



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



VIA ELECTRONIC MAIL

November 30, 2023

[REDACTED]  
[REDACTED]  
Washington, D.C. [REDACTED]  
Email: [REDACTED]

**RE: Dismissal of Complaint Concerning Compliance with Open Meetings Act by the Department of Forensic Sciences (# OOG-2023-0009)**

Dear [REDACTED]

This correspondence regards the Open Meetings Act (OMA)<sup>1</sup> complaint regarding the Department of Forensic Sciences (DFS)<sup>2</sup> that I received from you on November 13, 2023 (the “Complaint”). In the Complaint, you allege that the DFS (1) “prematurely and unilaterally terminated the” October 19, 2023, meeting of the Science Advisory Board (SAB)<sup>3</sup> “without authority or support from the SAB to do so”; and (2) “refus[ed] to make the video recording of the . . . meeting publicly accessible or provide a copy to members of the SAB despite their requests.”

<sup>1</sup> Effective Mar. 31, 2011 (Title IV of Pub. L. 90-614; D.C. Official Code § 2-571 *et seq.*).

<sup>2</sup> The DFS’s prospective change of name does not alter my analysis or this dismissal.

The Restoring Trust and Credibility to Forensic Sciences Amendment Act of 2022 (D.C. Law 24-348; D.C. Act 24-780) would, *inter alia*, “redesignate” the DFS as “the Forensic Sciences and Public Health Laboratory”. See D.C. Act 24-780 *passim*, 70 DCR 000937–000952 (Jan. 27, 2023). However, that act, including the name change, is not applicable until the “inclusion of its fiscal effect in an approved budget and financial plan.” *Id.* § 10(a), 70 DCR 000951. The projected \$50,000 “[c]ost of changing the agency name signage and other office materials” remains unfunded as of the most recent report on legislation subject-to-appropriation by the Council of the District of Columbia’s Budget Director. Compare [FIS Restoring Trust and Credibility to Forensic Sciences.pdf](#) at 3 & n.(g) (Fiscal Impact Statement for Bill 24-823) (Nov. 22, 2022) ([app.cfo.dc.gov/services/fiscal\\_impact/pdf/spring09/New Folder/FIS Restoring Trust and Credibility to Forensic Sciences.pdf](http://app.cfo.dc.gov/services/fiscal_impact/pdf/spring09/New Folder/FIS Restoring Trust and Credibility to Forensic Sciences.pdf)) with [2023-10-15-Subject-to-Funding-Legislation-quarterly-report.pdf \(dccouncil.gov\)](#) at 3, 23, 27 ([dccouncil.gov/wp-content/uploads/2023/10/2023-10-15-Subject-to-Funding-Legislation-quarterly-report.pdf](http://dccouncil.gov/wp-content/uploads/2023/10/2023-10-15-Subject-to-Funding-Legislation-quarterly-report.pdf)); see also D.C. Official Code § 5-1501.02(a), (a-1) & nt. (“[T]hat amendment has not been implemented.”).

But, the department/laboratory, by whatever name, would remain “[a] District agency” in the sense of section 404(3)(A) of the OMA, see D.C. Official Code § 2-574(3)(A), such that the OMA does not apply to it, see *infra*. Compare D.C. Official Code § 5-1501.02(a) (section 3(a) of D.C. Law 19-18) (DFS “established as a subordinate *agency*” (emphasis added)) with D.C. Act 24-780 § 2(b)(3) (section 3(a-1) of D.C. Law 19-18) (establishing Forensic Sciences and Public Health Laboratory “as an independent *agency*” (emphasis added)).

<sup>3</sup> Similar to the DFS name change, D.C. Law 24-348, when implemented, would change the Science Advisory Board to the Science Advisory and Review Board. See *supra* note 2.

In conformity with 3 DCMR § 10400 *et seq.*, I reviewed the Complaint and referred it to the Office of Open Government’s (OOG) legal staff for review. OOG’s legal staff investigated the matter and recommended dismissal because I have no statutory authority to resolve the allegations you raise in the Complaint. Agencies, including the DFS, are excluded from the OMA pursuant to D.C. Official Code § 2-574(3)(A).<sup>4</sup>

3 DCMR § 10403.1(a) provides for dismissal of a complaint that “does not raise issues within the Director[ of Open Government]’s authority under the [OMA].” I must dismiss the Complaint because it does not raise issues under my authority. I did not consider the merits of the Complaint because the threshold requirement of jurisdiction was not met.

While I do not have OMA-enforcement jurisdiction over the DFS, the allegations you raise concerning the agency’s interference with the SAB’s meetings and interference with the SAB’s ability to maintain recordings to comply with the OMA show a possible abuse of position by DFS personnel. Therefore, I am referring the matter to the Office of the Inspector General.<sup>5</sup>

If you have any questions or concerns about this dismissal, please contact me at 202-557-0087 or [niquelle.allen@dc.gov](mailto:niquelle.allen@dc.gov).

Sincerely,

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

Enclosure: Copy of Complaint # OOG-2023-0009

CC:  
Inspector General Daniel W. Lucas

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<sup>4</sup> Section 404(3)(A) of the OMA.

<sup>5</sup> See D.C. Official Code § 1-301.115a(a-1) (concerning detection and investigation of “abuse in District government programs and operations”).