

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

DRAFT MEETING MINUTES – OCTOBER 7, 2021

The District of Columbia Board of Ethics and Government Accountability held a meeting on October 7, 2021 at 12:00 p.m. The meeting was held remotely via WebEx. The Board’s Chairperson Norma Hutcheson participated as well as Board Members Charles Nottingham, Felice Smith, Darrin Sobin, and Melissa Tucker. These draft minutes must be approved by the Board. Full meeting minutes will be posted after the next Board meeting. 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 will be made available on open-dc.gov and BEGA’s YouTube channel.

<https://youtu.be/67mCpvNr8qU>

I. Call to Order

The meeting was called to order at 12:01 pm.

II. Ascertainment of Quorum

Quorum established with all Members present at the start of the meeting. Board Member Felice Smith was not in attendance for the resumption of the public meeting at 2:10 pm but the four remaining Members of the Board constitute a quorum.

III. Adoption of the Agenda/Approval of Minutes

The Board Members voted unanimously to approve the Agenda for the meeting and approved the minutes for the September 2, 2021 meeting.

IV. Report by the Director of Open Government

Good afternoon Chairperson Hutcheson and Members of the Board. I am Niquelle Allen, Director of Open Government. I am pleased to present this report on the activities of the Office of Open Government (“OOG”). Since the last Board meeting, the 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 September 20, 2021, I issued advisory opinion #OOG-2021-0001-M, concerning the “District of Columbia Public Charter School Board’s (“DC PCSB”) Compliance with the OMA.” My review of the matter led me to the following findings: (1) DC PCSB violated the OMA’s “Notice of meetings” provision when it did not provide timely public notice of its April 5, 2021, Special

Meeting on its website, on the Central Meeting Calendar, and in the D.C. Register; and (2) it was practicable for DC PCSB to publish its notice in the DC Register, yet DC PCSB failed to do so. Pursuant to 3 DCMR § 10404, I conducted a successful conciliation meeting with the complainant and DC PCSB and resolved the matter. Pursuant to 3 DCMR § 10404.2, I issued the advisory opinion “to instruct the public on the issue in dispute.” I recommended the following compliance directives to DC PCSB: (1) provide as much advance notice to the public as possible on its website or the Central Meeting Calendar, but not less than forty-eight hours or two business days, whichever is greater, before the meeting; (2) publish all future meeting dates in the D.C. Register; (3) report to the OOG within 30 days of the issuance of this advisory opinion on its plan to correct the staff error that resulted in non-compliance; and (4) undergo OMA training with OOG legal staff on dates to be determined by me. For your review, a copy of the advisory opinion is in the Dropbox.

2. Formal FOIA Advice

The rules modifying FOIA requests have expired due to the reopening of some District of Columbia agencies and Mayor’s Order 2021-096 ending the Public Health Emergency. BEGA’s offices remain closed to the public due to COVID-19.

3. Informal OMA/FOIA Advice

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

The Office responded to 11 requests for OMA advice;
The Office responded to 10 requests for FOIA advice; and
The Office responded to 28 requests for technical assistance with open-dc.gov.

B. Training/ Outreach

1. Ethics Training Course

On August 17, 2021, the Office of Attorney General offered the *Last Chance Ethics* training course. The trainer’s interactive presentation discussed scenarios on how government attorneys should handle difficult predicaments in an ethical manner. OOG’s legal staff attended the training.

2. Missouri Bar’s Annual Ethics Program

On September 8 - 9 and September 15, 2021, Attorney Advisor Weil attended the Missouri Bar’s Annual Ethics Meeting. The program consisted of a 2021 update on lawyer ethics issues such as recent amendments to the Missouri Rules of Professional Conduct, recently published opinions, other timely ethics issues, and resources; review of data from the attorney discipline system that discussed recent cases, the requirement to report another lawyer’s misconduct and helpful pointers on responding to an ethics investigation. The meeting also consisted of a training on *Best Practices for the Practitioner for Working Remotely - Navigating WebEx, Hearings, Depos*. The session was led by a panel that included a judge from the

St. Louis circuit court, discussing practices for remote courtroom and deposition experiences. Some of the topics discussed were the continued importance of ensuring that clients, witnesses, deponents, arrive on time, follow dress-codes, and contact their lawyer in advance if they aren't going to be able to have a reliable internet connection at home.

3. Freedom of Information Act Training

On September 15, 2021, Chief Counsel Barton, presented a FOIA training for the Public Service Commission. The training was well received. Attorneys DeBerry and Orji were in attendance.

4. Parliamentary Procedure Webinar

On September 15, 2021, I facilitated the Robert's Rules of Order Training Portal Development Webinar. Administrative Points of Contact were invited to preview the project and provide insight and feedback. The portal was curated by Susan Leahy, a board dynamics and Robert's Rules of Order expert. The webinar was well attended and well received.

5. Roundtable on reopening schools

On September 21, 2021, the Committee of the Whole convened a roundtable to discuss the re-opening of the District of Columbia Public Schools ("DCPS") and the District of Columbia Public Charter Schools. The purpose of the roundtable was to hear from parents and stakeholders on the experience of the first few weeks of in-person school for the 2021-2022 school year amidst the COVID-19 pandemic. The designated executive agencies in attendance were DCPS, Office of the State Superintendent of Education, Deputy Mayor of Education, and the DC Public Charter School Board. Many parents stressed their concern about the health and safety of their vaccinated children, unvaccinated children, and the lack of a remote learning option during the COVID-19 pandemic. Attorney Advisor DeBerry attended the virtual meeting. She is the OOG's education counsel.

6. 17th Annual Career Strategies Conference

On September 22-25, 2021, I attended the Corporate Counsel Women of Color Conference in Los Angeles, California. The conference included seminars on government compliance trends, employment law issues related to COVID-19, environmental, social and governance programs, and diversity in the workplace. I attended the following seminars: Government Investigations, and Compliance 2021 Trends; 10 Lessons Learned from Managing the Legal Function Through a Global Pandemic; Cyber Security and Global Privacy Trends 2021; IP 2021 Trends; Mental Health for Lawyers: 10 Strategies to Manage Stress During the Pandemic; Staying Resilient: Navigating Life's Personal and Health Challenges; Taking Risks and Seizing Opportunities to Fast-Track and Catapult Your Career; Using Your Voice and Your Power to Effectuate Change in the Workplace; and Body Language 2.0: How to Read the Room, Be It on Zoom or in the Workplace.

7. Parliamentary Procedures Webinar for Fatality Review Committees and Boards

On September 23, 2021, I, along with Chief Counsel Barton, attended a parliamentary procedure webinar for the Fatality Review Committees and Boards. The webinar was facilitated by Susan Leahy of Robert's Rules Made Simple. The session gave an overview of Robert's Rule of Order and how to efficiently conduct meetings. The webinar was recorded and is present on the Parliamentary Procedure Training Portal. The Board has been given access to view and use the portal. The webinar was well attended and well received.

C. Litigation and Legislative Update

1. Litigation

OOG is monitoring FOIA-related cases in D.C. Superior Court, the U.S. Court of Appeals for the D.C. Circuit, the United States District Court for the District of Columbia and nationwide. The agency is not a party to any of the lawsuits. I am providing this information for the Board's awareness of litigation that may impact the operation and interpretation of D.C. FOIA law.

a. TPM lawsuit re: preliminary budget requests

On July 13, 2020, TPM sued the District under D.C. FOIA, alleging that the District failed to produce and post online various budget-related documents related to the Office of the State Superintendent of Education ("OSSE") and District of Columbia Public Schools (Case No. 2020 CA 003087 B). The case (21-CV-0543) remains ready for briefing in the Court of Appeals. The case was referred to mediation (i.e., for possible settlement) on September 1, 2021, but screened back out (i.e., returned to the court's active docket) on September 24, 2021.

b. ACLU lawsuit re: stop-and-frisk

On February 16, 2021, the American Civil Liberties Union of the District of Columbia sued the District government seeking records concerning stop-and-frisks by the Metropolitan Police Department (Case No. 2021 CA 000452 B). A new status hearing was set for October 1, 2021. The parties remain in settlement negotiation over the sole remaining issue of attorney's fees (see "Consent Motion for Stay"), so the October 1, 2021, status hearing is continued to December 17, 2021, at 11 a.m.

c. FOIA lawsuit regarding autopsy records: *Judicial Watch vs District of Columbia* (Case No. 2021 CA 000875 B)

On March 19, 2021, the Plaintiff, Judicial Watch, filed a lawsuit under the DC FOIA *et seq.*, appealing the denial of the Plaintiff's two FOIA request by the D.C. Office of the Chief Medical Examiner ("OCME"). The requester filed the lawsuit while FOIA appeals to the Mayor's Office of Legal Counsel ("MOLC") were undecided. The FOIA request was for the autopsy of Capitol Police Officer Brian Sicknick. OCME denied access to certain records using the personal privacy exemption, the investigatory records exemption and other

statutory exemptions. OCME's enabling legislation require an authorization from the next of kin, a court order or a subpoena to release the records. The plaintiff failed to provide OCME with any of the statutory required documents. The MOLC issued a combined decision to the plaintiff's two administrative FOIA appeals. The MOLC affirmed OCME's decisions on withholding the case file concerning the issue, but remanded OCME's decisions concerning electronic communications, requesting that OCME conduct a search to determine whether electronic communications exist that are responsive to the plaintiff's requests.

In its suit, the Plaintiff requests the D.C. Superior Court order the District to conduct a search for records in response to the Plaintiff's request and enjoin the District from withholding the relevant records. On May 28, 2021, the District filed a Motion to Dismiss the Plaintiff's complaint, or in the alternative, a Motion for Summary Judgment. On July 2, 2021, the Plaintiff filed this Motion for Leave to Amend its complaint after the Plaintiff's second FOIA request was denied by OCME and upheld by the Mayor's office on appeal. The District filed an opposition to the Plaintiff's motion on July 16, 2021.

On July 30, 2021 the D.C. Superior Court, granted the Plaintiff's Motion for Leave to Amend, accepted the Plaintiff's Amended Complaint, and denied the Defendant's Motion to Dismiss the Plaintiff's original complaint because it was moot. In its opposition, the District argues that the Court should deny the Plaintiff's motion to amend on futility grounds because the plaintiff lacks standing to bring its claim, either through the original complaint or through the proposed amendment because it was not the party that filed the complaint.

The Court found the Plaintiff's pleading not futile due to standing because FOIA creates a private right of action for a requestor when the request is denied. The Court found that the Plaintiff had standing because the Plaintiff was the organization listed as the FOIA requestor and therefore sustained an "injury in fact". The Court found the Defendant would suffer no undue prejudice if the Plaintiff was allowed to amend its original complaint and it also noted this was the Plaintiff's first request to amend its complaint. The Plaintiff's motion was granted.

On August 13, 2021, the Court granted the District's request to Extend Time to Respond to Plaintiff's Amended Complaint and Continue the August 20, 2021, Initial Scheduling Conference. On September 28, 2021, the Court issued an Order granting the District's Second Motion to Extend Time to Respond to Plaintiff's Amended Complaint. The Initial Scheduling Conference is continued until October 29, 2021.

d. Video Recording Records Access at the U.S. Capitol

In an interlocutory ruling in *United States v. Torrens* (Case No. 1:21-cr-00204-BAH-2), the United States District Court for the District of Columbia granted petitioners (a coalition of media organizations) access to certain videos from the January 6, 2021, breach of the U.S. Capitol, "taken from the...Capitol's closed-circuit video...system" (Mem. Op. & Order at 1 (Sept.

15, 2021)).

Although this was not a FOIA matter, the media organizations had cited the court's Standing Order No. 21-28 (May 14, 2021), which provides, *inter alia*, that, due to restricted courthouse access and the COVID-19 pandemic, "[m]embers of the media provided access to video exhibits in a particular case...may view those exhibits using [an electronic] 'drop box'."

The U.S. government opposed the release of the five contested videos "on grounds that [such release] would create a security risk" and had "urged the Court to accept the [defendant's] plea because of the written Statement of Offense and without considering the video exhibits," so that the videos would not become "judicial records subject to the right of public access." (Mem. Op. & Order at 1 & n.2, 7.)

The court held that the government had not rebutted the Leopold/Hubbard "strong presumption in favor of public access" and ordered the government "promptly [to] make the video evidence...publicly available without restrictions...using the 'drop box' technical solution described in...Standing Order No. 21-28." (Mem. Op & Order at 15.)

e. Alabama Supreme Court Case Limiting Access to Body Worn Camera Recordings via FOIA

Something Extra Publishing, Inc. d/b/a Lagniappe Weekly v. Mack, et al. No. 1190106, 2021 Ala. LEXIS 103 (Sep. 24, 2021). On September 24, 2021, the Alabama Supreme Court held, in an 8 to 1 decision, that body worn camera footage, *inter alia*, are investigatory records that are exempt from disclosure under Alabama's open records law. The Plaintiff sought records related to the police shooting of Jonathan Victor. These included dash cam, body cam, and third-party video; the audio from any 911 calls or radio communications; photographs from the scene; autopsy records; and communications such as emails, text messages, and other forms of messaging.

In upholding the lower court's ruling, the Alabama Supreme Court held that law enforcement investigative reports and related investigative material are not public records. The Court reasoned that "related investigative reports" in the exemption applies to not only a police officer's work product, but all documents related to a particular investigation.

2. D.C. Council Legislation

During its October 5, 2021, Legislative Session, the Council of the District of Columbia enacted emergency amendments to D.C. FOIA and the OMA. The Council also adopted a resolution appointing an interim Executive Director to the Office of Neighborhood Advisory Commissions.

a. OMA Legislation

The first measure was Bill 24-384, the "Post-Public Health Emergency Protections Extension Emergency Amendment Act of 2021." The measure continues in effect from March 11, 2020 through December 31, 2022, amendments to the OMA previously enacted due to the public health

emergency. Under the law: (1) A meeting continues to be deemed open to the public when the public body takes steps reasonably calculated to allow the public to view or hear the meeting while the meeting is taking place, or if doing so is not technologically feasible, as soon as thereafter reasonably practicable; and (2) the OMA physical posting of public meeting notices requirement is waived. The Council approved on first reading Bill 24-385, the “Post-Public Health Emergency Protections Extension Temporary Amendment Act of 2021” the temporary measure mirrors the emergency bill.

b. D.C. FOIA Legislation

The next measure the Council considered regarding open government (D.C. FOIA) was Bill 24-0376 the “Foreclosure Moratorium Extension, Scheduled Eviction Assistance, Public Emergency Extension, and FOIA Tolling Emergency Amendment Act of 2021”) and Bill 24-0377, the “Foreclosure Moratorium Extension, Scheduled Eviction Assistance, Public Emergency Extension, and FOIA Tolling Temporary Amendment Act of 2021.” As introduced by Chairman Mendelson, these bills would have extended the last remaining pandemic-related basis for a public body to delay its response to a D.C. FOIA request.

Under the statute as in effect today, public bodies can, by written notice to the requestor, extend the time limit for response where there is a “need to conduct an on-site review of records that could present a significant risk to health or safety during a COVID-19 closure.” D.C. Official Code § 2-532(d)(2)(D) (section 202(d)(2)(D) of D.C. FOIA). Subparagraph (D), that specific language, is currently set to expire on October 27, 2021, along with the expiration of D.C. Law 23-267 (“FOIA Tolling Temporary Amendment Act of 2020”).

Section 4 of each of the two new bills would have effectively renewed that subparagraph (D) for, respectively, 90 and 225 days depending on the type of the bill. But Councilmember Allen introduced an amendment to each of the bills to strike out that operative portion, section 4, before the measures-in-chief were adopted.

Councilmember Allen stated his concern that the bills would give public bodies excessive discretion and that, in any case, “there are no agencies that we know of that are still closed in the sense that nobody is in the office to able to make the search for responsive records. Generally, the public has a very strong interest in transparent government, and FOIA is a big part of that. There were certainly times during the height of the pandemic when it truly was not safe to go into...government buildings and search for those records. But that time has passed. Some offices are back in the building full-time; indeed, some of my colleagues are participating in this very meeting from the Wilson Building. There’s just no justification for continuing to toll FOIA response requirements...” Chairman Mendelson expressed his “reluctan[ce] about this amendment” because “this matter came to me at the last minute...My office has not had the ability to survey...agencies, and I don’t know that...agencies have focused on this...amendment..., because they just probably assumed that the...tolling of [the FOIA deadlines would] continue[.]”

So, the absence of comment from agencies that they need this, I'm not sure that that is dispositive." But the amendments ultimately passed without objection.

In sum, the bills, as finally passed, do not affect the status quo, and the standard time limits for response will return to force on October 27, 2021. The bills (as introduced) and Councilmember Allen's amendment and written statement of rationale are uploaded to the Dropbox.

c. Resolution Appointing Interim Director

The Council adopted Resolution 24-241, that appoints Schannette Grant, Interim Executive Director of the Office of Advisory Neighborhood Commissions. Its former Director, Gottlieb Simon is retiring after many years of service. I appreciate Mr. Simon's commitment to ensuring that Advisory Neighborhood Commissioners (ANCs) were aware of their FOIA obligations and responsibilities to conduct their business in an open and transparent manner. I look forward to working with Interim Director Grant and offer congratulations on her appointment.

8. OMA Complaint Conference

On October 6, 2021, the OOG conducted a meeting with the Historic Preservation Review Board ("HPRB") to discuss Complaint #OOG-2021-0007-M. The purpose of the meeting was to gain clarity on how the HPRB conducts its official business and keeps its official records. During the meeting, David Lieb, Senior Counsel of the Office of Planning, explained the public body's hearing process, and what is considered an "official action" under HPRB's regulations. We were advised that the electronic recordings of the public body meetings are HPRB's official record and the subsequent business actions are an unofficial summary. The business actions are not the same as meeting minutes under the OMA and are not adopted by the public body and are not a part of the official record. The business actions are not considered an official action. At the conclusion of the meeting, our office gained an understanding of HPRB's meeting procedures. HPRB was informed that an advisory opinion would be issued to address the complaint.

D. Administrative Matters

1. Parliamentary Procedure Training Portal Project

The Parliamentary Procedure Training Portal – "Robert's Rules Made Simple for DC Government" – is running and there is a link to the training portal on open-dc.gov. I am doing a "soft launch" of the portal during Ethics Week, which will be a brief presentation of what the portal has to offer. The portal includes webinars on Robert's Rules of Order and related training materials. I hope that you have been able to access and use the Portal. The target audience for the first roll out of the training portal are the Administrative Points of Contacts for Boards and Commissions. We look to sign up Board and Commission members in the next launch of the portal. We anticipate signing up those users when BEGA does the next joint Ethics and Open Meetings training for new Board and Commission members.

2. New BEGA Staff Positions

OOG will be hiring a Paralegal Specialist and we are working with the Department of Human Resources (DCHR) on creating a position classification. Once the position is classified, we will begin recruiting for the position. OOG will also work with the Office of Government Ethics on the Chief of Staff position. That employee will report to both Directors and will supervise all administrative matters, including but not limited to budget, contracting and procurement, human resources, facilities, and information technology.

3. Return to the Workplace Plan

On October 4, 2021, BEGA began the implementation of its return to the workplace plan. Currently, managers and administrative staff are in the office at least one day per week. I have provided a copy of the OOG's staff in office schedule and plan for your information.

4. Hearing Room Upgrade

The project to upgrade the equipment in BEGA's hearing room was completed on September 26, 2021. The project included the replacement and installation of two main components of the audio/visual system, a recording (or inventory) of all existing equipment, and software upgrades. Tyrell Dow and Kevon Bridges have been training regarding the new audio/visual system's operation. Today, the Office of the Chief Technology Officer (OCTO) is connecting the new Cisco equipment to the telecommunications network. As a result of OCTO's work today the hearing room is ready for in-person and remote meetings using the upgraded system.

5. BEGA Office Relocation

Acting Director Cooks, General Counsel Raj, and I have been meeting with the Department of General Services (DGS) regarding the agency's move to a new location. DGS is exploring several options on behalf of BEGA and we met with DGS representatives on September 30, 2021 and October 6, 2021 regarding the proposed relocation. We will update the Board as more information becomes available.

6. FY23 Budget Formulation

BEGA has commenced the planning process for the FY23 Budget. On September 23, 2021, the Executive Office of the Mayor hosted the FY23 Budget kickoff virtually. It included a series of meetings and instruction concerning the budget formulation documents and methodology for planning for FY23. I met with Acting Director Cooks on Monday, October 4, 2021, to discuss BEGA's budget and our strategy for completing the FY23 Budget process. We will update you as the process unfolds and we expect that BEGA's FY23 budget will funding for the relocation.

7. OOG Exemplary Performance Awardee: Chief Counsel Johnnie Barton

I am pleased to announce that Chief Counsel Barton received an Exemplary Performance Award in FY22 for his job performance. Mr. Barton's work on the

Body Worn Camera Advisory Opinion had a far-reaching impact in the District of Columbia, especially during the Police Reform Process. Mr. Barton’s extensive research led to the overall effectiveness and persuasiveness of the Opinion, which has been widely cited. I would like to publicly thank him for all of his hard work and dedication to open government in the District of Columbia.

8. BEGA Continuity of Operations Plan

BEGA initially formulated its Continuity of Operations Plan (COOP) on March 12, 2020. The plan did not contain specifics about OOG because at that time we were a staff of two. Now that OOG has a full staff, the plan was revised on September 15, 2021, to include OOG-specific plans and staff members.

This concludes the Office of Open Government’s October 7, 2021 report.

V. Report by the Director of Government Ethics

Good afternoon Chairperson Hutcheson and Members of the Board. I am Ashley Cooks, the Acting 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	59
Open - Negotiations	0
Open - Show Cause Hearing	0
Grand Total	59

OPEN "UNDOCKETED MATTERS"	
Grand Total	8

PENDING/STAYED INVESTIGATIONS BY STATUS	
Closed - Pending Collection	25
Closed - Pending DC Superior Court Case	1
Stayed - OAG False Claims Act Case	4
Stayed - OIG Investigation	8
Stayed - US District Court Case	1
Grand Total	39

REGULATORY MATTERS BY STATUS	
Closed - Pending Collection	24
Open	17
Grand Total	41

	Current	Last month	August
Investigations Currently	59	57	53
Investigations Stayed	13	14	14

The number of open preliminary and formal investigations includes 9 new matters opened since the Board last met. The investigative team resolved 7 preliminary investigations since the Board last met.

Auditor Tujuba completed the Quarterly Complaint Report for FY2021 Quarter One and it has been posted to our website. A copy was uploaded to the drop box for your review.

B. Trainings/Outreach

1. Professional Development Trainings Attended by staff

During the month of September, OGE’s Legal Staff and I attended the 2021 Society of Corporate Compliance and Ethics (SCCE) 20th Annual Compliance & Ethics Institute. The Institute ran Monday through Wednesday, September 20 through 22. Some of the most relevant and interesting sessions were: Writing Investigative Reports: A 6-Step Process; Business and Private Ethics: Does Such a Distinction Exist or Even Make Sense?; The Role of Leadership in an Effective Compliance Program – Why, How and What To Do To Effectively Engage Leadership in Your Organization; Willful Blindness – Why We Fail To See What We Need To See; and Lessons from Sixty Code of Conduct Projects: What Are Five Things You Need for a Best-In-Class Code?

Program Specialist Stan Kosick completed two trainings, Becoming an Accountable Professional and Ethics and Project Management.

Program Support Assistant Tyrell Dow completed the Department of Small and Local Business Development’s Compliance Training.

Senior Attorney Advisor Lynn Tran took an online Robert’s Rules Made Simple training on parliamentary procedure through OOG.

Auditor Amanueil Tujuba completed the following trainings: Handling Team Conflict; Fostering Mentoring Relationship; Taking Your Team to the Next Level with Delegation; and Managing in a Crisis.

2. Conducted by staff

Since the last Board meeting, OGE attorneys conducted 5 total ethics trainings, which included: the monthly ethics training, ethics trainings for the Department of Employment Services and the Department of Forensic Sciences, and two ethics presentations as part of the Fundraising Training for the DC One Fund Kick off.

The virtual brown bag was skipped for the end of September in preparation for Ethics Week.

66 employees completed our online ethics training via PeopleSoft.

3. Ethics Week 2021

Our annual Ethics Week is scheduled to take place on October 18-22, 2021. The theme for this year's program is "Reapproaching Ethical Values." We have scheduled presentations that address ethics concerns in a virtual world, maintaining an ethical culture, ethics pitfalls, and health and wellness. The event will include guest speaker, Marcy Maslow, the Chief Integrity Builder for "e-Factor! ®- the educational board game for business ethics." As well as a legal ethics presentation by the DC Bar Association. OOG will provide FOIA and Open Meeting Act presentations; Serve DC will present information on the Donations Process; several Ethics Counselors will participate in a panel discussion; and General Counsel Raj will conduct two lunch-time yoga and ethics sessions. A finalized schedule was added to the Dropbox for the Board's review.

4. Learning Management System

OGE has started working with LRN to create content for its ethics learning management system ("LMS"). The LMS will assist BEGA with training the District's 34,000 plus employees and public officials by providing remote, on-demand ethics trainings that are specifically tailored to the District's Code of Conduct. The LMS will serve as the central online location for OGE's ethics training resources and materials and will provide data analytics, course completion, and tracking information. OGE plans to roll-out the LMS in November

5. Ms. Ethics Videos

OGE spent the last two days filming and recording for two Ms. Ethics videos with Pendragwn Productions. Pendragwn created the original Ms. Ethics video and the subsequent Ask Ms. Ethics videos. These two videos will focus on financial disclosure nuances, how and when to report an ethics violation, and ethical conduct. The videos will be completed by the end of this month.

C. Advisory Opinions/Advice

1. Informal Advice

Approximately 47, which is 8 more than the 39 reported at the September meeting. This number does not include responses we have provided to questions regarding the Lobbyist and FDS e-filing systems. OGE has drafted a *sua sponte* Advisory Opinion, Seeking or Negotiating Employment, which is designed to advise employees of the ethics rules surrounding seeking or negotiating employment, as well as the recusal requirements for avoiding violating the financial conflict of interest statute or engaging in conduct that conflicts with their official government duties and responsibilities. The opinion has not been posted to the DC Register. A copy has been placed in the drop box for the Board's review.

D. Legislation Updates

On October 27, 2021, the Committee on the Judiciary and Public Safety will hold a virtual, public hearing on the Pro Bono Legal Representation Expansion Amendment Act of 2021, Bill 24-0298. The Bill is an amendment to Section 223 of the Ethics Act, which will allow employees to represent persons of limited income in affiliation with a non-profit organization, before District courts and federal courts, and District and federal agencies. I plan to submit testimony in support of the bill. A copy of the notice and proposed bill were placed in the drop box for your review.

E. OGE Administrative Matters

1. OGE Staffing

We are currently advertising our vacancy announcements for an Attorney Advisor. This position will be open until October 20th and is posted DCHR's site. The vacancy will be posted on LinkedIn and Indeed as well. We have tentatively made a selection for a new Administrative Officer.

2. Relocation/New Office Space

The City Administrator has approved the Department of General Services (DGS) to issue a Request for Space (RFS) on BEGA's behalf. Both OOG and OGE continue to work with the DGS in pursuit of sufficient office space. We will meet with DGS next week to conduct site visits of leasing options.

F. Financial Disclosure Statement (FDS)

For enforcement, the FDS Team has produced a list comprised of 145 public filers who did not meet the filing deadline or who have not filed despite receiving all notices and reminders to file. That list was provided the Office of Pay and Retirement Services (OPRS) for automatic payroll deductions of fines. OPRS has processed a portion of the list. A list of confidential filers who have not filed or were late filers as determined by the agencies' Financial Disclosure Review Reports, has also been sent to OPRS.

17 Waiver requests have been received. Also, Auditor Tujuba requested 183 Confidential Financial Disclosure Statements from 33 agencies for review. Agencies have been contacted and have been responding with the required information.

G. Lobbying Registration and Reporting (LRR)

OGE received 17 Registrations in the e-file system - 10 New, 4 Renewals, and 3 Terminations. On Sept 29, LRR Team sent out an email to 582 Active Points of Contact as a reminder the 2021 quarter 3 Activity Reports are due by October 15th.

Thank you. This concludes the Office of Government Ethics' October 7, 2021 report.

VI. Acknowledgement of Public Comment – if received

The Board acknowledged the receipt of two public comments.

VII. Executive Session (nonpublic)

VIII. Resumption of Public Meeting

The Board reconvened the public meeting at 2:10 pm. Board Member Felice Smith did not attend the resumption of the public meeting but the four remaining Members of the Board constitute a quorum.

The Board did not have any matters to report from the execution session.

The four Members of the Board in attendance voted unanimously to defer publication of public comments as part of the Board's meeting minutes until such time as the Board can reconvene to discuss a policy for publication of public comments.

The Board also reconsidered its earlier approval of the September 2, 2021 minutes. By a vote of 4-0, the Board approved the September 2, 2021 minutes subject to the removal of the public comment included in the draft minutes. Chairperson Hutcheson and Board Members Nottingham, Sobin, and Tucker voted in favor of the motion to approve the September 2, 2021 minutes, as revised.

The Board also voted to amend the August meeting minutes by removing the public comment from the approved minutes. Chairperson Hutcheson and Board Members Nottingham, Sobin, and Tucker voted in favor of the motion to approve the August 5, 2021 minutes as revised.

IX. Adjournment

The Board will meet again on November 4, 2021.