DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

MEETING MINUTES – August 7, 2025

The District of Columbia Board of Ethics and Government Accountability held a hybrid meeting at the Board of Ethics and Government Accountability, 1030 15th Street, NW, Suite 700 West, and virtually on August 7, 2025, at 10:00 a.m. Chairperson Norma Hutcheson and Board members Felice Smith, Charles Nottingham, and Melissa Tucker attended the meeting in person and Board member Darrin Sobin joined virtually.

Members of the public were welcome to attend, and a recording of the meeting is available on open-dc.gov and BEGA's YouTube channel.

I. Call to Order

The meeting was called to order at 10:01 a.m.

II. Ascertainment of Quorum

All Board members were present at the start of the meeting.

III. Adoption of the Agenda/Approval of Minutes

The Board voted unanimously to adopt the agenda for the meeting and to approve the minutes for the July 2025 meeting.

IV. Report by the Director of Open Government

Good morning, Chairperson Hutcheson, and Members of the Board. I am Niquelle Allen, Director of Open Government. I am pleased to present this report on the activities of the Office of Open Government ("OOG"). Our mission is to ensure that all persons receive full and complete information concerning the affairs of the District of Columbia government and the actions of its officials. Since the last Board meeting, OOG has continued its work to ensure that the District of Columbia government's operations are transparent, open to the public, and promote civic engagement. To that end, OOG has enforced the Open Meetings Act, advised on the Freedom of Information Act's requirements, and provided training on those transparency laws. OOG has proudly served as advocates for an open and transparent government.

A. Open Meetings Act ("OMA") and Freedom of Information Act ("FOIA") Advice

1. Advisory Opinions

   a. OMA Advisory Opinion – Board of Trustees for Sela Public Charter School, #OOG-2024-0011

On July 21, 2025, I issued Advisory Opinion #OOG-2024-0011, in response to a complaint which alleged that Sela Public Charter School Board ("SPCSB") violated the OMA by only permitting certain content in the public comment section of its open session meetings. The complainant expressed concern that the public comment guidelines provided by the chairperson of SPCSB was "viewpoint discrimination" because it restricted negative comments.

The OMA does not require a public body to allow public comment at meetings covered by the statute. SPCSB's Bylaws also do not address public comment. Content of speech permitted by a public body in public session is also not addressed by the OMA. The complaint was dismissed because there was no basis to determine SPCSB violated the OMA. While the OMA ensures that the exceptions to the public's right to view a public body's meetings are narrowly construed, this does not extend to an examination of a public body's policy regarding public comments. As such, I found no OMA violation and dismissed the complaint pursuant to 3 DCMR §10403.1(b). A copy of the Advisory Opinion and complaint have been added to Dropbox.

b. <u>OMA Advisory Opinion – DC Public Charter School Board, #OOG-2025-0003</u>

On July 25, 2025, I issued an Advisory Opinion #OOG-2025-0003, in response to a complaint which alleged that forty-seven Boards of Trustees for District of Columbia Public Charter Schools ("Boards of Trustees") are not in compliance with the OMA, citing one or more acts of non-compliance by each of the forty-seven Boards of Trustees identified by the Complainant. The complaint alleged that the information pertaining to the forty-seven Boards of Trustees meetings was not accessible to the public and the District of Columbia Public Charter School Board (DCPCSB) should articulate standards for all public charter schools to follow when posting information on their websites required to comply with the OMA. This Advisory Opinion addressed the concern that DCPCSB should participate in ensuring OMA compliance. OOG is continuing to investigate the allegations against the 47 schools.

I dismissed the OMA Complaint against DCPCSB and found that the public body did not violate the OMA. DCPCSB does not have an affirmative obligation to ensure OMA compliance; that responsibility rests with OOG. Further, the Complainant's allegation that DCPCSB should ensure universal, easy access to Public Charter School Boards of Trustees' meeting information and provide a board meeting template to be used by DCPCS on their websites does not implicate the OMA and open meetings regulations. The opinion acknowledges District of Columbia Public Charter School Board's effort to assist public bodies with OMA compliance, but acknowledges that it is not obligated to do so and failure to take a particular course of action, as alleged in the complaint, is not an OMA violation. A copy of the Advisory Opinion and complaint have been added to Dropbox.

2. Informal Advice

Since the last Board meeting, OOG has responded informally, via e-mail, telephone, or teleconference to requests for assistance as follows:

11 requests for OMA advice;
10 requests for FOIA advice; and
10 requests for technical assistance with open-dc.gov.

B. Meeting Monitoring

OOG's staff attends public bodies' meetings, in person and remotely, to ensure compliance with the OMA. They also inspect public bodies' websites and OOG's Central Meeting Calendar for public meeting notices and records. OOG's attorneys provide legal advice on OMA compliance and take corrective action, if necessary.

Since the last Board meeting, OOG's legal staff have attended twelve (12) public body meetings. As a result of the monitoring, one corrective measure was communicated. The public body failed to publish a cancellation notice of one of its cancelled meetings pursuant to the Open Meetings Act.

C. Training/Outreach

1. "Commonly Used D.C. FOIA Exemptions and Redaction" Training to D.C. FOIA Officers
On July 16, 2025, Attorney Advisor Joan Lelma presented "Commonly Used D.C. FOIA Exemptions and Redaction" training to D.C. FOIA Officers. This was the first session in OOG's D.C. FOIA Officer's Summer Training Webinar Series. The training covered the most frequently used FOIA exemptions based on the District's annual FOIA report, how to properly apply these FOIA exemptions and redact responsive exempt information in accordance with D.C. FOIA. The training provided key points for preparing response letters to requesters. I, along with OOG's staff, attended the training virtually.

2. 25th Annual Municipal Law Institute – Practicing Law Institute ("PLI")
On July 21, 2025, Attorney Advisor Anthony J Scerbo attended the 25th Annual Municipal Law Institute by the Practicing Law Institute. The attendees were provided with analysis of important developments, emerging legal issues, and best practices for local government lawyers in crucial areas of municipal law, including: a review of what municipal lawyers need to know about cybersecurity and technological developments and threats; exploration of the structure of the brain and how areas of the brain may be associated with specific aspects of negotiation and mediation behavior; updates on the latest Supreme Court developments for municipal lawyers; and how to identify and handle ethical issues that can arise for municipal lawyers.

3. "D.C. FOIA Litigation Update/Recent Records-Access Cases" Training to D.C. FOIA Officers

   On July 23, 2025, Attorney Advisor Brandon Lewis presented "D.C. FOIA Litigation Update/Recent Records-Access Cases," training to D.C. FOIA Officers. This second session in OOG's Summer Training Series covered specific areas of the FOIA litigation process in the District of Columbia and provided an overview of impactful D.C. FOIA cases, and significant extra-jurisdictional cases. The presentation included a review of some of the latest appellate opinions from the Mayor's Office of Legal Counsel ("MOLC") and how to search for them. I, along with OOG's staff, attended the training virtually.

4. Office of the Attorney General ("OAG") for the District of Columbia "Ethics II" Training

   On July 29, 2025, Attorneys Scerbo and Lewis attended "Ethics II" training facilitated by Jeremy Morris, Special Assistant Attorney, Chief Public Corruption Section, and Erica Stillabower, Ethics and Compliance Officer and FOIA Officer, Office of the Attorney General ("OAG").

5. "DC FOIA Best Practices, incl. Process and Responses" Training to D.C. FOIA Officers

   On July 30, 2025, Attorney Scerbo presented from the Summer Training Series, "DC FOIA Best Practices, incl. Process and Responses" to D.C. FOIA Officers. The training covered key areas of focus for FOIA Officers in handling D.C. FOIA requests. I, along with OOG's staff, attended the training virtually.

6. "2025 KnowBe4 Security Awareness Training" Coordinated by Office of the Chief Technology Officer ("OCTO")

   I, along with OOG's staff have completed "2025 KnowBe4 Security Awareness Training" provided by KnowBe4 and coordinated by OCTO. The training included information on how to identify common cyber threats and cyber-safety best practices.

D. Litigation and Legislative Update

1. Litigation

   a. Chicago Justice Project v. District (Case No. 2022-CA-001175-B (D.C. Super. Ct.))

   I previously reported on this case in which the Chicago Justice Project ("CJP") filed suit to compel the Metropolitan Police Department ("MPD") to release certain records concerning the Gang Tracking and Analysis System, in a dispute between an advanced fee that MPD demanded for its FOIA review, and a similar amount that CJP demanded in attorney's fees.

When I last reported on this matter, the parties were negotiating a settlement agreement. At an April 11, 2025, status hearing, the District's Counsel represented that the terms of the settlement agreement had not been met and that the case should remain open. At the May 16, 2025, status hearing, the Court heard representations from the Plaintiff that the case settled in 2023 and that the Plaintiff was working with the District with respect to the materials that the District was producing. The Plaintiff reported that it was working to reach a resolution with the District but stated that there may be cause to file a Motion for *In Camera* Review.

On July 11, 2025, the Plaintiff filed a Motion for *In Camera* Review. In its Motion, Plaintiff asked the Court for an order requiring the District to furnish copies of a representative subset of 37 records currently withheld pursuant to D.C. Official Code § 2-534(a)(3)(A) [investigatory records compiled for law enforcement purposes] to the Court for an *in camera* inspection to determine whether the asserted exemption has been lawfully applied and whether segregable, non-exempt information can and should be disclosed.

The next status hearing is scheduled for August 29, 2025. A copy of the Motion for *In Camera* Review and the Memorandum of Law in Support of Plaintiff's Motion for *In Camera* Review have been added to Dropbox. OOG's staff will continue to monitor.

2. Legislation

   a. Legislative Action regarding the OMA: On June 30, 2025, Council Bill B26-0307, "Open Meetings Clarification Congressional Review Emergency Amendment Act of 2025" was introduced by Chairman Mendelson. It was passed unanimously by voice vote on July 1, 2025, and transmitted to Mayor on July 7, 2025. The Bill was returned from the Mayor on July 15, and on July 18, 2025, Act A26-0110 was published in DC Register (Vol 72 and Page 008018). On July 22, 2025, it was enacted without Mayor's Signature with Act Number A26-0110, and the expiration date is October 20, 2025.

   The Act "amend[s], on an emergency basis, due to congressional review, the Open Meetings Act to clarify the definition of meeting, to provide for a public body's ability to be briefed about potential terrorist or public health threats so long as no official action is taken, to exempt from the act meetings between the Council and the Mayor provided that no official action is taken at such meetings, and to provide that a meeting shall be 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." A copy of the Act has been added to Dropbox.

b. Legislative Action regarding the OMA: As I previously reported, Chairman Mendelson introduced B26-200, the "Open Meetings Clarification Temporary Amendment Act of 2025," which was enacted on June 26, 2025, without the Mayor's Signature, as Act Number A26-0086, and is now in the congressional review period with a projected law date of Sep 16, 2025.

   No additional legislative action has been taken on Utah Senator Mike Lee's U.S. Senate Bill 1450, which was introduced in April and referred to the Senate Committee on Homeland Security and Governmental Affairs. A copy of the Act and U.S. Senate Bill were added to Dropbox before the Board's last meeting.

c. Legislative Action regarding the Boards of Trustees for DC Public Charter Schools: I have previously reported on Bill 26-0062, the "Board of Trustees Training Amendment Act of 2025," introduced by Councilmember Christina Henderson, on January 17, 2025. The Bill would require members of a Board of Trustees of a public charter school to complete training programs on best practices for school board governance, which includes training on the Open Meetings Act. It had its second and final reading on July 1, 2025, and passed unanimously.

   On July 10, 2025, the Bill was transmitted to the Mayor, signed by the Mayor on July 21, 2025, and enacted with Act Number A26-0112. On July 25, 2025, Act A26-0112 was published in DC Register (Vol 72 and Page 008156). On July 29, 2025, it was transmitted to Congress. The projected law date is October 15, 2025. A copy of the Act has been added to Dropbox.

d. Legislative Action regarding a government agency's interpretation of its administering statutes and regulations: For the last two months I have reported on Bill 26-0048, the "Council Review of Agency Action Clarification Amendment Act of 2025," which was introduced by Chairman Mendelson, on Jan. 13, 2025. On June 24, 2025, the Committee of the Whole filed its Committee Report, and on July 1, 2025, Chairman Mendelson introduced an "amendment in the nature of a substitute" concerning the Bill. It passed unanimously on final reading.

   As I informed the Board last month, the Bill codifies agency deference and clarifies that a reviewing court or tribunal shall defer to an agency's reasonable interpretation of a statute or regulation the agency administers, providing that the interpretation is not plainly wrong or inconsistent with the statutory or regulatory language or the Council's intent. The Bill is largely in response to the Supreme Court's decision in *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024).

On July 10, 2025, it was transmitted to the Mayor, signed on July 10, 2025, and enacted with Act Number A26-0111. It was published in DC Register Vol 72 and Page 008154 on July 25, 2025, and transmitted to Congress on July 29, 2025. The projected law date is Oct 15, 2025. A copy of the Act has been added to Dropbox.

e. Legislative Action regarding the Freedom of Information Act: On July 28, 2025, Chairman Mendelson introduced the "Fiscal Year 2026 Budget Support Emergency Act of 2025," B26-0340, which included the "Freedom of Information Clarification Emergency Amendment Act of 2025." This Bill amends DC FOIA to create a new exemption for particular data the Criminal Justice Coordinating Council and District of Columbia Sentencing Commission receives from the "court, federal agency, or federally established agency." The Bill passed by voice vote (10-2) on July 28, 2025. A copy of the Bill is in Dropbox.

E. Administrative

FY26 Proposed Budget: On July 28, 2025, the Council voted to approve the FY26 Budget. The vote included approval of a supplemental budget for 2025. OOG is currently coordinating with the Office of the Chief Financial Officer to close out the FY25 budget and to plan for OOG-related expenses for FY26.

This concludes the Office of Open Government's August 7, 2025, report. I am happy to answer any questions the Board may have.

V. Report by the Director of Government Ethics

Good morning, Chairperson Hutcheson and Members of the Board. I am Ashley Cooks, the Director of Government Ethics. I am pleased to present this report on the activities of the Office of Government Ethics ("OGE").

A. Update on Status of OGE Investigations

The information reported today regarding OGE's cases will not reflect any status changes that may occur because of actions taken by the Board during today's meeting.

OPEN INVESTIGATIONS BY STATUS	
Open	43
Open - Negotiations	0
Open - Show Cause Hearing	1
Grand Total	44

OPEN "UNDOCKETED MATTERS"	
Grand Total	3

PENDING/STAYED INVESTIGATIONS BY STATUS	
Closed - Pending Collection	36
Stayed - Pending DC Superior Court Case	3
Stayed - OAG False Claims Act Case	0
Stayed - OIG Investigation	3
Stayed - US District Court Case	2
Grand Total	44

REGULATORY MATTERS BY STATUS	
Closed - Pending Collection	56
Open	76
Grand Total	132

	Current	Last month	May
Investigations Open	44	44	49
Investigations Stayed	8	8	8

The number of open preliminary and formal investigations includes 10 new matters. The investigative team resolved 10 investigations since the Board last met. This total does not reflect the number of complaints that were dismissed for a lack of jurisdiction.

The Quarterly Complaint Report for Quarter 3 of Fiscal Year 2025 is expected to be published by the end of next week to the BEGA website with a press release and heatmap. We will include copies of each next month in the DropBox.

B. Training/Outreach

1. Professional Development Trainings Attended by Staff

Senior Board Attorney Lynn Tran attended two training courses: Ethics In Focus: The Case Against Michael J. Madigan and the 25th Annual Municipal Law Institute. Attorney Advisor Shannon Monk took Financially Fit DC at Work. Attorney Advisors Maurice Echols and Brenda Keels completed the Office of Attorney General's Ethics II Training. Investigator Tahja Reid took Building a Win-Win Relationship with Your Manager. Auditor Courtney Walker took Allies & Ops In The Workplace. Approximately half of OGE's staff have completed DC Government's annual Cybersecurity Awareness Training.

2. Conducted by staff

Since the last Board meeting, OGE conducted 6 training sessions: the July Quarterly Outside Employment Training, two New Employee Orientation Ethics Segments, the July Quarterly Board & Commissions Training, Outside Employment Training for the DC Child and Family Services Agency, and the July Monthly Brown Bag Session.

On Monday, July 28th, Attorney Advisor Brenda Keels presented the July Ethics Counselor Brown Bag Session titled Nepotism and Conflicts of Interest. Twelve Ethics Counselors attended the session, and a copy of the presentation was placed in the DropBox.

During the month of July, 20 employees completed ethics training using PeopleSoft. The LMS recorded 17 course completions while adding 10 new users. Since the beginning of 2025, the LMS has had 1,449 users complete 2,113 courses. The Training Team has been meeting with LRN to discuss creating new courses and updating existing courses to make them more accessible to users.

3. Outreach

OGE is in the final stages of coordinating Ethics Week 2025! This year's conference will take place on October 14-17, 2025, and will include 2 in person days at the BEGA office and 2 virtual days. This year's theme is "Keeping Government Transparent and Ethical" and includes sessions that are designed to encourage employees to comply with the ethics, open meeting, and FOIA laws. I am sure that this program will garner the same success as previous years. Next week, OGE will issue its bi-monthly newsletter, Ethically Speaking. As always, a copy will be placed in the Dropbox.

C. Advisory Opinions/Advice

1. Informal Advice

OGE's legal staff provided advice for approximately 23 ethics inquiries, which is 7 less than the 30 reported at the July Board meeting. This number does not include responses we have provided to questions regarding the Lobbyist and FDS e-filing systems.

2. Formal Advisory Opinions

OGE has two advisory opinions in the works on Widely Attended Gatherings and an edited Advisory Neighborhood Commissioner Sign-on Letter opinion.

D. Legislation and Rulemaking Updates

~~1.~~ 2026 Budget and Budget Support Act Proposal

On July 28th, the Council approved the FY26 Budget and Budget Support Act. BEGA's proposed FY26 Budget remains the same which includes an increase of $139,131 to align personnel services and fringe benefits and a decrease of that amount in the non-personnel services fund. When first introduced, the Budget

Support Act included language that would have reverted BEGA's special purposes revenue funds to a lapsing account wherein any remaining funds at the end of each fiscal year would be sent to the general fund. However, based on the Committee on Judiciary and Public Safety's recommendation, this language was removed, and BEGA's special purpose revenue funds will remain as non-lapsing accounts.

2. Lobbyist Registration and Reporting

On July 25, OGE finalized a rulemaking that provides technical amendments to the Lobbying Registration and Reporting regulations. Specifically, the amendments change the registration fee and late filing fine amounts to the new fee schedule that was implemented at the beginning of this fiscal year. The amendments also include language that notifies registrants that the best course of action is to file a termination report when they don't intend to engage in lobbying activity.

E. OGE Administrative Matters

1. No updates.

F. Financial Disclosure Statement (FDS)

Pursuant to D.C. Official Code §§ 1-1162.24 and 1-1162.25, public officials and certain government employees must file a financial disclosure statement as a means of transparency and to prevent engaging in conduct that violates the financial conflicts of interest statute. BEGA is responsible for ensuring that employees and public officials, who meet the statutory requirement, file their annual financial disclosure statement.

The 2025 Financial Disclosure season has closed, and the FDS filing deadline was May 15th. OGE opened the season with 10,147 names in the e-filing system. Nearly all agencies have submitted FDRRs with addendums. Staff reviewed documents and adjusted the total number of designated filers to 9,603 filers. With the adjusted numbers, the 2025 FDS season had an overall completion rate of 92%. The next step is to finalize the enforcement list and send fine letters to non and late filers.

G. Lobbying Registration and Reporting (LRR)

Pursuant to D.C. Official Code § 1–1162.27(a), a person who receives compensation or expends funds in an amount of $250 or more in any 3-consecutive-calendar-month period for lobbying shall register with the Director of Government Ethics and pay the required registration fee. According to D.C. Official Code § 1–1162.30, each registrant shall file a quarterly report concerning the registrant's lobbying activities during the previous quarter.

The 2nd Quarter Reporting deadline was July 15, and notices were sent on June 16th and June 30th. In response to the deadline, 459 activity reports were filed using the

e-filing system. Additionally, staff responded to 36 support tickets as well as several phone inquiries. Enforcement first quarter is underway, and fine letters were sent on July 31st. The 2nd Quarter Report was generated and is being reviewed. Additionally, staff identified 51 lobbyists and clients needing complete registration filing. Letters went out to them on July 30th. Program Coordinator Stan Kosick has been meeting with these registrants to gain compliance.

H. <u>Public Investigations</u>

1. 24-0016-F and 25-0002-F In re Trayon White – These are formal investigations based on: (1) the criminal indictment in which Respondent, Council member for Ward 8, alleged agreed to receive $156,000 in bribes and accepted $35,000 in cash from a business owner in exchange for assisting with renewing the company's violence-interruption contracts with the D.C. government; and (2) allegations that the Respondent violated the Code of Conduct by failing to file a full and complete public financial disclosure statements pursuant to D.C. Official Code § 1–1162.24. Investigation 24-0016-F is stayed pending the outcome of the criminal court case, which is scheduled for trial on January 12, 2026. Last month, the Board issued a Notice of Violation in 25-0002-F based on Respondent's failure to file financial disclosure statements for November 2024 and May 2025.

Thank you. This concludes the Office of Government Ethics' August 7, 2025, report.

VI. Public Comment

There were no public comments.

VII. Executive Session (nonpublic)

The Board voted unanimously to enter into Executive Session to discuss ongoing, confidential investigations pursuant to D.C. Official Code § 2-575(b)(14), to consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body pursuant to D.C. Official Code § 2-575(b)(4)(A), to discuss personnel matters including the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials pursuant to D.C. Official Code § 2-575(b)(10), and to deliberate on a decision in which the Ethics Board will exercise quasi-judicial functions pursuant to D.C. Official Code § 2-575(b)(13).

VIII. Resumption of Public Meeting

The meeting resumed at 11:10 a.m.

The Board approved a Notice of Violation in **24-0007-F In re Marc Davis**.

The Board approved a Notice of Hearing and Scheduling Order in **25-0002-F In re Trayon White**.

The Board will meet next on September 11, 2025 at 10:00 a.m.

The meeting adjourned at 11:11 a.m.