DISTRICT OF COLUMBIA
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY

MEETING MINUTES – July 14, 2022

The District of Columbia Board of Ethics and Government Accountability held a meeting on July 14, 2022 at 12:00 p.m. The meeting was held remotely via WebEx. The Board's Chairperson Norma Hutcheson participated as well as Board Members, Felice Smith, Darren Sobin, and Melissa Tucker. Charles Nottingham was unavailable. Questions about the meeting may be directed to bega@dc.gov.

Members of the public were welcome to attend, and a recording of the meeting is available on open-dc.gov and BEGA's YouTube channel.

I. Call to Order

The meeting called to order at 12:01 p.m.

II. Ascertainment of Quorum

A quorum was established with all Members present.

III. Adoption of the Agenda/Approval of Minutes

The Board voted unanimously to adopt the agenda.

The Board approved the minutes for the June 2, 2022 meeting unanimously.

IV. Report by the Director of Open Government

Good afternoon, Chairperson Hutcheson, and Members of the Board. I am Sheree DeBerry, Attorney Advisor with the Office of Open Government. I am pleased to present this report on the activities of the Office of Open Government ("OOG"), on behalf of Director Niquelle Allen. Since the last Board meeting, OOG has continued to fulfill its mission of ensuring that all persons receive full and complete information regarding the affairs of the District government and the actions of those who represent them.

A. Open Meetings Act ("OMA") and Freedom of Information Act ("FOIA") Advice

1. Advisory Opinions

On June 29, 2022, Director Allen issued an advisory opinion about the backlog of administrative FOIA appeals in the Mayor's Office of Legal Counsel ("MOLC") to serve both as a reference source about the administrative-appeals process, and a response to a specific complaint about the volume of outstanding cases.

First, Director Allen set out a full description of the MOLC appellate process, including the (now-elapsed) tolling during the COVID-19 pandemic. Next, she discussed and quantified the MOLC's current backlog—at the end of Fiscal Year

2021, over 200 appeals were overdue for disposition; and none have been posted publicly since the November 1, 2019, issue of the *Register*.

Director Allen concluded that "[m]ultiple causes contribute to th[e] delay, and no one institution is entirely to blame." For one thing, the current statute is too rigid. Appeals vary in terms of the questions they raise and the nature of the records they seek, but for *all* the appeals, regardless of complexity, the MOLC only has a firm, statutory, ten–business-day period of review. Also, for many appeals, the MOLC does not receive the custodial *agency*'s response until most or all of the ten business days have run.

Giving the administrative-review body only ten business days is unique to the District—our neighbor states and the federal government all give their reviewing bodies longer time periods, and the flexibility to extend those where necessary.

As a remedy, the advisory opinion "strongly recommend[s]" amending D.C. FOIA to enlarge the currently "inadequate processing time." Director Allen also suggests correcting a few obsolete provisions (concerning the MOLC's address and the methods of submission) in the Mayor's Freedom of Information regulations.

2. Informal OMA/FOIA Advice

Since the last Board meeting, OOG responded informally, via e-mail or telephone, to requests for assistance as follows:

OOG responded to eleven (11) requests for OMA advice;
OOG responded to seven (7) requests for FOIA advice; and
OOG responded to twenty-seven (27) requests for technical assistance with open-dc.gov.

B. Remote Meeting Monitoring

The OOG legal staff monitors public body meetings to ensure compliance with the OMA. Each OOG attorney attends remote public meetings held during work hours. We offer legal advice regarding OMA compliance and take corrective action, if necessary.

During the month of June, OOG attended eleven (11) public body meetings. OOG rendered corrective OMA advice to three (3) public bodies as a result of monitoring, including:

1. Written notice that a public body's meeting notices and meeting minutes were not being posted in accordance with the OMA. *D.C. Official Code §§ 2-576, 2-578.*

2. Written notice that a public body's meeting notice did not include the WEBEX link for the upcoming meeting. *D.C. Official Code § 2-577.*

3. Oral and written advice to a public body to deliver their meeting notices in time to meet the D.C. Register's early deadline for agency documents. Also, that notices on their website should include not just date and time but also the location (site or remote-link), agenda, and the OMA/OOG statement from the OOG's regulations. *D.C. Official Code § 2-576(1), (3), (5); 1 DCMR § 306.11(g) - .13; 3 DCMR § 10409.2.*

C. Training/ Outreach

1. OMA Training

On June 9, 2022, I (Attorney DeBerry) presented an OMA training to the Emergency Medical Services Advisory Committee. The training was well-received, and the presentation was distributed to committee members.

2. Meeting to Discuss FOIA Portal Recommendations

On June 15, 2022, Chief Counsel Barton convened a remote conference with the Office of Chief Technology Officer's Interim General Counsel, Smurti Radkar, to discuss the implementation of the OOG's recommendations to the FOIA portal. Recommendations were discussed in advisory opinion, OCTO's FOIA Portal's Compliance with DC FOIA.

3. ASAP Task Force Meeting

Director Allen is a member of the American Society of Access Professionals (ASAP) Task Force. The mission of the ASAP Task Force is to make the organization more relevant to federal and state government FOIA Officers. On June 15, 2022, at the last meeting, the group created a survey regarding how to better serve its members.

4. DC Bar Writing Course

On June 16, 2022, I (Attorney DeBerry) attended the writing course, More Effective Writing Makes More Effective Lawyers. The course was presented by the DC Bar.

5. Privacy Training Course

I (Attorney DeBerry) attended the U.S. Private-Sector Privacy live online training course presented by the International Association of Privacy Professionals. The training took place over 4 days: June 21st, June 23rd, June 28th, and June 30th. The training focused on data privacy laws, policies, and standards in major international jurisdictions and skills essential to privacy operations management.

6. FOIA 101 Training

On June 22, 2022, Trial Attorney Orji facilitated a FOIA training for members of the District of Columbia Department of General Services. I (Attorney DeBerry) attended the training, and the training was well-received.

7. Lexis-Nexis Legal Research Webinar

On June 22, 2022, Chief Counsel Barton, and I (Attorney DeBerry) attended a Lexis-Nexis webinar that focused on Terms and Connectors for legal research. The webinar presented helpful tips and tools for efficient legal research.

8. FOIA Training

On June 28, 2022, Chief Counsel Barton facilitated a FOIA Training webinar for the Department of Housing and Community Development. The training was well-received with approximately 100 participants in attendance. Director Allen attended the training.

9. Open Government Advisory Group ("OGAG")

On June 28, 2022, Director Allen and I (Attorney DeBerry) attended the OGAG meeting. The meeting was convened to discuss FOIA recommendations to present to the Mayor's Office of Legal Counsel.

10. Mayor's Cabinet Meeting

On June 29, 2022, Mayor Bowser held the Bowser Administration Cabinet meeting, which Director Allen attended. The meeting consisted of updates from D.C. Agencies on their activities and a public safety briefing.

11. Mandatory Online Harassment Prevention Course for Supervisors and Employees

"Harassment Prevention for US Employees-Office" is a required training that must be completed by Friday, September 30, 2022. Chief Counsel Barton, Attorney Weil, and I (Attorney DeBerry) have completed the training.

D. Litigation and Legislative Update

1. Litigation

a. *Campaign Legal Ctr. v. D.O.J. re*: records surrounding citizenship question on 2020 Census

This case arose out of a 2017 correspondence between the U.S. Department of Justice ("DOJ") and the Census Bureau (the "Gary Letter") to enable Commerce Secretary Wilbur Ross to add an item to the 2020 Census questionnaire to ask respondents about their citizenship status.

On February 1, 2018, the Campaign Legal Center ("CLC") requested from the DOJ, under federal FOIA, documents related to the citizenship-question

decision.

In its response, the DOJ "withheld more than 100 pages of responsive documents under FOIA Exemptions 5 and 6" (concerning certain deliberative memoranda and "files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy"). On May 21, 2018, CLC sued the DOJ in the U.S. District Court for production of the remainder of the responsive documents.

The District Court held that withholding decisions by the DOJ "based on the deliberative process privilege were improper and ordered the [DOJ] to produce…responsive drafts of the Gary Letter and associated emails…because they were completed *after*…the Attorney General had already decided to request the citizenship question."

The DOJ appealed.

Reviewing *de novo*, the U.S. Court of Appeals analyzed whether the Gary Letter *itself* constituted a final, adopted decision—in which case its drafts and associated e-mails would qualify as pre-decisional—or "simply 'embod[ied] or explain[ed]' " an agency policy. According to the 2021 Supreme Court case *U.S. Fish & Wildlife Serv. v. Sierra Club*, "[w]hat matters…is not whether a document is last in line, but whether it communicates a policy on which the agency has settled."

The Court of Appeals concluded that, despite the Gary Letter being sent *after* the Attorney General's first mention of the citizenship question, the language of the Gary Letter itself was crafted to "protect[] the [DOJ]'s litigation and policy interests"; so the Gary Letter was *itself* a final document, representing a substantive policy judgment so that its drafts qualified for withholding under federal Exemption 5.

(However, the Court remanded for further consideration of the withholding of five e-mails that may have been sent *after* the Gary Letter was transmitted.)

The docket sheets, complaints, and answers, and both courts' opinions are in the Dropbox.

b. *Hyatt v. U.S.P.T.O. re:* commercial-user status and fee waiver

On November 30, 2018, requester Gilbert Hyatt sued the United States Patent & Trademark Office ("PTO") in the United States District Court, challenging the PTO's denial of a fee waiver or—in the alternative—its categorization of Hyatt as a commercial requester.

Similar to D.C. FOIA, the federal statute breaks down *search*, *review*, and *duplication* charges into three different tiers; and commercial-use requests are subject to all three of those. Also, the federal statute *mandates* a waiver or reduction of fees where "disclosure of the information is in the public interest

because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester."

On May 27, 2022, the district court ruled against Hyatt with respect to outright waiver but remanded to the PTO for further action on the commercial-classification issue.

The District Court opined that Hyatt's pleadings rested on conclusory statements rather than true arguments, but that "the administrative record is insufficiently developed for the court to properly review the PTO's fee classification decision"; so, the court remanded for the PTO to develop a further record in support of its finding that Hyatt's request was for commercial use.

The docket sheet and material case documents are in the Dropbox.

c. *Eddington v. D.O.D. re*: applicability of common-law "mailbox rule" to e-mail

On February 14, 2020, Patrick Eddington sued the U.S. Department of Defense ("DOD") in federal court under FOIA. He alleged that he had e-mailed requests for records from fourteen military components but had received no response. The DOD alleged that it had searched for, but not located, any request from Eddington. The District Court granted summary judgment to the DOD, concluding that, while "Eddington's emails [and declaration] support his genuinely held belief that he [had] properly *sent* the…requests," they did not "create a genuine dispute of fact as to whether any DOD component *received* a request."

Eddington appealed. The Court of Appeals affirmed; the DOD prevailed.

The Court of Appeals noted that federal FOIA calculates agencies' deadlines for response based upon their "receipt of" a FOIA request, and regarded the showing of "receipt" as an element of the claim. The federal courts presume an agency's good faith in searching and responding "if [they] conclude that an agency's declaration is 'relatively detailed and non-conclusory, and . . . submitted in good faith.' " Here, the fourteen military components had "searched for the requests in the places that routinely contain received requests: email inboxes, FOIA logs, and spam folders." On the other hand, "Eddington's emails include timestamps indicating when his [laptop's] Airmail application processed the emails, but" he had "show[n] only that he *sent* the requests, not that any of the fourteen components *received* them."

The Court of Appeals also declined to apply the common law "mailbox rule" to e-mail. That would have created the presumption that the military custodians had received Eddington's e-mails just based upon his showing that he had dispatched them. But "[t]he longstanding rationale for the presumption of receipt under the mailbox rule is the regularity of successful transmissions in the U.S. Postal Service. Emails…are not Postal Service mail.

…[Eddington]…presented no evidence that his email application operates with the same regularity as the Postal Service….Without evidence of the consistent functionality of the email application, there is no factual basis from which to derive a presumption of receipt."

Substantive case documents are in the Dropbox.

d. *Richards v. Office of Finance & Treasury re*: UDC paycheck

This is a *pro se* case brought putatively under D.C. FOIA, with an unusual procedural history—the plaintiff attempted to request records from a private bank, issued her own "subpoenas," and moved the Superior Court to enforce those "subpoenas," and then appealed from the Superior Court's interlocutory order denying the motion to enforce subpoenas.

On October 18, 2021, Plaintiff Leslie Richards sued the Office of Finance and Treasury ("OFT") and the University of the District of Columbia ("UDC"), alleging that UDC had issued Richards a check but that it "was fraudulently cashed," that "[UDC] refused to release info[] concerning [the] check," and that "under FOIA they still refuse to comply."

It appears from the exhibits that Richards did place a D.C. FOIA request with UDC and that UDC's Freedom of Information Officer responded, through counsel, that UDC does not retain deposit information for "disbursements…made by check," which "are maintained by [OFT]."

Richards attempted to "subpoena" records from UDC and non-party Wells Fargo Bank (but not OFT) about where the check was "deposited and by whom." In a June 7, 2022 order, the Superior Court treated her April 8, 2022 "subpoenas" as requests for production and denied Richards's motion "to enforce compliance with sub[poenas]." The court reasoned that (1) Richards had not certified a good-faith effort, over a reasonable period, to resolve the dispute before filing the motion; (2) UDC had asserted that it had "provided Plaintiff with a copy of the check" but "had no information as to where the check was deposited or by whom" and the court had "no reason to" doubt UDC's counsel's candor; and (3) Wells Fargo Bank had responded that "it did not find any responsive documents" and Richards "offers no evidence…that such [information] do[es] exist" nor "that Wells Fargo [Bank] may have not fully complied."

On June 8, 2022, Richards filed a notice of appeal from the Superior Court's (interlocutory) order of June 7, 2022. On July 7, 2022, the Court of Appeals dismissed "the appeal as taken from a non-final and non-appealable order of the Superior Court."

The complaint, answer, and Superior Court order are in the Dropbox.

e. *Barnes v. F.B.I.* re: plea-agreement/waiver of FOIA rights

On February 4, 2016, Jihad Ibn Barnes sued the Federal Bureau of Investigation ("FBI"), seeking to enjoin the FBI to disclose certain records under the federal FOIA and Privacy Act statutes.

Barnes was convicted and sentenced after a plea agreement with the government in which the government dropped certain charges against Barnes. He waived his entitlement to obtain records (those related to his charges) through FOIA requests. When Barnes requested "all FBI records containing his name, as well as FBI records containing allegations of terrorism by him or by a particular mosque," the FBI declined to provide the requested documents. After Barnes sued, the United States District Court found in favor of the FBI in relevant part, enforcing Barnes's waiver of his FOIA-rights because the FBI had "identified a legitimate criminal justice interest—the protection of confidential informants—served by the enforcement of the the [*sic*] FOIA waiver."

The Court of Appeals agreed with the FBI and upheld the District Court's order. The Court of Appeals applied the standard in *Price v. U.S.D.O.J. Att'y Office* that a waiver of FOIA rights as part of a plea deal "must serve a legitimate criminal-justice interest to be enforceable." Here, "the government had good reason to insist on a FOIA waiver to make it harder for Barnes to learn more sensitive information about the informant."

Barnes argued that there was not a good reason for the waiver term because federal Exemption 7 (subpars. (D) and (F)) already permits the withholding of certain law-enforcement records that "could reasonably be expected to disclose the identity of a confidential source" or was furnished by a confidential source or "could reasonably be expected to endanger the life or physical safety of any individual." But the Court of Appeals reasoned that the government had a good reason for the waiver beyond what the FBI might be expected to apply simply by invoking the FOIA exemption: the FBI's "FOIA processors are hardly infallible in" applying the exemptions, and "Barnes himself has unique knowledge about the informant," such that while giving him "some nugget of information might not seem to put its informant at greater risk, …Barnes nonetheless could exploit the information for that purpose."

Substantive case documents are in the Dropbox.

f. *Phillips re*: alleged M.P.D. watchlist

As Director Allen has reported, criminal-defense lawyer Amy Phillips alleged in a federal "section 1983" action that the Metropolitan Police Department maintains a "watchlist" targeting certain D.C. FOIA requesters.

The District Court held the initial scheduling conference on June 17, 2022. The court has announced a discovery schedule and set a post-discovery status hearing for March 16, 2023.

Uploads of the updated docket sheet and the court's scheduling order are in the Dropbox.

2. Legislation

a. Retention requirement for electronic records

As Director Allen has reported before, the D.C. Council passed a provision "to clarify that communications created or received electronically in the course of official business are subject to" the District of Columbia Public Records Management Act of 1985, as a non-germane amendment to a temporary bill.

The enacted version has completed congressional layover and took effect on June 30, 2022 as D.C. Law 24-135. It will expire on February 10, 2023.

The companion emergency measure, D.C. Act 24-355, expired on June 26, 2022.

As of July 5, 2022, no corresponding permanent bill has been introduced.

b. Board of Ethics and Government Accountability Delinquent Debt Recovery Amendment Act of 2022 (Bill 24-0706)

On July 6, 2022, the Committee on Human Services met to mark up this measure. The committee reported out the bill, favorably, by unanimous voice-vote.

The report (including the committee print, attachments G & H; the hearing record, attachment C; and the Racial Equity Impact Assessment, attachment F) is uploaded to the Dropbox.

c. Agency Budget Request Freedom of Information Clarification Amendment Act of 2022

The D.C. Council has passed the Fiscal Year 2023 Budget Support Act of 2022, Bill 24-0714; and its emergency counterpart, Bill 24-0845. These measures include a subtitle that amends D.C. FOIA to clarify that Exemption (4) ("Inter-agency or intra-agency memorandums or letters") does not cover certain budget records created on or after December 7, 2004.

The emergency act was transmitted to the Mayor on July 5, 2022. Her response is due July 19, 2022. The permanent version was transmitted to the Mayor on July 11, 2022, and her response is due July 25, 2022.

The enrolled versions are in the Dropbox. The D.C. FOIA provisions appear on page 7.

d. Other Legislation

Model Public Meetings During Emergencies Act

As Director Allen has reported, a committee of the Uniform Law Commission ("ULC") is drafting a Public Meetings During Emergencies Act. On June 7, 2022, the drafting committee, which includes Deputy Attorney General and former Interim Director of Office of Open Government, Brian Flowers, announced that it had decided to propose the bill as *model*, rather than *uniform*, legislation, to accommodate the wide variations among pre-existing sunshine and open-meeting statutes nationwide.

The ULC's Committee of the Whole reported out the final measure for final reading on July 11, 2022, and final passage was expected on the afternoon of July 13, 2022. Attorney Weil has been observing the conference. Deputy Attorney General Flowers, along with John J. McAvoy, were elected on July 8, 2022, to be life-members of the ULC. By statute, they will thus also serve as life-members of the District of Columbia ULC.

The draft measure and issues memorandum are in the Dropbox.

OOG staff will continue to monitor litigation and legislative activity.

E. Administrative Matters

1. Paralegal Specialist Position:

   The Office of Open Government has extended an offer of employment for the Paralegal Specialist position. We look forward to the position being filled by the end of July.

2. BEGA Website Redesign Meeting

   On June 8, 2022, BEGA met with representatives from the Office of the Chief Technology Officer about redesigning bega.dc.gov. Present at the meeting were Director Allen, Director Cooks, General Counsel Raj, Senior Attorney Tran, and IT Specialist Bridges. The discussion focused on mapping the current website and conducting a usability survey. The aim is to make the website more user friendly and eventually will add components from open-dc.gov to the website to make more room on that website for the Central Meeting Calendar.

3. Mid-Year Performance Reviews

   On June 8-9, 2022, Director Allen and Chief Counsel Barton conducted Mid-Year Performance reviews for the OOG staff for FY 2022. The performance period ends on September 30, 2022, and annual reviews will be conducted thereafter.

This concludes the Office of Open Government's July 14, 2022, report.

Note of caution from Board member Sobin on the website re-design. The 3 biggest false promises from IT vendors are (1) the project will be done on time, (2) all of your info will migrate over from your prior site, and (3) we'll be here to support you in the future. He recommended having a searchable database for ethics and open government opinions and that the agency remain flexible on the date of the launch.

V. Report by the Director of Government Ethics

Good afternoon Chairperson Hutcheson and Members of the Board. I am Ashley Cooks, the Director of Government Ethics. I am pleased to present this report on the activities of the Office of Government Ethics (OGE).

A. Update on Status of OGE Operations

The information reported today regarding OGE's cases will not reflect any status changes that may occur as a result of actions taken by the Board during today's meeting.

OPEN INVESTIGATIONS BY STATUS	
Open	45
Open - Negotiations	1
Open - Show Cause Hearing	0
Grand Total	46

OPEN "UNDOCKETED MATTERS"	
Grand Total	9

PENDING/STAYED INVESTIGATIONS BY STATUS	
Closed - Pending Collection	25
Stayed - Pending DC Superior Court Case	4
Stayed - OAG False Claims Act Case	6
Stayed - OIG Investigation	5
Stayed - US District Court Case	1
Grand Total	41

REGULATORY MATTERS BY STATUS	
Closed - Pending Collection	25
Open	15
Grand Total	40

	Current	Last month	May
Investigations Currently	46	51	49
Investigations Stayed	16	15	17

The number of open preliminary and formal investigations includes 11 new matters.

The investigative team resolved 16 investigations since the Board last met.

OGE started working on the Quarterly Complaint Report for the third quarter of Fiscal Year 2022, ending June 30, 2022. It is expected to be posted to bega.dc.gov next week. A copy will be available for your review by the next meeting.

B. Trainings/Outreach

1. Professional Development Trainings Attended by staff

Auditor Amanueil Tujuba attended four trainings: Building Shared Understanding across Cultural Divides; The Power of Communication; Polishing Your Feedback Skills; and Redefining Yourself After Organizational Change. Investigator Ileana Corrales completed two trainings: Conducting Secure Online Investigations in 2022 and Investigative Communication with Witnesses & Subjects.

Attorney Advisor Millicent Jones completed How to Make Your Legal Writing Precise, Powerful, and Persuasive. Supervisory Attorney Asia Stewart-Mitchell took Sharpening Your Focus to Stay on Track. General Counsel Rashee Raj completed two trainings: Harassment Prevention Training for DC Government employees and managers, and Think Like a Lawyer, Talk Like a Geek: Getting Fluent in Technology. Senior Attorney Lynn Tran completed two trainings: Diversity and Inclusion in Law Practice, and the Ethics Game Show 2022: A Review of Ethical Issues.

I attended the D.C. Bar's 2022 Conference on June 23rd. The conference featured a fireside chat with Neal Kaytal and panel discussions on the first fifty years of the Bar and the future of the Bar.

2. Conducted by staff

Since the June 2nd meeting, OGE conducted five trainings: June and July Hatch Act Trainings and the June and July Monthly Ethics Trainings. Last week, Attorney Advisor Maurice Echols and Program Specialist Stan Kosick conducted a webinar for 20 attendees regarding Lobbyist Registration. Attorney-Advisor Echols presented information on the part E of the Ethics Act and answered questions about lobbying and when filing is required. Program Specialist Kosick demonstrated the LRR E-file system and how filers should use it to keep in good standing and up to date. Additional webinars are planned for the fall and winter.

At the end of June, Attorney Advisor Jones led our Monthly Ethics Counselor Brown Bag session on post-employment. She gave the Ethics counselors a deeper dive into the different prohibitions under District Personnel Manual § 1811. Our next Brown Bag session on the misuse of government resources will be presented by Supervisory Attorney Stewart-Mitchell on Monday, July 25, 2022.

During the month of June, 161 employees completed our online ethics training via PeopleSoft. Since the April 25th launch of the Learning Management System, 386

employees have registered for the system.

3. Outreach

OGE and OOG continue to meet with the Office of the Chief Technology Officer's website development staff to discuss the BEGA website refresh. The website refresh will improve organization, searchability, and user friendliness, as well as the overall appearance of the website. We will continue a series of meeting over the next few weeks to complete the project before the end of this fiscal year.

C. Advisory Opinions/Advice

1. Informal Advice

OGE's legal staff provided advice for approximately 52 ethics inquiries, which is 19 more than the 33 reported at the June meeting. This number does not include responses we have provided to questions regarding the Lobbyist and FDS e-filing systems. OGE is in the final stages of editing an Advisory Opinion focusing on the fundraising prohibition of the Local Hatch Act.

D. Legislation Updates

1. Pro Bono Legal Representation Expansion Amendment Act of 2021

On June 28, 2022, the Mayor signed the Pro Bono Legal Representation Expansion Amendment Act of 2021, Bill 24-0298. The Bill has been enacted with Act Number A24-0041 and published in the DC Register. The Act will be effective following a 30-day period of congressional review, per the D.C. Home Rule Act. A copy of the legislation was placed in the drop box for your review.

2. Delinquent Debt Recovery Amendment Act of 2012

On July 6, 2022, the Committee on Human Services held a meeting on the Board of Ethics and Government Accountability Delinquent Debt Recovery Amendment Act of 2022, Bill 24-706, which will allow BEGA, at its discretion, to transfer delinquent debts associated with settlements and judgements for ethics and Open Meeting Act violations to the CCU for collection, and for the funds collected on BEGA's behalf to be deposited into the Ethics Fund or OMA Fund instead of the General Fund. The Committee voted in favor of the Bill and recommended approval by the Council. A hearing date before the Council has not yet been scheduled. A copy of the committee report was placed in the drop box for your review.

3. Comprehensive Code of Conduct

OGE's legal team continues to review and update the Comprehensive Code of Conduct ("CCC") with the goal of submitting an updated version of the legislation

to the Board and then the Council. As defined in the Ethics Act, the Code of Conduct consists of seven different statutes and regulations with varying applicability. The CCC is legislation that consolidates the District's ethics laws and standardizes the ethical practices between the legislative and executive branches. The goal is to have the CCC introduced before the Council in the Fall of this year.

E. OGE Administrative Matters

1. OGE Staffing

I am pleased to introduce to you BEGA's new Human Resources Specialist, London Greene. London comes to BEGA with 11 years of human resources and office support experience. She obtained her master's degree in Human Resources Management in May 2019. London is a native Washingtonian who enjoys spending time with family and friends and shopping. We are actively working to fill other vacancies. The Chief of Staff position recently closed, and we have selected 6 candidates to interview on next week.

F. Financial Disclosure Statement (FDS)

During the 2022 Filing Season, three thousand eight hundred fifty (3,850) filers were noticed in April. As of June 30, three thousand five hundred fifty-one (3,551) filers have completed their filing. Staff received 303 support tickets in addition to several phone calls for assistance.

The FDS Team has prepared and submitted three filers lists to the DC Register: (Filers on Time, Late and Non-Filers, Waivers). Staff is prepping for enforcement activities and collecting Financial Disclosure Review Reports (FDRRs) from the agencies. Finally, Auditor Tujuba completed the Councilmember Public Financial Disclosure Statements (PFDS) audit, and no major finding were noted.

G. Lobbying Registration and Reporting (LRR)

The 2022 second quarter Activity Reports are due tomorrow, July 15, 2022. On June 30, the LRR team sent a reminder notice to 275 lobbyists. The notice advised the recipients of the upcoming deadline. To date, 93 Activity Reports have been filed using the LRR E-File System.

Thank you. This concludes the Office of Government Ethics' July 14, 2022 report.

VI. Public Comment – if received

Comment from Mondi Kumbula-Fraser, Vice President of Government Relations & General Counsel for the Consortium of Universities of the Washington Metropolitan Area ("CUWMA"):

Ms. Kumbula-Fraser introduced her organization as a nonprofit representing higher education institutions and students in the greater Washington area. She requested a waiver of a $250 fine that CUWMA received for late filing its April 2022 activity report. Ms. Kumbula-Fraser started with CUWMA in February 2021 and registered with BEGA. She learned that there were 3 other names, all former CUWMA employees, who were also registered for her organization, but they could not be deleted from the system. OGE employee Stan Kosick helped Ms. Kumbula-Fraser to become the primary point-of-contact on CUWMA's account. She received the quarterly reminder notice and filed in April 2021, July 2021, October 2021, January 2022, and July 2022. Things worked fine except in April 2022, when she did not receive the reminder email and the fine was levied. Ms. Kumbula-Fraser spoke to Mr. Kosick, who acknowledged that he sent the reminder email to a former CUWMA employee. He fixed the issue, and Ms. Kumbula-Fraser was under the impression that the fine would be waived. Ms. Kumbula-Fraser disagrees with the Director that the reminder email is a complimentary act – she feels it is important and necessary, as it titles itself "important." There has been only one instance when CUWMA missed the deadline since she has been employed, and it was this one. She asked for the fine to please be waived.

VII. Executive Session (nonpublic)

The Board voted unanimously to enter into Executive Session to discuss ongoing, confidential investigations pursuant to D.C. Official Code § 2-575(b)(14), to consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body pursuant to D.C. Official Code § 2-575(b)(4)(A), to discuss personnel matters including the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials pursuant to D.C. Official Code § 2-575(b)(10), and to deliberate on a decision in which the Ethics Board will exercise quasi-judicial functions pursuant to D.C. Official Code § 2-575(b)(13).

VIII. Resumption of Public Meeting

The Board resumed the public meeting at 1:36pm

The Board approved the negotiated disposition in **19-0011-F In re J. Sumner**.

IX. Adjournment

The Board will meet next on August 4, 2022 at 12:00 p.m.