



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



April 20, 2022

VIA ELECTRONIC MAIL

[REDACTED]
D.C. Open Government Coalition

[REDACTED] 20011

[REDACTED] @aol.com

**RE: Resolution of Complaint Concerning the Advisory Committee
For the Education Research Practice Partnership Compliance with
the Open Meetings Act
(#OOG-2021-0008-M)**

Dear [REDACTED]:

On November 22, 2021, the Office of Open Government (“OOG”) received the complaint you filed on behalf of the D.C. Open Government Coalition. The prospective complaint alleged that the Advisory Committee for the District of Columbia Education Research Practice Partnership (“Committee”)¹ planned to meet (1) without notice to the public (*i.e.*, including date, time, place, and agenda) and (2) in closed meetings without following the Open Meetings Act² (“OMA”) procedure. You also asked me to opine as to whether the Committee is a public body subject to the OMA.

Pursuant to 3 DCMR § 10400 *et seq.*, I reviewed and assessed the complaint; the Committee’s published public meeting notices;³ and the posted recordings and transcripts of the Committee’s January 26, 2022, and March 15, 2022, public meetings.⁴

The Committee admitted on the record during its January 26, 2022, and March 15, 2022, meetings that it was subject to the OMA and followed the statute in the conduct of its meetings. The

¹ The Committee was created under section 105(a)(1) of the District of Columbia Education Research Practice Partnership Establishment and Audit Act of 2018, effective March 28, 2019 (D.C. Law 22-268; D.C. Official Code § 38-785.04(a)(1)).

² Title IV of Pub. L. 90-614, added by D.C. Law 18-350, effective Mar. 31, 2011 (D.C. Official Code § 2-571 *et seq.*).

³ 69 DCR 000526 (Jan. 21, 2022); 69 DCR 0017456 (Mar. 4, 2022).

⁴ <Meeting #1>; <Meeting #2>. Although not at issue, the Committee’s timely posting of the public meeting recordings and transcripts complies with the OMA’s “Record of meetings provisions” (D.C. Official Code § 2-578). For the OOG’s interpretation of D.C. Official Code § 2-578, see <https://www.open-dc.gov/documents/oma-advisory-opinion-posting-meeting-minutes-transcripts-electronic-recordings>. It was stated at 00:00:55 during the March 25, 2022, meeting that the gathering was being recorded and minutes would be provided to the public in accordance with the Open Meetings Act.

Committee's admission and conduct resolve the issue. Therefore, I find it unnecessary to opine on the issue of whether the Committee meets the legal definition of a public body subject to the OMA because the Committee has voluntarily complied with the OMA.

As discussed below, the Committee timely published and posted the required public meeting notices for its first meeting on January 26, 2022, and its next meeting on March 15, 2022. Notices for both public meetings appear to be compliant with the OMA's "Notice of meetings" and "Open meetings" provisions.⁵ The Committee did not enter into a closed session during either meeting. So it was unnecessary to provide in its public notices an intent to enter closure. The Committee, by its admission and by supplying the statutory required public notice of its meetings and by not entering a closed session, renders the prospective complaint moot. Therefore, pursuant to 3 DCMR § 10403.1(f)⁶ I am dismissing your complaint. Below, I explain the reasons for this dismissal.

I. ANALYSIS

The Committee stated on the public record during its first two meetings that it was subject to the OMA. Since the Committee also complied with the OMA's "Notice of meetings" provisions and did not enter a closed session during its meetings, the prospective complaint is moot.

The Committee's first two public meetings did occur on January 26, 2022, and March 15, 2022.⁷ The public was invited to remotely attend the meetings through Webinar.⁸ During both meetings, the Committee conscientiously acknowledged on the public record its duty to comply with the OMA at timestamps 1:27 and 1:47:25 at the January 26, 2022, meeting and 1:04 at the March 15, 2022, meeting.⁹ The Committee's admissions and adherence to the OMA, resolve the query you raise. I find that the due Committee's public statement that they are subject to the OMA, their voluntary adherence to the OMA, and their expression of a willingness to comply with the OMA in the future, further discussion of the issue of the Committee's legal status as a public body is unnecessary. However, below I do address the issue of public notice compliance that you raised in your OMA complaint.

The D.C. Open Government Coalition was concerned that the Committee would meet without first providing the statutory required public notice of its first public meeting on December 6, 2021, effectively closing the meeting to the public. Under the OMA's "Notice of meetings" (D.C. Official Code § 2-576) provisions, a public body cannot meet without first providing public notice of a planned meeting.¹⁰ The OMA requires notice to the public at least 48 hours or two business days, whichever is greater, before the meeting occurs. Public notice must include the date, time, location, and draft meeting agenda. The draft meeting agenda must notify the public if the entity intends to enter a closed meeting, the reason, and statutory authority for doing so. The OMA also requires that the timely public

⁵ Respectively, D.C. Official Code §§ 2-576; 2-575.

⁶ DCMR § 10403.1 states that the Director of Open Government "may dismiss a complaint on one or more of the following grounds: . . . (f) the complaint becomes moot due to action taken by the Public Body."

⁷ E.g., [DC Education Research Collaborative](#).

⁸ Timestamps 00:00:18 and 00:01:06 of the January 26, 2022 and March 15, 2022, meetings, respectively.

⁹ See recordings, *supra* note 4.

¹⁰ The lead-in language to D.C. Official Code § 2-576 states: "[B]efore meeting in open or closed session, a public body shall provide advance public notice as follows . . ."

notice be posted on the public body's website or the District government's website and published in the *Register*.¹¹ The OMA's physical posting of notices requirement is currently suspended through December 31, 2022, due to COVID-19.¹²

The Committee provided the OMA-required forms of public notice for its first two meetings. Public notices of both meetings were published in the *Register* and apparently on its website, giving well more than the minimum advance notice required of non-emergency meetings.¹³ Because the Committee provided timely public notice of its January 26, 2022, and March 15, 2022, public meetings as required, there was no OMA violation.

Also published in the *Register* is the Committee's advance schedule, announcing dates and times of meetings through September 13, 2022.¹⁴ The Committee has also posted this same advance public meeting schedule on its website.¹⁵ The advance public meeting notices published in the *Register* and posted on the Committee's website decrease the likelihood of a prospective OMA public meeting notice violation for those dates.

I note, per the OMA's regulations, the Committee has begun including, below its agendas, the required notation "This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at opengovoffice@dc.gov."¹⁶

Altogether, the record shows that the Committee is operating as not only as a public body, but one eager to learn, and comply with the OMA and its regulations.

II. CONCLUSION

During its first two meetings, the Committee conscientiously acknowledged its duty to comply with the OMA and did so. The Committee provided timely public notice on its website and in the *Register* of the meetings at issue. The Committee did not enter a closed session so notice of intent to enter closure was not required in those notices. The Committee's action and inaction make the complaint moot. Therefore, I find that the Committee's January 26, 2022, and March 15, 2022, public meetings were OMA compliant, so no action is required. Accordingly, your complaint is dismissed.¹⁷ Pursuant to the OMA regulations, a copy of your complaint is attached.¹⁸

The Committee's advance meeting notices were posted and published well in advance of the meeting dates. However, the Committee does not have draft meeting agendas or means for the public

¹¹ See the OMA's "Notice of meetings" provisions (D.C. Official Code § 2-576).

¹² See D.C. Official Code § 2-576(6).

¹³ 69 DCR 000526 (Jan. 21, 2022); 69 DCR 001745 (Mar. 4, 2022).

¹⁴ 69 DCR 001746 (Mar. 4, 2022).

¹⁵ Regarding the advance listed meetings, the website states "information will be shared in advance of each meeting." I assume the other information to be posted will include the location, dial-in link or telephone number for virtual meetings, and a notice of intent to enter closure, if applicable. You may view the information here <https://www.urban.org/projects/dc-education-research-collaborative>.

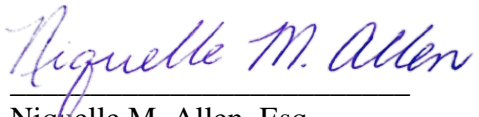
¹⁶ 69 DCR 001745 (Mar. 4, 2022); accord 3 DCMR § 10409.2.

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

¹⁸ See 3 DCMR §10403.2.

to attend the meetings, if remote, as the OMA requires.¹⁹ Therefore, my staff will continue to monitor the Committee's compliance with the OMA as these meeting dates draw near.

Sincerely,



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

Enclosure:
Copy of #OOG-2021-0008-M

cc:

Joanne Bias-Robinson
Executive Director,
District of Columbia Education Research Collaborative
JBiasRobinson@urban.org

¹⁹ The agenda and instructions to attend the April 25, 2022, meeting are here <https://www.urban.org/projects/dc-education-research-collaborative>.