official Code § 2-576(1). (emphasis added)

[85] Temporary Version of D.C. Official Code § 2-576(1); B26-0199 & B26-0200 amended this language. (emphasis added)

[86] D.C. Official Code §§ 22-4231 – 22-4237.

[87] B26-0199 & B26-0200, amending the OMA at § 2-574 by adding a new subparagraph (G).

[88] *See* B26-0340, the Fiscal Year 2026 Budget Support Emergency Act of 2025, and B26-0265, the Fiscal Year 2026 Budget Support Act of 2025.

D. FOIA Appeals Process

If a FOIA request is denied by a D.C. agency, the requester may appeal the denial of the request to the Mayor. She has delegated this responsibility to the Mayor's Office of Legal Counsel ("MOLC"). The MOLC has a large backlog of FOIA appeals to resolve and we have previously examined the laws other jurisdictions use that may provide solutions for the District to resolve this backlog.[89]

D.C. FOIA and its regulations[90] require recordkeeping and reporting to enable oversight of the appeals mechanism. The reporting requirements follow: "On or before February 1 of each year, the Mayor [or her designated agent[91]] shall request from each public body and submit to the Council [] a report covering the public-record-disclosure activities of each public body during the preceding fiscal year. The report shall include: . . . (4) The number of appeals made pursuant to section 207(a), [[92]] the result of the appeals, and the reason for the action upon each appeal that results in a denial of information . . . ."[93]

As of the date of this report, the Mayor has not yet submitted the FY2025 FOIA Report to the D.C. Council. The Mayor submitted the Annual Freedom of Information Act Report for Fiscal Year 2024 to the Council on March 26, 2025.[94] This report included FOIA Appeal Summaries and a FOIA Appeal Log reflecting the appeal decisions issued by the MOLC in FY2024.[95]

Since the 2024 Best Practices Report was issued, the MOLC continued publishing additional FOIA appeals opinions to the *D.C. Register*.[96] The latest published opinions were issued in September 2022, still leaving a significant backlog of unpublished opinions. On its FOIA Appeals page,[97] the MOLC directs the reader to a link that produces FOIA decisions as a search result, but that search yields no decisions more recent than FOIA Appeal 2018-078, decided on March 7, 2018, and published to the website on February 2, 2021. While D.C. FOIA and its regulations do not require

[89] *See* BEGA's Best Practices Reports for 2022, 2023, and 2024 outlining the appeals process for Maryland, Virginia, and the federal government, *available at* https://bega.dc.gov/page/best-practices-report.

[90] 1 DCMR § 415.1.

[91] D.C. Official Code §§ 2-502(1)(A), 2-539(a)(5).

[92] *Id.* § 2-537(a).

[93] *Id.* § 2-538(a).

[94] *See* RC26-0046, Freedom of Information Act (FOIA) Annual Report: Fiscal Year (FY) 2024, *available at* https://lims.dccouncil.gov/Legislation/RC26-0046.

[95] *See id.* at 214-245.

[96] *See* 71 DCR 015974-016132 (Dec. 20, 2024); 72 DCR 002142-002191 (Feb. 28, 2025); 72 DCR 002452-002548 (Mar. 7, 2025); and 72 DCR 003558-003576 (Mar. 28, 2025).

[97] *See* https://dc.gov/page/freedom-information-act-foia-appeals (last visited Nov. 14, 2025).

that MOLC decisions appear in the *D.C. Register*, the MOLC must at least make the decisions publicly available, such as by posting the decisions to its website.[98]

As discussed in BEGA's 2023 and 2024 Best Practices Reports, the delay in disposing of appeals is in part due to the statutory deadline being too short. As a remedy, BEGA continues to suggest an amendment to the FOIA statute to enlarge the MOLC's administrative review period. The District's surrounding jurisdictions—Maryland, Virginia, and the federal government—have counterparts to D.C. FOIA, and all of them have longer periods of administrative review than ten business days.

[98] D.C. Official Code § 2-536(a)(3), (b) (section 206 (a)(3) and (b), of D.C. FOIA) (requiring affirmative posting of certain "records created on or after November 1, 2001," including "[f]inal opinions" and "orders, made in the adjudication of cases").

IV. Recommendations for Amendments to the District's Ethics and Open Government Laws

The Board is also tasked with recommending amendments to the Code of Conduct, the Open Meetings Act, and the Freedom of Information Act to improve the District government's ethics and open government and transparency laws.[99]

Ethics Recommendations

BEGA has consistently recommended the adoption of a Comprehensive Code of Conduct ("CCC") that would establish a single ethical standard for all District employees, whether employed by the executive branch and independent agencies or the Council, setting the same limits for gifts and the same rules for conflicts of interest, outside activity, post-employment restrictions and financial disclosures.[100] While we continue to believe that the passage of the CCC would best enable BEGA to perform its statutorily mandated functions more effectively by consolidating the District's government ethics laws in one place and standardizing practices in the District government, we recommend that the Council also consider standalone legislation targeted at addressing the most common ethics issues facing the District.

First, as discussed in detail earlier in this report, the most common violation of the Code of Conduct stems from District public officials and employees who engage in outside employment or other outside activity. To ensure that any potential conflict of interest between an employee's District employment and their outside business activity or outside employment is apparent and can be properly addressed, BEGA recommends that employees required to file a public or confidential financial disclosure statement receive approval from their employing agency prior to engaging in any outside employment, private business activity, or other outside activity. We believe that a broad preapproval program that extends to all outside activity by financial disclosure filers – individuals who already have an obligation to report outside earned income and board service on an annual basis – would directly address the types of violations BEGA has seen in the enforcement context.

Adopting a requirement that employees receive written approval prior to commencement or continuation of any outside employment or other activity and at regular intervals thereafter will allow District agencies increased visibility into an employee's outside activities to more accurately assess whether an activity would create a conflict or the appearance of a conflict with the employee's duties for the District or whether outside employment could violate other ethics rules, for example, the prohibition on misuse of official resources. Employees would also be on notice prior to the receipt of a complaint to BEGA about the potential for any conflict and could take

[99] D.C. Official Code § 1-1162.02(b)(3).

[100] BEGA first submitted proposed legislation in the form of Bill 21-250, the Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act of 2015, on June 12,105 and Bill 22-126, the Comprehensive Code of Conduct of the District of Columbia Establishment and BEGA Amendment Act of 2017, on February 28, 2017 and has recommended the passage of the CCC in every Best Practices report we have issued.

steps to mitigate the conflict or refrain from engaging in the activity if they do not receive the required approval.

Designing a preapproval system will require consultation between BEGA, DCHR, and each individual agency. As seen in other jurisdictions, coordination between the human resources department and the ethics agency is integral to an effective preapproval program. BEGA expects there will be a need to work closely with District agencies to assess whether the agencies should designate any additional categories of employees for inclusion in the preapproval process based on their work for the agency, or whether to implement additional standards for approval of outside employment, above the standards in the Code of Conduct. We hope that these changes, along with increased training efforts, will reduce violations of the Code of Conduct stemming from outside employment or other activities that BEGA has seen over the past few years and that a reduction in these violations will enhance the public's confidence in the District government.

As part of considering the rules that apply to outside employment for District employees and public officials, BEGA reiterates our recommendation that the Council consider legislation restricting employees and public officials from engaging in certain types of outside employment. The addition of restrictions on providing professional services for compensation or affiliating with an entity that provides professional services for compensation, as well as limitations on the types of clients a District official could represent, would reduce the potential for a conflict of interest or the appearance of a conflict that could undermine the public's confidence in the District government. BEGA recommends that the Council include restrictions on the provision of professional services for compensation by elected officials and agency heads, including prohibitions on receiving compensation for affiliating with or being employed by an entity that provides professional services for compensation, permitting their name to be used by such an entity or receiving compensation for practicing a profession that involves a fiduciary relationship. Public officials and agency heads owe a duty to act in the interests of the District and its residents. Where an official or agency head acts as a fiduciary, that creates an obligation to act in the interests of a third party that is not the District, creating the type of conflict of interest that the ethics rules are intended to prevent.

Next, BEGA recommends that the Council adopt legislation to streamline the financial disclosure reporting system to use a bright line salary threshold that would require all District employees, including employees of the Council paid at a rate equivalent to the midpoint of Excepted Service 9 or above, to file public financial disclosure reports. This mirrors the current requirements for Council employees under the Ethics Act, which requires public financial disclosure filing for Council employees based solely on rate of pay without regard to responsibilities.[101] Confidential financial disclosure filers would be designated by agencies based on their responsibilities if their rate of pay is below the threshold for public filers. We also recommend that the revised financial

[101] *See* D.C. Official Code § 1-1161.01(47)(J) defining public official to include Council paid at a rate equal to or above the midpoint rate of pay for Excepted Service 9 and § 1-1162.24 outlining the requirements for public financial disclosure filers.

disclosure filing process include a statutory requirement to address filing obligations for confidential financial disclosure filers upon termination of their District employment.[102]

In addition, BEGA does not recommend any statutory changes that would prohibit the agency from thoroughly administering the ethics rules through the financial disclosure statement program. Since our inception, BEGA has served as the only ethics authority that ensures ethics and compliance throughout the entire government, as well as collecting, auditing, and maintaining financial disclosure statements. Through our administration of the financial disclosure statement program, BEGA ensures that employees and public officials avoid violating the outside employment restrictions and financial conflicts of interest which can lead to criminal punishment. We have also taken enforcement action against those who violate the ethics rules. As mentioned above, the Council has passed legislation that made BEGA's financial disclosure rulemaking ineffective until January 2026. The Council now seeks to remove BEGA's authority to designate employees and public officials as financial disclosure filers. However, halting our rulemaking and stripping the agency's ability to designate filers does not serve the interest of the District government. Without an agency such as BEGA with the ability to administer the financial disclosure program the District faces reputational and financial harm.

As detailed in the 2023 and 2024 Best Practices Reports, after reviewing the District's lobbyist registration and reporting system, BEGA could not identify either a practical or public policy purpose to exempt Internal Revenue Code section 501(c)(4) organization from the lobbying registration and reporting requirements. Accordingly, we recommend the removal of the exemption from registration and reporting for section 501(c)(4) organization and instead subject these organizations to the same requirement as section 501(c)(3) charitable organizations, which receive a reduction in registration fee but are otherwise subject to the same registration and reporting requirements of other entities that retain or employ lobbyists. We understand that the Office of Advisory Neighborhood Commissions, which interacts with many of these nonprofit entities, is supportive of this change as it will provide additional information on the individuals and organizations that are currently engaged in lobbying commissioners without the need to register and report their activity.

In conjunction with substantive changes to the registration requirements for nonprofit organizations, BEGA also recommends that the Council require training for the District's lobbyists. With the addition of the increase in penalties for late lobbyist registration and reporting in place since the start of FY 2025, lobbyists and their clients each face up to $6,000 in penalties for late reports. The addition of a training requirement to the District's lobbying program will foster uniformity in the reporting process and serve as lobbyists' first line of education. By making the training mandatory, BEGA can ensure the consistency of the lobbying information we disseminate and ensure that all registered lobbyists are equipped with the same tools as they conduct business in the District.

[102] D.C. Official Code § 1-1162.24(c)(1) requires public officials to file a public financial disclosure report "within 3 months after leaving the office or position." The statute does not include comparable language for confidential filers. *See* D.C. Official Code § 1-1162-25.

On the training front, we reiterate our recommendation that the Council extend the requirement for annual ethics training from financial disclosure filers to all individuals subject to the Code of Conduct. Initial training of all District employees upon passage of the act with regular annual refresher training would not only assist employees with understanding the rules but would underscore the importance that the District places on a culture of ethics in the operations of the District government. Annual training educates and reminds employees of the ethics rules, which promotes awareness and reduces the number of ethics violations. BEGA's online Learning Management System provides the ability to conduct the large-scale training required to implement such a program, allowing employees multiple options to conduct the required training at their convenience.

Open Government Recommendations

BEGA recommends that the District redirect its internal reform efforts to ensuring that the public retains access to its government as we collectively benefit from advances in technology meant to make government operations more efficient and technologically sound. Legislatively, the District's efforts should pivot to coming in line with national trends in open government. BEGA reiterates the recommendations made in prior Best Practices Reports regarding changes to D.C. FOIA that would allow the District to operate in a more transparent manner and allow for greater protection of the sensitive information and data it maintains. BEGA has also set forth recommendations to permit OOG to better carry out its mission to implement the Open Meetings Act and the Freedom of Information Act.

As BEGA previously outlined in past Best Practices Reports, although D.C. FOIA is modeled on the federal FOIA, current District law does not have a statutory equivalent to the federal Privacy Act which would allow District agencies to release information to requesters about themselves without redacting the information subject to D.C. FOIA's exemptions, primarily the personal privacy exemption.[103] To address the identification requirements at issue in a first party request for records under FOIA, BEGA reiterates our recommendation from the previous Best Practices Reports that the Mayor promulgate D.C. FOIA regulations that would allow District agencies to seek verification of identity. In addition, the Council should consider whether the District would benefit from privacy legislation that is in line with the federal Privacy Act and would amend D.C. FOIA to provide a right of access to an individual's records that are maintained by District agencies.

With respect to the processing of D.C. FOIA requests, BEGA reiterates its previous recommendation to amend D.C. FOIA to extend the response time for D.C. FOIA requests to mirror the timelines in the federal FOIA. Federal FOIA provides agencies with 20 days to respond to requests.[104] D.C. FOIA, however, provides District agencies with 15 days to respond to FOIA requests.[105] Both statutes allow agencies to invoke a 10-day extension (excluding Saturdays, Sundays, and legal public holidays) for unusual circumstances, as defined in the respective

[103] *See* D.C. Official Code § 2-534(a)(2).

[104] 5 U.S.C. § 552(a)(6)(A)(i). The 20 days excludes Saturdays, Sundays, and legal public holidays.

[105] D.C. Official Code § 2-532(c)(1). D.C. FOIA also excludes Saturdays, Sundays, and legal public holidays.

statutes.[106] Amending section 202(c)(1) of D.C. FOIA to adopt the 20 days available to federal agencies would allow District agencies additional time to process FOIA requests. Changing the response time via statute would not require an amendment of the implementing regulations for D.C. FOIA, as the provision at 1 DCMR § 405.1 refers to "the time prescribed by applicable law following the receipt of a request" in reference to the initial response time for a FOIA request.

BEGA also recommends extending the time for the MOLC to respond to D.C. FOIA appeals. D.C. FOIA provides for administrative appeals from D.C. FOIA denials from agencies that are subordinate to the Mayor. D.C. FOIA requesters may file these administrative appeals at no cost, and without an attorney's assistance. D.C. FOIA requesters should be able to obtain adjudication relatively quickly, as opposed to litigation in D.C. Superior Court to resolve D.C. FOIA matters. While the current timeframe appears to call for a quick resolution, it is not reasonable to achieve the desired outcome. Making changes to the law to make this process work more effectively and efficiently will benefit the District agencies and D.C. FOIA requesters. The Council should consider amending D.C. FOIA to reflect the reality of the MOLC's resources, its dependence on District agency responses, the legal complexity of some appeals, and adopt the practices of the federal government, Maryland, and Virginia.

As noted in prior Best Practices Reports, the Open Meetings Act exempts Advisory Neighborhood Commission meetings from compliance with the OMA,[107] even though their members are elected by the public to consider and take positions of "great weight" as to District business.[108] Instead, ANC meetings are currently governed by a separate statute, the Advisory Neighborhood Councils Act of 1975 ("ANC Act").[109]

While the ANC Act requires that ANCs conduct open and transparent meetings, in practice, compliance with this requirement is mixed. Because ANCs are not required to participate in regular training by OOG and current law does not provide a mechanism to enforce the open meeting requirements of the ANC Act, apart from a private right of action under the Sunshine Act,[110] OOG is in the position of fielding constituent complaints at ANC meetings without any ability to enforce the open meeting requirements. Adding to the confusion is that ANCs are bound by D.C. FOIA, and OOG provides training, monitoring, and advice, as to the ANCs' public record practices.[111]

Accordingly, BEGA recommends that the Council make corresponding amendments to bring

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[106] 5 U.S.C. § 552(a)(6)(B)(i); D.C. Official Code § 2-532(d)(1).

[107] D.C. Official Code § 2-574(3)(F).

[108] The ANC website describes the ANCs' "main job" as being "their neighborhood[s'] official voice[s] in advising the District government (and Federal agencies) on things that affect their neighborhoods. Although they are not required to follow the ANCs' advice, District agencies are required to give the ANCs' recommendations 'great weight.' Moreover … agencies cannot take any action that will significantly affect a neighborhood unless they give the affected ANCs 30 days advance notice." https://anc.dc.gov/page/about-ancs.

[109] D.C. Official Code §1-309.11.

[110] *See* D.C. Official Code §§ 1-207.42, 2-579(a)(2).

[111] *See id.* §§ 1-309.12(d)(6), .15(c)(4), (5).

ANC meetings under the requirements of the Open Meetings Act and to allow OOG to enforce the ANC Act's open meetings provisions.[112]

While amending the OMA to address ANC meetings, BEGA recommends that the Council also address requirements that public bodies comply with the OMA requirements when "feasible." This provision appears five times in the OMA: (1) in the temporary amendment in response to remote meetings requirements during the COVID pandemic requiring public bodies to take steps "reasonably calculated to allow the public to view or hear the meeting while the meeting is taking place, or, if doing so is not technologically feasible, as soon thereafter as reasonably practicable";[113] (2) in the requirement for public bodies to "establish an annual schedule of its meetings, if feasible";[114] (3) in the requirement that the meeting notice "shall include, if feasible, a statement of intent to close the meeting or any portion of the meeting" along with an explanation of the reasons for closure and the matters to be discussed;[115] (4) in language on meeting procedures which discusses the requirement that a meeting may be held remotely provided reasonable arrangements are made to accommodate the public's right to attend and steps are taken to view or hear the meeting taking place or "if doing so is not technologically feasible, as soon thereafter as reasonably practicable";[116] and (5) in the requirement to provide a recording of the meetings, or "if a recording is not feasible, detailed minutes of the meeting."[117] The use of the term "feasible" in multiple provisions of the OMA creates confusion among the public and public bodies on the OMA requirements, given the lack of a clear standard for what is "feasible" in terms of compliance with the act.[118] To eliminate this confusion and ensure public bodies' meetings are open and accessible to the public, BEGA plans to include language striking the word "feasible" from the OMA when it submits draft amendments to the Council.

Next, we recommend that the Council amend the Open Meetings Act to provide for enhanced enforcement of the Open Meetings Act. Specifically, the Council should amend subsections (e) and (f) of section 409 of the Open Meetings Act, which currently reads:

> (e) If the court finds that a member of a public body engages in a pattern or practice of willfully participating in one or more closed meetings in violation of the provisions of this title,[119][147] the court may impose a civil fine of not more than $500 for each

[112] In several respects the ANC Act is stricter than the OMA in terms of the reasons for closure, location of meetings, advance notice requirement, and requirement to adopt and publish by-laws, and take and distribute minutes.

[113] D.C. Official Code §2-575(a)(4).

[114] *Id.* at §2-576(1).

[115] *Id.* at §2-576(5).

[116] *Id.* at §2-577(a)(1).

[117] *Id.* at §2-578(a).

[118] The court in *Office of Open Government v. Michael Yates* noted that the Open Meetings Act "if feasible" language "arguably does not describe a standard that is precise enough to support regulatory intervention." *Off. of Open Govt. v. Yates*, No. 2016-CA-007337 3-4 (D.C. Super. Ct. Sep. 27, 2017).

[119] *I.e.*, Title IV of the District of Columbia Administrative Procedure Act, Public Law 90-614.

violation.

(f) The court may grant such additional relief as it finds necessary to serve the purposes of this title.[120]

The Council should amend the OMA and adopt the standard from Maryland, Virginia, and West Virginia, namely "willful and knowing" violations of the OMA, in addition to the current language "pattern or practice" of violating the OMA by closing meetings in violation of the law. Such an addition would permit a judge to fine an offender for violating the OMA even after just one violation. The "pattern or practice" language in the current statute suggests that OOG cannot request that the court issue a fine until after allowing multiple (if not several) violative closed meetings to take place, in order to establish "a pattern or practice."[121] The Council should therefore supplement the recent increase of the base-maximum fine amount of $500 for a "pattern or practice" of entering into closed meetings by also permitting lawsuits for "willful and knowing" violations of the OMA. We propose that the Council add a provision permitting lawsuits for willful and knowing violations of the OMA with a fine of $1,000 per (willful and knowing) violation (without increasing the amount for any subsequent violations). This new enforcement mechanism would serve as a deterrent and (1) approximately splits the difference between Maryland's ($250) and Virginia's ($2,000) maximum for a first offense; (2) takes into account that this fine only applies to a "willful and knowing violation" and the training and pre-vetting that most appointed members of public bodies incur; and (3) matches the civil-fine amount proposed by the original drafters of the OMA 17 years ago.[122]

Lastly, as presented in the 2024 Best Practices Report, BEGA recommends amending D.C. Official Code § 1-1162.05c to provide the Director of Open Government with the express authority to mediate disputes between D.C. FOIA requesters and D.C. Government agencies. Several states and the federal government offer mediation programs to resolve open records disputes as an alternative to litigation. These states include Georgia, Florida, Massachusetts, Mississippi, New Jersey, and Pennsylvania. Voluntary mediation programs help resolve public records disputes more efficiently by expediting the resolution process and avoiding the time and expense associated with litigation. The Office of Open Government is well positioned to offer mediation services to agencies and requesters and BEGA recommends creating a mediation program similar to the Office of Government Information Services (OGIS) within the federal government.[123]

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[120] D.C. Official Code § 2-579.

[121] An October 30, 2024 search of Words & Phrases for < wp("pattern or practice") > yielded no useful hits related to open-meetings laws, though the U.S. District Court for the District of Columbia did hold, in the FOIA context, "that an allegation of a single . . . violation is insufficient . . . to state a claim . . . based on a policy, pattern, or practice of violating [5 U.S.C. § 552]," *Muttitt v. U.S. Cent. Command*, 813 F. Supp. 2d 221, 231 (D.D.C. 2011) (emphasis added).

[122] District of Columbia Open Government Meetings Act of 2006 § 2 at 11 l.3 (Bill 16-0747 (as introduced)).

[123] 5 U.S.C. §§ 552 and 552a; 31 U.S.C. § 1304.