

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY
GOVERNMENT OF THE DISTRICT OF COLUMBIA



March 14, 2022

VIA ELECTRONIC MAIL

[REDACTED]

Washington, D.C. [REDACTED]

[REDACTED]@ [REDACTED]

RE: Resolution of Complaint on Whether A Committee of the Council of the District of Columbia, when comprised of less than a quorum of the Council is a public body subject to the Open Meetings Act (#OOG-2022-0002-M)

Dear [REDACTED]:

On February 16, 2022, the Board of Ethics and Government Accountability received your complaint. The allegations include whether your right to recently testify before a Committee of the Council of the District of Columbia ("Committee") was violated. Before the Office of Open Government ("OOG") may address alleged violations of the Open Meetings Act ("OMA"),¹ it must establish that the entity is subject to the act's provisions.

Under the OMA, the Council of the District of Columbia ("Council") is a public body. However, the OMA does not regulate gatherings that consist of less than a quorum of the whole public body. In this case, the Committee is comprised of no more than six members. A quorum of the Council is seven members. Therefore, as discussed fully below, I am dismissing your complaint.

Pursuant to 3 DCMR § 10400 *et seq.*, to assess your complaint I reviewed the following: (1) the posted recording of the relevant session;² (2) the Council's rules and enabling provisions of the District Charter;³ (3) Sections 601 and 602 of Article VI of the Committee's Rules of Organization and Procedure;⁴ and (5) the OMA's legislative history.

The public policy underlying the OMA "is that all persons are entitled to full and complete information regarding the affairs of government and the actions of those who represent them."⁵ The OMA further provides that it "shall be construed broadly to maximize public access to meetings."⁶

¹ D.C. Official Code § 2-571 *et seq.*

² [Committee on the Judiciary & Public Safety, Performance Oversight Hearing Part \(1\), Charles Allen, Chairperson - Feb 9, 2022 \(granicus.com\)](#).

³ See, e.g., [Part A. The Council | D.C. Law Library \(dccouncil.us\)](#); D.C. Council Res. 24-1 attach., effective Jan. 4, 2021 (re-enrolled original version of Council's Rules of Organization and Procedure).

⁴ [dccouncil.us/wp-content/uploads/2017/06/Rules-of-Organization-and-Procedure-for-the-Committee-on-the-Judiciary-and-Public-Safety-for-Council-Period-24.pdf](#) at 12, 13 (Feb. 3, 2021).

⁵ See D.C. Official Code § 2-572.

⁶ See D.C. Official Code § 2-573.

However, the OMA does not regulate gatherings of committees that consist of less than a quorum of the whole public body. Section 404 of the OMA (D.C. Official Code § 2-574(1)) states “[m]eeting means any gathering of a quorum of the members of a public body.”⁷ It is “[o]nly when a quorum of the full body meets” that “the meeting fall[s] under the requirements of the act.”⁸ Accordingly, only those individual committee meetings that are attended by a quorum of the *whole* body “count” for OMA purposes.

This Committee consists of no more than six members.⁹ A quorum of the Council is seven members.¹⁰ Therefore, meetings of this Committee, as presently comprised, are not “public body” meetings under the OMA.

For the above reasons, your complaint is dismissed.¹¹ Pursuant to the OOG’s regulations, attached is a copy of your complaint.¹²

Sincerely,

Niquelle M. Allen
Director of Open Government
Board of Ethics and Government Accountability

By:



Johnnie Barton
Chief Counsel
Office of Open Government

⁷ D.C. Official Code § 2-574(1). “ ‘Public bod[ies]’ . . . includ[e] the Council of the District of Columbia . . . ” *Id.* par. (3).

⁸ Report of the Committee on Government Operations and the Environment on Bill 18-716, the Open Meetings Act of 2010, on page 5 (Council of the District of Columbia December 2, 2010).

⁹ See D.C. Council Res. 24-2, § 3(6), effective Jan. 4, 2021 (appointing Councilmembers Allen, Bonds, Cheh, Gray, & Pinto), D.C. Council Rules of Organization and Procedure. 222 (Chairman Mendelson is a member of all committees).

¹⁰ *Cf.* D.C. Official Code §§ 1-204.01(b)(1), 1-204.12(c) (sections 401(b)(1) and 412(c) of District Charter) (generally providing for a “majority” quorum—7 out of 13 members—“for the transaction of business of the Council”); D.C. Council Rules of Organization and Procedure. 304(a) (same).

¹¹ 3 DCMR §§ 10401.1(b), 10403(b), (f).

¹² 3 DCMR § 10403.2.