

OFFICE OF OPEN GOVERNMENT
NOTICE OF FINAL RULEMAKING

The Director of Open Government (Director), of the Office of Open Government, pursuant to the authority set forth in Section 205c(a)(3) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective October 30, 2018 (D.C. Law 19-124; D.C. Official Code § 1-1162.05c(a)(3) (2016 Repl. & 2018 Supp.)), hereby gives notice of the adoption of the following amendments to Chapter 104 (Office of Open Government) to Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking creates a new section, 10411, that sets forth the procedural requirements public bodies must follow to enter into closed sessions of meetings covered by the Open Meetings Act, effective March 31, 2011 (D.C. Law 18-350; D.C. Official Code §§ 2-571 *et seq.* (2016 Repl.)). Additionally, the rulemaking makes clarifying and conforming amendments consistent with the Open Meetings Act. Previous versions of this rulemaking contained a new subsection that authorized votes to enter into closed session of a public meeting at a previous board meeting. The Office of Open Government received several comments that this section was problematic and may compromise the spirit of the Open Meetings Act, in response to the Second Notice of Proposed Rulemaking published in the *D.C. Register* on May 15, 2026, at 73 DCR 20. To address those comments, the final rules do not include that subsection, and the Office of Open Government will take up that matter in a separate Rulemaking. Technical changes were made to adjust the numbering due to the removal of the subsection authorizing a pre-approved closed meeting.

The Director adopted the rules as final on June 16, 2026. The rules became effective after publication of a Notice of Final Rulemaking in the *D.C. Register* on June 26, 2026.

Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:

Chapter 104, OFFICE OF OPEN GOVERNMENT, is amended to read as follows:

- 10400.6 Complaints may be submitted anonymously. If the Complainant requests anonymity, the Director shall honor Complainant’s request to remain anonymous.
- 10411 **CLOSED MEETINGS**
- 10411.1 Public bodies, as defined in D.C. Official Code § 2-574(3), may close a meeting or portion of a meeting for the purposes described in section 405(b) of the Open Meetings Act.
- 10411.2 Before a meeting or portion of a meeting may be closed, the public body shall meet in a public, open session at which a majority of the members of the public body present vote in favor of closure.
- 10411.3 The public vote in favor of closure shall immediately precede the closed meeting or closed portion of a meeting.
- 10411.4 (a) Prior to entering closed session pursuant to D.C. Official Code § 2-575(b), the presiding officer shall:

- i. Publicly identify the specific statutory exemption authorizing closure; and
- ii. Provide a general description of the specific subject matter to be discussed.

(b) The description required under subsection (a)(ii) shall:

- i. Be stated in general terms sufficient to inform the public of the nature of the matter under consideration;
- ii. Avoid disclosure of confidential, privileged, or otherwise protected information; and
- iii. Identify the particular issue, proceeding, or category of matter within the applicable exemption, where feasible.

(c) Merely reciting or tracking the statutory language of the exemption, without additional description of the specific matter to be discussed, shall not, by itself, satisfy the requirement to state the subjects to be discussed.

(d) Nothing in this section shall be construed to require disclosure of information that is privileged, confidential, or exempt from public disclosure under District or federal law.

(e) A copy of the vote to enter into closed session and the statement shall be provided in writing and made available to the public.

10411.5 A public body that meets in closed session shall not discuss or consider matters other than those matters listed under D.C. Official Code § 2-575(b) for which the presiding officer gave the public notice of prior to closure.

10411.6 Upon conclusion of the closed session, the public body shall reconvene in open session to put on the record any official action taken during the closed session.