

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

MEETING MINUTES – NOVEMBER 9, 2017

The District of Columbia Board of Ethics and Government Accountability held a public meeting on Thursday, November 9, 2017, at 11:00 a.m. at One Judiciary Square, 441 Fourth Street, N.W., Room 540 South, Washington, D.C. 20001. These minutes were approved by the Board on December 21, 2017.

AGENDA

- I. Call to Order: 11:06
- II. Ascertainment of Quorum
- III. Adoption of the Agenda
- IV. Report by the Director of Open Government
- V. Report by the Director of Government Ethics
 - a. Update on Status of Office of Government Ethics (OGE) Operations – Recap of previous month’s activities (statistics)

	Current	Last month	July 2017
Investigations Opened:	1	1	4
Investigations Closed:	5	1	11
Investigations Currently Open:	12	14	16
Investigations Stayed (Inactive):	14	16	17

Stayed (Inactive) Cases		
Nature of Stay	Number	Date Rec
Court (fugitive)	1	Jan. 2016
OEA (pending motions)	1	
OIG	11	Jan. 2016
OAG (pending civil False Claims Act complaint)	1	Sept. 2016
Total Stayed Cases	14	

- b. Publication and Reporting Obligations

We have no outstanding publication or reporting obligations. We updated our performance measures for the previous fiscal year. You will also find in the dropbox a proposed schedule of meeting dates for 2018 as required by D.C. Official Code § 2-576(1), for approval at either this meeting or the next. (“A public body shall establish an annual schedule of its meetings, if feasible, and shall update the schedule throughout the year.”).

The Board voted to approved the schedule of meetings for 2018, and to change the meeting time to 10 am. Subject to the Board exercising its discretion and rescheduling a regular meeting or calling special meetings when necessary with reasonable notice to the public, meetings shall be held on the first Thursday of the month as follows:

- January 4, 2018
- February 8, 2018
- March 8, 2018
- April 5, 2018
- May 3, 2018
- June 7, 2018
- July 5, 2018
- August 2, 2018
- September 6, 2018
- October 4, 2018
- November 1, 2018
- December 6, 2018

We have had several meetings on the status of the website since the last meeting and have made a number of tweaks to the website, to include updating our training presentations, adding descriptions to advisory opinions and linking to OOG for OGE’s FOIA resources. We now have to bring in OCTO to add a FOIA/Open Government page that is consistent across government and to redesign certain elements to highlight important material. We now know that this is an ongoing process that will only improve with input from the public and other stakeholders.

c. Trainings/Outreach –

i. Attended by staff –

Attorney Advisor Janet Foster and General Counsel Flowers attended and participated in a program hosted by the DC Affairs Section of the DC Bar on Campaign Finance and Lobbying. Our investigators, auditor and attorneys also received training on Thomson Reuters’ CLEAR Investigation Software for Law Enforcement. CLEAR is a product that “aggregates public records pulled from trusted, current sources.”

ii. Conducted by staff –

Seven, which is significantly less than the 25 conducted last month. It must be noted that this measures trainings over a 2, rather than 6 week period, and follows our intensive Ethics Day training program. The 7 trainings include a new employee orientation and MSS (FDS) training, one general Boards and Commissions training, a training session at the Departments of Consumer and Regulatory Affairs and Housing and Community Development, two trainings focused on the Hatch Act, one at the Office of Cable Television, Film, Music, and Entertainment, and the other Hatch Act training was combined with a general ethics training for EOM employees. This follows 8 Hatch Act trainings conducted last month.

iii. This has been the season for foreign delegations to visit BEGA. On October 24, we hosted a delegation from Bhutan, on November 1, a delegation from China – the Qingdao Municipal HR Bureau visited, and on November 7, we hosted a delegation from South Africa. Next week, we will host a Korean delegation. We have used these visits as an opportunity to learn from them as well.

In Bhutan, all employees are required to file financial disclosure statements. The Bhutan delegation was specifically interested in discussing BEGA's efforts in administering its ethics program as well as elections, but our biggest takeaway from the meeting was their description of their Happiness Commission.

The Chinese delegation was interested in how public servants are being trained and how our laws were enforced as well as the ethical codes we applied to government employees. We were surprised to learn that of the 2,000 employees they disciplined and fired last year, many were for extramarital affairs, which they said adversely affected the confidence of the public in the integrity of government. Lobbyist registration was a foreign concept to the Chinese.

Finally, we hosted a delegation from Tshwane, which includes Pretoria, South Africa on November 7. In that city, there is a database that tracks all companies that do business with the city, similar to what is required under the Ethics Act. They also have an office focused on public participation and described one meeting that more than 2,000 persons attended.

Along the same lines, we are in the process of developing a BEGA Roadshow, a presentation intended for the public. This was an issue that was touched upon by a speaker at one of our previous meetings. I believe

it is an important element in restoring the confidence of the public in the integrity of government – knowing that there is an agency that is dedicated to achieving that end. We know from the number of International delegations that have expressed an interest in our work that we have a strong reputation in the international community, and I believe it is important that we bolster our reputation in our own city as well.

d. Advisory Opinions/Advice –

Informal Advice: approximately 45, since the last meeting, down from 96 last month. Again, we are measuring a 6 week period against a 2 week period.

Formal Advice requests:

We have one pending request for a formal opinion on whether it is permissible for an agency head to serve on a nonprofit foundation's Board in an official capacity. The federal government permits such service, and we anticipate that the opinion will adopt that reasoning as long as the public official complies with the Standards of Conduct, including the prohibition on receiving gifts from the entity and the prohibition on using their official title for fundraising.

e. Ethics Legislation/Comprehensive Code of Conduct

A hearing was held on this legislation and 2 lobbying bills on November 2. The comment period for the CCC will remain open until November 30, 2017. The comment period for the lobbying bill will close on November 16.

f. Rulemaking

1. There have been no new developments, but there are 2 pending proposals.
--At the last meeting, the Board adopted amendments to its rules to ensure that our rules were consistent with the Council Financial Disclosure Amendment Act of 2016, effective April 7, 2017 (D.C. Law 21-240). That legislation requires the Chairman and each member of the Council to file a public financial disclosure statement semiannually on May 15 and November 15 of each year. The 30 day comment period will expire on November 20.

--OGE recently had an internal meeting to review the list of boards and commissions whose members we believe should be required to file public financial statements. We submitted a proposed list to Steven Walker, Director of the Mayor's Office of Talent and Appointments for his input before submitting the list to you. One issue is whether members of regulatory and licensing boards, such as the Board of Medicine or Board of Cosmetology, should be required to file. Under the previous Ethics Act they did. However, most now do not.

g. Budget:
We have continued to hold monthly budget meetings. The most recent budget meeting included a preliminary discussion on FY19 budget.

h. Staffing –
We still have 2 new administrative positions to fill, as well as the Director vacancy. The vacancy announcement for a paralegal specialist position was posted on October 18, 2017.

i. Lobbyist/Financial Disclosure Matters

1. Public Financial Disclosure Statements

We are still working to get all non-compliant public financial disclosure statement filers to file their forms via our e-filing system. Since our last board meeting, one non-filer has filed the form. There are still 11 non-filers. We have not received voluntary payment of the \$300 fine from any of the non-filers. We have submitted garnishment memos to OCFO in the fine amount of \$300 for each non-filer.

2. Confidential Financial Disclosure Statement Enforcement for the current year. (5/15/2017)

We are currently reviewing CFDS reports and following up with ethics officers. We will soon compile a list of CFDS non-filers and begin the enforcement process.

3. Confidential Financial Disclosure Statement Enforcement (for last year)

At the September board meeting, you approved Notices of Violation for three employees who have been continually non-compliant of their CFDS requirements. All of those employees have filed their forms. We are considering further sanctions in these cases but we would like to dismiss one of the three Notices of Violations for reasons reflected below.

1. #1640-001, In re: E. Ball
2. #1641-001, In re: R. French
3. #1630-001, In re: A. Moon

The NOV we are asking to the Board to dismiss was issued against Mr. Ball at the September meeting because Mr. Ball did in fact file his CFDS and was not at work for a substantial period of time covered by the filing.

The Board voted unanimously to dismiss the NOV issued against Mr. E. Ball.

Lobbyists

On November 1, 2017, representatives from the Office of Government Ethics participated in a panel discussion hosted by the D.C. Bar, entitled Campaign Finance and Lobbying Conduct in the District of Columbia. The event was well attended; Councilmembers Grosso and Allen attended, as well as several lobbyists and members of the public and advocacy groups. The discussion centered on pay-to-play legislation as well as proposed amendments to the lobbying rules that would increase the number of activity report filings from biannual to monthly and expand the definition of lobbying to cover procurement communications.

j. Non-Confidential Investigations

- 1) #1426-001: *In re G. Price* – This appeal remains pending. The Office of the Attorney General is representing BEGA on the appeal. Mr. Price has requested several extensions of time to file his brief. The court granted Mr. Price’s request for extension of time to file brief. His brief is now due on November 25, 2017. We will keep the Board apprised of developments in this case.

VI. Opportunity for Public Comment

VII. Executive Session (non-public) to Discuss Ongoing, Confidential Investigations pursuant to D.C. Official Code § 2-575(b), 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), and Personnel matters pursuant to D.C. Official Code § 2-575(b)(10).

VIII. Resumption of Public Meeting: 1:25 pm

- a. Discussion of any remaining public items. The Board announced the following actions that were taken in closed session:
 1. Board voted unanimously to move the December meeting to December 21 at 10 am.
 2. # 1031-012: *In re Christopher Gooding* - This is a preliminary investigation into allegations that a DCPS employee misused government resources, specifically Fleet Share vehicles. Upon preliminary investigation, our office found evidence that Mr. Gooding misused Fleet Share vehicles on 41 instances. Based upon the evidence

compiled during our investigation, we invited Mr. Gooding to an interview in our office and at the conclusion of the interview, offered him a negotiated disposition. Mr. Gooding accepted the negotiated disposition and agreed to pay a \$5,000 fine.

3. #1634-001: In re Stacie Williams -This is a formal investigation pursuant to D.C. Official Code § 1-1162.13(a)(3), based on a finding by the U.S. District Court for the District of Columbia that Stacie Williams, former-employee of DCRA was guilty of one count of federal bribery. On July 14, 2017, Ms. Williams pled guilty to a federal bribery charge stemming from a scheme in which she accepted cash in return for facilitating the issuance of air conditioning and construction permits. In April and June of 2012, Ms. Williams issued two air conditioning permits and one construction permit in exchange for \$700 from a FBI confidential source. Ms. Williams partnered with Lucretia Barksdale, another former-DCRA employee who plead guilty to federal bribery charges stemming from the same type of conduct. In January 2017, the Board dismissed the case against Ms. Barksdale because of the sentence that the court imposed upon her. It is clear that Ms. Williams violated several provisions of the Code of Conduct. Notwithstanding, OGE believes that the resources required to investigate this matter would be better used for other investigations and recommends that the Board dismiss this matter insofar as Ms. Williams has received a criminal sentence for her conduct. The Board dismissed this matter without prejudice.

IX. Adjournment

The next meeting will be held on December 21 at 10 am, and will be followed by BEGA's annual Holiday Meet and Greet Reception.