

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY
OFFICE OF OPEN GOVERNMENT



July 21, 2016

VIA ELECTRONIC MAIL

Ms. Hanseul Kang
Superintendent
Office of the State Superintendent of Education
810 First Street, NE
Ninth Floor
Washington, DC 20002
hanseul.kang@dc.gov

RE: #OOG-0006_6.28.16_AO

Dear Superintendent Kang:

On June 28, 2016, the Office of Open Government (OOG) electronically transmitted to your attention the complaint it received from Mr. Fritz Mulhauser, alleging the Office of the State Superintendent of Education (OSSE) convened a meeting of a working group or task force to review the uniform per-pupil school funding formula in violation of the Open Meetings Act (OMA) (D.C. Official Code §§ 2-571 *et seq.* (2016)).

Only July 15, 2016,¹ the OOG submitted to your attention an opinion and demand letter advising OSSE of the OOG's review of records found online detailing the history of the Uniform Per Pupil Student Funding Formula Working Group (UPSFF), and requesting that OSSE comply with OOG's request for *[a]ny and all records pertaining to the UPSFF and its formation from January 1, 2016, to present; all UPSFF meeting minutes, agendas, recordings; a final list of UPSFF Working Group members and their respective agencies or professional affiliations.*

Only July 15, 2016, OSSE Chief of Staff, Shana Young, provided to the OOG the following:

- A copy of the enabling statute governing the UPSFF, D.C. Official Code § 38-2911
- A link to a listing of all UPSFF meeting dates on the OSSE website: <http://osse.dc.gov/release/osse-convenes-uniform-student-funding-formula-upsff-working-group>
- February 24, 2016, letter to Councilmember David Grosso from Superintendent Kang seeking a one year extension to submit to the Council a report that reviews the Uniform Per Student Funding Formula

¹ Opinion of OOG Director Traci Hughes, issued July 15, 2016. http://www.open-dc.gov/sites/default/files/7%2015%2016_OOG-0006_OSSE_OPINION%20DEMAND%20LETTER%20%28Executed%20Kang%29.pdf

- February 29, 2016, letter to Superintendent Kang from Councilmember David Grosso acknowledging receipt of the extension request, and notifying OSSE that the extension is granted to supply the report no later than January 30, 2017
- Draft meeting minutes of the June 29, 2016, UPSFF meeting
- Presentation deck dated June 29, 2016, setting out the agenda for the June 29, 2016, meeting; the scope of the UPSFF; the history and background of the UPSFF and adequacy study; and upcoming meetings
- UPSFF Working Group Overview, containing the list of members and their agencies and affiliations; and upcoming meeting dates

The OOG finds that OSSE has complied with the demand for records. A review of the records support the OOG's July 15, 2016, finding² that the UPSFF is a public body bound by the requirements of the OMA. (D.C. Official Code §§ 2-571 *et seq.* (2016)), and that the July 15, 2016 opinion is binding.

Accordingly, the UPSFF is directed to promptly publish the draft meeting minutes of the June 29, 2016, meeting, as publication on the OSSE website is required within three business days upon the conclusion of the meeting.³ Further, all members of the UPSFF working group must be trained by the OOG on the requirements of the OMA by August 30, 2016.

The OOG encourages the UPSFF to publish all meeting dates, agendas, recordings and administrative materials on the OOG Central Calendar of public body meeting dates found here: <http://www.open-dc.gov/public-bodies/meetings>. Although publication on the calendar is not mandatory, its use by public bodies is endorsed by the administration, and allows for the OOG's continued monitoring of compliance with the provisions of the OMA.

Please feel free to contact me at (202) 481-3406 or OOG Attorney Advisory, Johnnie Barton, at (202) 741-5373 to arrange the training.

Sincerely



TRACI L. HUGHES, ESQ.
Director, Office of Open Government
Board of Ethics and Government Accountability

cc: Ms. Shana Young, Chief of Staff

² Id.

³ D.C. Official Code § 2-578 requires meeting minutes to be made available for public inspection no later than three business days upon the conclusion of the meeting. The OOG acknowledges that the process of drafting, approving and posting of final meetings minutes within such a short timeframe is impractical. Therefore, it is the standing advice of the OOG to all public bodies that draft meeting minutes may be published to the website within three business days. Draft meeting minutes must clearly state in the heading of the document that the minutes are in draft form, and that detailed meeting minutes will be published on the next meeting date.