



Board of Ethics and  
Government Accountability

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# 2014 Best Practices Report

Office of Open Government Report (Excerpt)

December 31, 2014

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## Introduction

The Board of Ethics and Government Accountability (BEGA or Ethics Board) was established in 2012 to perform several core functions, including administering and enforcing the Code of Conduct.<sup>1</sup> The Ethics Board also is responsible for appointing the Director of the Office of Open Government (OOG).<sup>2</sup> The mission of the OOG, an independent office within BEGA, is to ensure that government operations at every level are transparent, open to the public, and promote civic engagement. Operationally, the OOG ensures greater government transparency through enforcement of the Open Meetings Act (OMA) and the Freedom of Information Act (FOIA).<sup>3</sup>

Over the past year, BEGA has continued to accomplish its mission by investigating and enforcing Code of Conduct violations and by conducting general and specialized training sessions for District government employees and public officials; it has also produced training materials, including, in particular, an updated Ethics Manual,<sup>4</sup> and has given advice, both informally and in formal written advisory opinions.<sup>5</sup> The

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<sup>1</sup> See section 202(a)(1) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011 (Ethics Act), effective April 27, 2012, D.C. Law 19-124, D.C. Official Code § 1-1162.02(a)(1). The Code of Conduct is defined in section 101(7) of the Ethics Act (D.C. Official Code § 1-1161.01(7)).

<sup>2</sup> See section 202(a)(2) of the Ethics Act (D.C. Official Code § 1-1162.02(a)(2)).

<sup>3</sup> OMA is codified at D.C. Official Code § 2-571 *et seq.*, and FOIA is codified at D.C. Official Code § 2-531 *et seq.* Visit <http://www.bega-dc.gov/office-open-government> for more information about OOG's mission and responsibilities.

<sup>4</sup> The Ethics Manual can be accessed at <http://www.bega-dc.gov/sites/default/files/documents/Ethics Manual-11.1.14.pdf>.

<sup>5</sup> Section 219 of the Ethics Act (D.C. Official Code § 1-1162.19) authorizes the Director of Government Ethics to issue an advisory opinion to a District government employee or public official who requests advice, as well as to issue an advisory opinion, on his or her own initiative, "on any general question of law he or she considers of sufficient public importance concerning a

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experience gained from those efforts, coupled with insights gained from attending outside trainings, has prepared BEGA well to meet another of its principal responsibilities – conducting an annual assessment of ethical standards for public employees and officials, including a review of national best practices of government ethics, and presenting recommendations for amending the Code of Conduct.<sup>6</sup>

The Ethics Board is required by the Ethics Act to include recommendations regarding seven specific questions in the annual assessment. Those questions are 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. The Ethics Board may also make recommendations on any other matters it deems appropriate.

With this report, the Ethics Board will again address the seven specific questions. However, as explained in certain sections below, lessons learned from another year of operations compel the Board to repeat a number of the recommendations made in its last Best Practices Report, in addition to making new recommendations. One of the new recommendations, in fact, is for the Council to relieve the Board from having to address the same seven questions in each of its annual reports and, instead, to authorize a more general commentary on best practices in government ethics.

The OOG will also provide in this report its recommendations on best practices to make District government operations more transparent and accessible.

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provision of the Code of Conduct over which the Ethics Board has primary jurisdiction.” All of these opinions can be accessed <http://www.bega-dc.gov/documents/advisory-opinions>.

<sup>6</sup> See section 202(b) of the Ethics Act (D.C. Official Code § 1-1162.02(b)).

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In preparation for this report, BEGA staff conducted research and reached out to government ethics experts and organizations, relevant District government officials, and the general public for advice and input. On October 22, 2014, the Ethics Board held a symposium, “Keeping Government Accountable: Ethics and Open Government Considerations for Leaders and Citizens,” which featured a panel discussion moderated by Dean Katherine Broderick of the David A. Clarke School of Law.<sup>7</sup> In addition to Darrin Sobin, the Director of Government Ethics, and Traci Hughes, the Director of the Office of Open Government, the panelists included Mark Davies, Executive Director of New York City’s Conflicts of Interest Board, and Waldo Jaquith, Director of U.S. Open Data Institute. Members of the public also participated, including several who presented their views orally or in writing.<sup>8</sup>

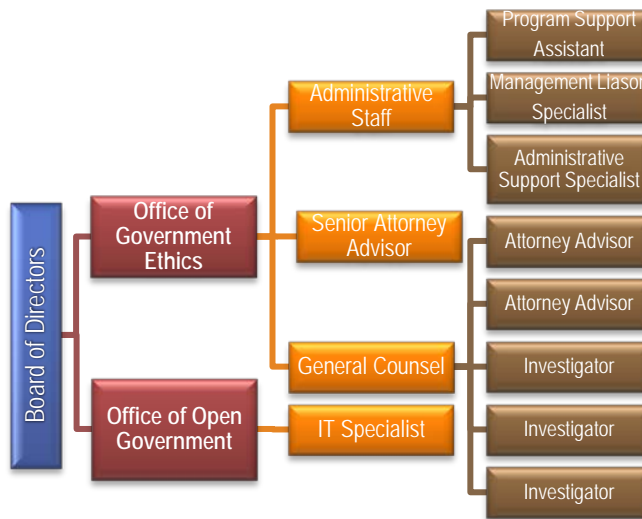
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<sup>7</sup> The Board wishes to thank Dean Broderick and her staff for hosting the event.

<sup>8</sup> Visit <http://www.bega-dc.gov/meetings-and-events/bega-meeting/bega-best-practices-symposium> for a video of the symposium and copies of the written statements that were submitted.

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What follows is the Ethics Board’s assessment of the seven specific questions, along with its recommendations and those of the OOG, for legislative or programmatic action.<sup>9</sup>



The **Office of Government Ethics** is an office within BEGA that investigates allegations of ethical misconduct concerning District government employees and officials. The OGE has authority over the District government’s workforce of approximately 34,000 employees, including ethics oversight of the Mayor and the Council.

The **Office of Open Government** is an independent office under the Board of Ethics and Government Accountability. The OOG advises District Government on transparency and open government policies. It ensures more than 2,000 Boards and Commissions members and the Council comply with the Open Meetings Act; and that District Government Agencies are complying with the Freedom of Information Act.

<sup>9</sup> The Board also wishes to note with appreciation that a number of the recommendations made in its earlier Best Practices Reports are reflected in the Comprehensive Code of Conduct and BEGA Amendment Act of 2014 (BEGA Amendment Act), effective July 15, 2014 (D.C. Law 20-122; 61 DCR 8246). Discussion of the new law is contained in relevant sections of the text below.

## Recommendations of the Office of Open Government

Significant steps have been taken over the last year to make District government more transparent and accessible to the public in ways that are in tune with technology and the 24-hours-a-day expectation of access to information. There is, however, much work to be done as the District begins to shift its focus on disclosure from a baseline assumption that government records are not to be released until proven otherwise, to the acknowledgement that there is a fundamental utility to agencies and the government as a whole to provide information proactively. If the OOG is to fulfill its mission, the Executive Office of the Mayor must afford the OOG a greater role in recommending and implementing open government and transparency mandates. Below are the recommendations of the OOG on best practices, as the District looks toward mandating open government protocols and implementing public records systems that are interoperable, efficient, and user-friendly.

### **Open Data and Transparency Legislation is Critical to Sustained Progress on Open Government**

On October 25, ~~2013~~ 2014, Mayor Gray announced his intention to implement the Transparency and Open Government Initiative. The result was Mayor's Order 2014-170, [Transparency, Open Government and Open Data Directive](#) (hereinafter "Directive"), which spurred the re-launch of the [data.dc.gov](http://data.dc.gov) website. The site now includes nearly 600 District government datasets and some 1,500 federal datasets in machine-readable formats, including JavaScript Object Notation, Extensible Markup Language, Comma-Separated Values (CSV), and Geographic Information Systems JASON.<sup>10</sup>

The continued publication of datasets is critical to overall transparency, agency accountability, government efficiency, and government responsiveness. The revamped

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<sup>10</sup> The data now offered on [data.dc.gov](http://data.dc.gov) is made available to the public free of licensing and copyright restrictions. Any proposed legislation must hold true to the [Creative Commons](#) standard, allowing users to access, build upon and modify District government data.

data portal and the issuance of the Directive represent a remarkable leap since the [OOG's recommendations](#)<sup>11</sup> one year ago. However, now that the Office of the Chief Technology Officer (OCTO) has identified some bulk data, and provides Application Programming Interfaces allowing users to search, retrieve, or submit information directly from online databases, the policy mandated under the Directive must now be committed to legislation.

The publication, maintenance, and archival of data must be clearly set out in a permanent measure so as not to leave any discretion among the Executive and the subordinate and independent agencies that the default is indeed set to open. Additionally, the legislation<sup>12</sup> must include a means of archival and retention of data<sup>13</sup>

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<sup>11</sup> The OOG recommended in last year's Best Practices Report that the District implement a comprehensive citywide open data and transparency policy consistent with that of the federal government requiring all agencies to publish data in machine-readable formats.

<sup>12</sup> The District need not re-invent the wheel. There are numerous examples from jurisdictions, both near and far, which have adopted open data legislation.

The State of Illinois adopted in March, 2014, the [Open Operating Standard Act \(H.B. 1040\)](#), requiring agencies to inventory data sets; establish maintenance guidelines; and to publish a technical standards manual identifying the reasons for the selection of each technical standard and the types of data for which each is applicable.

The State of Maryland adopted in May, 2014, the [Open Data Policy – Council on Open Data \(S.B. 644\)](#), requiring data to be published in machine-readable formats and establishing a Council on Open Data to recommend guidelines for publishing data. The [Montgomery County Government Open Data Implementation Plan](#) is highly instructive, and provides processes that may be memorialized in legislation submitted to the Council for its approval.

The State of Washington adopted in February 2014, [H.B. 2202](#), establishing an open data policy requiring agencies to publish data in a single portal; establish a timeline for publishing data; include in compliance plans the reasons why certain data may not be made available and steps to be taken to publish the data; description of agency changes to source data, and notations regarding why the data was modified.

In effect for nearly three years, the city of New York adopted in February 2012, [Local Law 11 of 2012 – Publishing Open Data](#), requiring the adoption of technical standards for publishing data; agency compliance plans to include an inventory of data for publication; and an explanation of

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and address protocols for inter-agency and intra-agency access to restricted data.<sup>14</sup> Accordingly, the OOG recommends that legislation (1) memorialize the policy set out in the Directive; (2) require agencies to submit full inventories of data; (3) create a process for ensuring data quality; (4) require all published data to be made available to the public free of licensing restrictions; (5) create a process for ensuring data quality and requiring public notice when data is modified; (6) define clearly the means by which the legislation will be regulated; (7) establish criteria for inter-agency and intra-agency sharing of data through memoranda of understanding; and (8) ensure agency document retention schedules are properly modified to include agency data and the archival of agency data.<sup>15</sup>

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why certain datasets may not be published.

See <http://sunlightfoundation.com/policy/opendatamap/> for a more exhaustive list of open data legislation and policies currently in place at state, local, and municipal levels.

<sup>13</sup> As the District contemplates open government legislation, it must also ensure that open data mandates are included in agency document retention schedules. See 1 DCMR § 1508 (Disposition of Public Records). Document retention schedules must address documents maintained in hard, electronic, and data formats. Data formats should be reviewed every two years to ensure maintenance schedules correspond with data publication and technical standards. Additionally, documents currently maintained by agencies in hard copy must be properly archived and digitized.

<sup>14</sup> The OOG does not recommend that all data be made available. Restricted data encompasses the body of records maintained by an agency, but may be exempt from disclosure under D.C. Official Code § 2-534. Open government legislation must align with FOIA allowing for expansive disclosure, while aiming to protect from release personal identifying information and other records that are exempt under FOIA.

<sup>15</sup> See The LOCKSS (Lots of Copies Keep Stuff Safe) Program. The program is based at Stanford University Libraries and provides low-cost, open source tools to preserve digital content. The Directive established the Mayor's Open Government Advisory Group to make recommendations on transparency and Open Government. The Advisory Group should be broadened to include the executive director of the D.C. Public Library.

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## Participatory Budgeting

The District government should seize the opportunity for complete engagement by including in open government legislation a requirement that the city also adopt Participatory Budgeting (PB). PB has been proven to increase transparency, promote greater civic engagement, and build trust in government and the services it provides. Although there have been recent efforts to make the city's budget process more transparent,<sup>16</sup> there are no mechanisms (other than an opportunity for public testimony) in place for involving District residents in the decision-making process of public budgeting. Additionally, and perhaps most importantly, the budget itself is tremendously difficult to navigate and understand in its current structure. The budget is very difficult to review because it is contained in a completely static document and, as such, represents the antithesis of a machine-readable and searchable record.

The OOG recognizes that moving beyond institutional inhibitions about fiscal transparency to complete public engagement through PB is a monumental vault. However, the District has a wealth of resources<sup>17</sup> upon which to rely to shine a brighter light on its budget so that tax dollars are more efficiently distributed and spent. The budget is fodder for possible new collaborations with organizations that are right in the District's backyard – the DC Fiscal Policy Institute, the World Bank Group, and the Center for Data Innovation – to name a few. Ultimately, better budgeting data will lead

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<sup>16</sup> In 2011, District government agencies followed a “division-based” budget structure to submit agency financials. The reporting required more detailed information on spending, tying budget allocations to performance management. Agency fiscal and performance overviews are found on [Track DC](#), but do not provide a means for significant public engagement on where public funds are allocated.

<sup>17</sup> In 2011, New York City began a PB process allowing residents a say in the allocation of capital discretionary funds. Since then, PB has been extended to 24 districts, giving residents the decision-making power of nearly \$25 million toward locally developed projects, proposals, and initiatives. See <http://pbnyc.org/>. In 2013, San Francisco launched a pilot program allowing residents in District 3 the ability to decide how to spend \$100,000 in discretionary funds. PB has now been extended to Districts 7 and 10. See <http://www.sfpb.net/>.

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to better management of resources and a government that is truly responsive to its citizenry.

### **Demystify the Data**

The collection and release of data is more than the mere reduction of data to zeroes and ones and colorful graphic displays. Data is the collection of agency, city, neighborhood, and community information that should be used not only to promote transparency, but to be of equal value to agency personnel to aid in better decision making and policy implementation. Personnel should be properly trained on how to analyze the data generated by their respective agencies. Further, for the larger data mining tasks, the District would do well to incorporate into its transparency program an Analytics Division at the mayoral level and charge the unit with mining large data sets with the aim of improving city services.<sup>18</sup>

### **The Freedom of Information Act**

On July 21, 2014, the Executive Office of the Mayor launched FOIAXpress – the city’s first central web portal for submitting, processing, and supplying documents in response to FOIA requests. Currently, 65 agencies have licenses to use FOIAXpress.<sup>19</sup> The OOG recommends that all agencies, both subordinate and independent, be required to process all FOIA requests through the FOIAXpress portal and that proper budget allocations be made to procure the licenses. Those agencies which process a small number of requests will have the ability to share concurrent licensing with other similarly situated agencies to reduce costs. As the OOG oversees compliance with FOIA, the OOG recommends that, as discussed below, the Mayor

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<sup>18</sup> See Data for Better State and Local Policymaking, available at <http://www.datainnovation.org/2014/12/data-for-better-state-and-local-policymaking/>.

<sup>19</sup> The Executive Office of the Mayor indicated licenses were procured for those agencies that process 10 or more FOIA requests per year. The numbers of requests were gleaned from the FY 2013 Agency FOIA Reports.

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delegate the administration of FOIAXpress to the OOG<sup>20</sup> and allow it to work directly with FOIA officers on use of the system and to pair non-licensed agencies in a manner that is efficient for agencies and makes sense to the public.

Further, the OOG recommends that D.C. Official Code § 2-531 be amended to require all agencies to process all FOIA requests through the FOIAXpress portal, and that all documents provided in response to requests be made available through the Public Access Library (PAL) – provided that all documents are properly scrubbed for confidential and/or other personally identifying information. Such proactive disclosure should be consistently reviewed as part of agency record management systems.<sup>21</sup>

### **FOIA Annual Reporting Should Be Administered Through the Office of Open Government**

Annual reporting, as mandated under D.C. Official Code § 2-538, is administered by the Office of the Secretary (OS). The OS has no input or oversight over FOIA, other than to call for yearly agency reports,<sup>22</sup> which responsibility was established when FOIA requests were processed by the General Council to the Mayor over a decade ago. As the OOG Director serves as the city's FOIA officer and provides advice on compliance with the measure, reporting should be submitted through the OOG.<sup>23</sup> Further, now that FOIAXpress is in place, reporting is automated, and no longer requires agencies to undergo the multi-step process imposed by the current reporting

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<sup>20</sup> See D.C. Official Code § 1-204.22(6).

<sup>21</sup> The latest amendment to 1 DCMR § 408 (fees) was published in 2005, and it did not contemplate electronic production of records. Also, the regulation itself does not address the production of video, audio, and other similar formats. The regulation should, then, be amended to incorporate electronic processing and various file extensions (*i.e.*, .pdf, .wav, .docx, .xml, .csv). The amended language also should correspond with publication criteria in PAL and reflect that, when hard copies are provided, fees should meet current reasonable copy rates.

<sup>22</sup> The FOIA Litigation Report (prepared by the Office of the Attorney General) and the Appeal Log (prepared by the Mayor's General Counsel) are also required to be submitted with individual agency reports.

<sup>23</sup> This is also a matter that may be easily delegated by the Mayor pursuant to D.C. Official Code § 1-204.22(6).

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structure.<sup>24</sup> The OOG also recommends that the contract with the vendor for FOIAXpress be reviewed, and amended if necessary, to ensure the District's specific reporting structure may be generated, rather than a duplication of federal exemptions which do not in all instances mirror the District's FOIA.

### **Process for Appeals and Mediation of FOIA Disputes**

The OOG recommends that the Mayor delegate administrative appeals authority to the OOG to review the public record to determine whether it may be withheld under FOIA.<sup>25</sup> Such delegation of authority is legally permissible under D.C. Official Code § 1-204.22(6): "The Mayor may delegate any of his functions...to any officer, employee, or agency of the executive Office of the Mayor, or to any director of an executive department who may, with the approval of the Mayor, make a further delegation of all or part of such functions to subordinates under his jurisdiction." Authority over administrative appeals has been delegated to the General Counsel, but is now misplaced, as the OOG, pursuant to D.C. Official Code § 2-593, is required to ensure compliance and issues advisory opinions on implementation of FOIA.

Currently, there is no formal process by which the OOG may mediate FOIA disputes. D.C. Official Code § 2-593(c) allows the OOG to issue advisory opinions, but there is no language in the statute that gives either binding effect to the opinions or directs parties to follow an established process to seek formal opinions.

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<sup>24</sup> The reporting form is created by OCTO; the OS calls for agency reports; the data is compiled and aggregated by the OS; the OS submits the report to the Council; the OS posts online agency reporting numbers. The technology the District has available through FOIAXpress eliminates the need for such a prolonged process. The number of FOIA requests processed by an agency, the exemptions applied, and the fees collected may now be generated as often as needed.

<sup>25</sup> See D.C. Official Code § 2-537(a).

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In the federal government, the Office of Government Information Services (OGIS) has the authority to arrange mediation to resolve FOIA disputes,<sup>26</sup> but only in the process of drafting procedures for issuing advisory opinions. Mediation proceedings are conducted in accordance with Administrative Dispute Resolution Act (ADR) guidelines, but OGIS affirmatively acknowledges that reduction in FOIA litigation must first begin with changing the internal processes among federal agencies by encouraging open lines of communication among FOIA officers and staff,<sup>27</sup> agency counsel, and ADR professionals when responding to FOIA requests and by proactively interacting with requestors.<sup>28</sup>

In some states, dispute resolution and the issuance of advisory opinions are regulated by statute. For example, in Connecticut, the Freedom of Information Commission has authority to resolve FOIA disputes in formal contested hearings.<sup>29</sup> In Illinois, Public Access Counselors in the Office of the Attorney General resolve disputes.<sup>30</sup>

In fiscal year 2013, 6,143 FOIA requests were made of District government agencies. Of that number, there were 84 administrative appeals and 37 reported lawsuits – 23 of which were from the same plaintiff.<sup>31</sup> Such a small percentage of lawsuits does not warrant a formal mediation process, but does call for the option of

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<sup>26</sup> See <https://ogis.archives.gov/about-ogis/ogis-procedures.htm>.

<sup>27</sup> This is now feasible with the implementation of FOIAXpress. Agencies can collaborate and review documents within the processing system and may determine right away if a requestor has submitted the same and/or similar requests to multiple District government agencies.

<sup>28</sup> See [OGIS Recommendations to Improve the FOIA Process](#).

<sup>29</sup> See Conn. Gen. Stat. § 1-205(d).

<sup>30</sup> Public Access Counselors may choose to resolve a request for review by mediation, or by means other than issuance of a binding opinion. Should an agency be found to violate the Act, it may seek administrative review by the court. See 5 Ill. Comp. Stat. §§ 140/9.5(f) and /11.5.

<sup>31</sup> See [Office of the Attorney General Fiscal Year 2013 FOIA Litigation Report](#). The litigation cost to the District was \$122,169.93.

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having requesters lodge an administrative appeal with the OOG and for that process to be clearly defined as part of the OOG's enforcement authority. The issuance of any opinions should be binding and offer safe harbor to an agency, as is the case for opinions provided by BEGA.<sup>32</sup> Considering that the volume of administrative FOIA appeals is relatively large compared to the number of contested ethics hearings conducted to date by the Ethics Board, it is not the OOG's recommendation that procedures for contesting hearings to resolve FOIA matters be undertaken at this time.

### **Amendments to the Open Meetings Act**

To date, the BEGA website houses the only central repository of boards and commissions meeting dates, agendas, and administrative materials – including audio and video files. The site was developed to provide all boards and commissions with the ability to upload all documents easily and within the time constraints imposed by the OMA.<sup>33</sup> Prior to the site being launched in January 2014, many boards and commissions were not in compliance with the OMA because they did not have the proper administrative support. Because of the lack of technical support, or no web presence at all, many public bodies were running afoul of the OMA by failing to timely post meeting notices, agendas, and meeting minutes.

The BEGA central calendar eliminates the barriers to compliance, as points of contact within public bodies have administrative access to the site to publish meeting information<sup>34</sup> without being required to submit a formal request through their governing agency. Although some boards and commissions are posting information to the central calendar, posting is not mandatory. The majority of public bodies listed on the website has listed yearly meetings, but has failed to post agendas, meeting minutes,

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<sup>32</sup> See section 219(d) of the Ethics Act (D.C. Official Code § 1-1162.19(d)).

<sup>33</sup> D.C. Official Code § 2-578(b)(1) requires meeting minutes of public bodies to be made available for public inspection within three days upon the conclusion of a meeting.

<sup>34</sup> This is possible because the BEGA site is maintained independently of OCTO. The OOG provides direct technical support to boards and commissions.

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and administrative materials. Just as the publication in the District of Columbia Register of public body yearly calendars is required in the OMA,<sup>35</sup> it also must be a mandatory provision under the OMA that boards and commissions publish all meeting dates, agendas, and administrative materials to the central calendar.<sup>36</sup>

### **Advisory Neighborhood Commissions Should Be Included Under the OMA**

The policy of the District leans heavily in favor of full transparency. The operative intent of the OMA is that the public is entitled to know what decisions are being made in the interest of residents by District government employees and elected officials who are in a position to consider, conduct, or advise on District government matters.<sup>37</sup>

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<sup>35</sup> See D.C. Official Code § 2-576(3).

<sup>36</sup> Additionally, points of contact and directors of all listed public bodies have the option of making their profiles on the BEGA site as detailed or as scant as they choose. Users may include in their profiles their work, educational, and biographical history. Of the 154 public bodies currently listed on the site, only 28 boards and commissions routinely post to the central calendar.

Also, the site links to all enabling statutes for the listed boards and commissions. The enabling statutes that are on the site are the result of the partnership between the OOG and the OpenGov Foundation's DC Decoded. DC Decoded makes District municipal regulations user-friendly. Visitors searching the site may easily navigate the statutes, get inline definitions of the language used, download, and share the law without being limited by copyright restrictions. DC Decoded is more than just a series of links to static PDFs or basic Word documents. Posting the statutes in this way is giving the public greater access to our laws and prompting more robust citizen engagement with public bodies and our government as a whole.

<sup>37</sup> See D.C. Official Code § 2-572 ("The public policy of the District is that all persons are entitled to full and complete information regarding the affairs of government and the actions of those who represent them."). The same statement of policy is reiterated in FOIA (see D.C. Official Code § 2-531) and in Mayor's Memorandum 2011-1.

The District has long-recognized the important role ANCs play in the operation of city government. See, e.g., 10-A DCMR § 2507.1 (noting that ANCs "provide a unique forum for seeking local input and expressing priorities on a range of land use issues").

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However, OMA specifically exempts ANCs from its requirements,<sup>38</sup> even though they are elected by the public to consider and offer advice on District business.<sup>39</sup> ANCs are not considered “public bodies” under the OMA and, therefore, are not bound to properly and timely notice meetings, post agendas, and supply meeting minutes to the public. While ANCs are required under a separate statute to conduct open and transparent meetings,<sup>40</sup> compliance is mixed. Both the ANCs and the public are confused about which statutory provisions mandate transparency and mistakenly (although understandably) assume the applicability of the OMA.<sup>41</sup>

It is also common for members of the public, and even fellow ANCs, to submit multiple FOIA requests for meeting minutes and agendas, when, by law, the documents should be made available upon request.<sup>42</sup>

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<sup>38</sup> See D.C. Official Code § 2-574(3)(F).

<sup>39</sup> The ANC website describes the ANCs’ role, in part, as follows: “The ANCs are the *body of government* [emphasis added] with the closest official ties to the people in a neighborhood. The ANCs present their positions and recommendations on issues to various District government agencies, the Executive Branch, and the Council.” See <http://dccouncil.us/offices/office-of-the-advisory-neighborhood-commissions>.

<sup>40</sup> See D.C. Official Code § 1-309.11(c) (providing that “[e]ach Commission shall give notice of all meetings or convocations to each Commissioner, individuals with official business before the Commission, and residents of the Commission area no less than 7 days prior to the date of such meeting. Shorter notice may be given in the case of an emergency or for other good cause. Notice of regular and emergency meetings must include, but is not limited to, at least 2 of certain means of posting or publishing notice.”).

<sup>41</sup> See September 20, 2014 Committee on Government Operations Hearing on B20-0471 – The Advisory Neighborhood Commissions Transparency Amendment Act of 2013 at <http://lims.dccouncil.us/Legislation/B20-0471?FromSearchResults=true>. The Act was introduced by Councilmembers Cheh and Grosso to make ANC and Boards and Commissions information easily accessible. See also the full written testimony of Traci L. Hughes, Director of the Office of Open Government.

<sup>42</sup> D.C. Official Code § 1-207.42 provides as follows:

- (a) All meetings (including hearings) of any department, agency, board, or commission of the District government, including meetings of the Council of the District of Columbia, at which official action of any kind is taken shall
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Bringing ANC's under the umbrella of the OMA will eliminate confusion over which meetings are public and which discussions may be had in closed session. It would also lead to better enforcement and ensure that all ANC's are complying with open government mandates and policies. Further, until such time that the ANC's are required to comply with the OMA, all ANC's should be required to be trained by the OOG on compliance with D.C. Official Code §§ 1-207.42 and 1-309.11, inasmuch as those statutes fall squarely within the OOG's mission.

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be open to the public. No resolution, rule, act, regulation, or other official action shall be effective unless taken, made or enacted at such meeting.

(b) A written transcript or transcription shall be kept for all such meetings and shall be made available to the public during normal business hours of the District government. Copies of such written transcripts or copies of such transcriptions shall be available, upon request, to the public at reasonable cost.

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