

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

**MEETING MINUTES – May 2, 2024**

The District of Columbia Board of Ethics and Government Accountability held a hybrid meeting at the Board of Ethics and Government Accountability, 1030 15<sup>th</sup> Street, NW, Suite 700 West, and virtually on May 2, 2024, at 12:00 p.m. Chairperson Norma Hutcheson and Board Members Charles Nottingham, Felice Smith, Darrin Sobin, and Melissa Tucker participated in the meeting.

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.

**I. Call to Order**

The meeting was called to order at 12:00 p.m.

**II. Ascertainment of Quorum**

All Board members were present at the start of the meeting.

**III. Adoption of the Agenda/Approval of Minutes**

The Board members unanimously adopted the agenda for the meeting. The four members present at the April meeting voted to approve the April minutes. Board member Sobin did not participate in the vote since he was not present at the April 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, OOG has continued to fulfill its mission of ensuring that all persons receive full and complete information regarding the affairs of the District of Columbia government and the actions of those who represent them.

**A. Open Meetings Act (“OMA”) and Freedom of Information Act (“FOIA”) Advice**

1. Advisory Opinions

Aston Community Advisory Team (Aston CAT) Advisory Opinion, OOG-2024-0008

On April 12, 2024, I issued an Advisory Opinion in response to a request for advice regarding whether the Aston Community Advisory Team is a public body subject to the OMA. OOG previously issued advisory opinions that have broadened our interpretation to include public bodies that have not been

established by a Mayor's Order or statute, but by a subordinate office or agency. Entities that are considered public bodies include task forces and other bodies that were created with the intent to impact District operations and inform policy. I concluded that the Ashton CAT and comparable "community advisory teams" are subject to the OMA because the entity met this description.

A copy of the opinion is in Dropbox.

2. Informal Advice

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

- 5 requests for OMA advice;
- 2 requests for FOIA advice; and
- 9 requests for technical assistance with open-dc.gov.

**B. Meeting Monitoring**

OOG's staff attends public bodies' meetings, in person and remotely, to ensure compliance with the OMA. They also inspect public bodies' websites and OOG's Central Meeting Calendar for public meeting notices and records. OOG attorneys provide legal advice on OMA compliance and take corrective action if necessary.

During April 2024, OOG's legal staff attended 28 public body meetings. As a result of the monitoring, OOG communicated 3 corrective measures. The public bodies failed to do the following: (1) post a detailed agenda; (2) enter into closed session properly; and (3) cite the OMA regulatory statement.

**C. Training/Outreach**

1. Ethics Spring Training: Confidentiality

On April 11, 2024, the Office of the Attorney General (OAG) presented an ethics training on confidentiality of information. The session highlighted D.C. Rule of Professional Conduct 1.6. Chief Counsel Louis Neal, Trial Attorney Nicholas Weil, Attorney Advisor Anthony J Scerbo, and Paralegal Specialist Kimberly Brown attended the session.

2. Complex Cases Simplified: Gaining Logistical Control from Calendaring to Courtroom

On April 17, 2024, Veritext presented an introduction to technology-based tools for managing cases in complex-litigation, such as publishing exhibits to selective populations of users, redaction tools, and secured access to virtual tribunals. Attorney Weil attended the presentation.

3. Financial Interests and Disclosure

On April 19, 2024, Attorney Weil completed the “Financial Interests and Disclosure” module on the Office of Government Ethics’ training portal. This was a self-training module that provided instruction on the policies that apply to District employees and certain family members with respect to disclosure of their financial interests.

4. DC Bar’s 2024 John Payton Leadership Academy

On April 22, 2024, Attorney Scerbo attended the opening session of the D.C. Bar’s 2024 John Payton Leadership Academy, which is an intensive training program designed to help D.C. Bar members hone their leadership skills and develop pathways of professional leadership through involvement with the D.C. Bar and other organizations. On April 24, 2024, Attorney Scerbo attended oral arguments at the D.C. Court of Appeals with the 2024 Payton class and then met with Chief Judge Blackburne-Rigsby and Associate Judges Howard and Shanker.

5. Everything You Wanted To Know About Experts But Were Afraid To Ask

On April 25, 2024, Attorney Weil and Attorney Scerbo attended “Everything You Wanted to Know About Experts But Were Afraid To Ask,” presented by the OAG. This course covered the law of lay vs. “expert” or “specialized opinion” evidence in the District, including recent changes in the law. This session highlighted the evolution of the law regarding opinion testimony, the Federal Rules of Evidence, and relevant cases.

6. Chief Counsel’s meeting with the Director of Government Operations, D.C. National Guard

On April 25, 2024, Chief Counsel Neal met with Director of Government Operations for the D.C. National Guard, Marcus Hunt, who hosted a panel discussion with the Cadets of the Capital Guardian Youth Challenge Academy in Laurel, Maryland. At the conclusion of that panel discussion, Chief Counsel Neal was invited by Director Hunt and the Director of the Academy Mr. Philip Burk to be the Commencement Speaker at the current class’s graduation ceremony on June 22 at the University of the District of Columbia.

7. Open Meetings Act training for the Climate Commitment Task Force

On May 1, 2024, Attorney Weil presented an OMA training to the newly launched Climate Commitment Task Force. This task force was created by D.C. Law 24-176, the Climate Commitment Amendment Act of 2022. The purpose of the entity is “to prepare an action plan for carbon neutrality for District government operations by 2040.” The training covered the OMA rules, regulations, and practical tips for conducting meetings in compliance with the OMA.

## **D. Legislative Update**

### 1. Litigation

I have no developments to report in ongoing cases since the last Board meeting.

### 2. Legislation

The D.C. Council committees' budget hearings and markups continue, including the Committee on Executive Administration and Labor's markup, which will convene at 11:30 a.m. on May 10, 2024.

On May 3, 2024, the Committee of the Whole holds its public hearing on the budget and financial plan. Note that the Mayor's proposed Budget Support Act would include an amendment to D.C. FOIA to reflect the Mayor's proposed elimination of the Office of the Ombudsperson for Children, but the effect of that amendment would be purely technical.

(The proposed Budget Support Act is in Dropbox. For the FOIA amendment, see p. 58, *ll.* 1190–97 (repealing subpar. (F) of section 204(a-1)(2) of D.C. FOIA.)

## **E. Administrative Matters**

### 1. FY25 Budget Hearing

OOG provided Councilmember Bonds with supplemental information that she requested during the April 8, 2024, Budget Oversight hearing. We provided copies of the proposed legislation for inclusion in the FY25 Budget Support Act that would provide OOG with meaningful OMA fines and penalties that could be issued through civil enforcement in D.C. Superior Court.

### 2. Attorney Advisor Brandon Lewis

The Office of Open Government welcomed our new Attorney Advisor, Brandon Lewis, to the BEGA team on April 22, 2024. Attorney Lewis is originally from Smyrna, Georgia, but he has called the District home for the past 14 years and he is a proud Ward 5 resident. Attorney Lewis has had a long commitment to public service in DC, starting with serving as an AmeriCorps volunteer prior to law school and holding positions within the District and Federal governments, including serving as an Assistant Attorney General with the Criminal Section of OAG, as well as an Associate Counsel with the Department of Veterans' Affairs, Board of Veterans' Appeals. Attorney Lewis received his B.A. from the University of North Carolina at Chapel Hill and his J.D. from William & Mary Law School.

We are extremely pleased this talented attorney has joined BEGA.

**This concludes the Office of Open Government’s May 2, 2024, report. I am happy to answer any questions the Board may have.**

Board Member Sobin acknowledged Attorney Scerbo and General Counsel Raj for their acceptance into the Payton Leadership academy.

**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 because of actions taken by the Board during today’s meeting.

<b>OPEN INVESTIGATIONS BY STATUS</b>	
Open	47
Open - Negotiations	0
Open - Show Cause Hearing	0
Grand Total	47

<b>OPEN "UNDOCKETED MATTERS"</b>	
Grand Total	1

<b>PENDING/STAYED INVESTIGATIONS BY STATUS</b>	
Closed - Pending Collection	43
Stayed - Pending DC Superior Court Case	6
Stayed - OAG False Claims Act Case	1
Stayed - OIG Investigation	5
Stayed - US District Court Case	0
Grand Total	55

<b>REGULATORY MATTERS BY STATUS</b>	
Closed - Pending Collection	26
Open	4
Grand Total	30

	<b>Current</b>	<b>Last month</b>	<b>March</b>
Investigations Open	47	35	44
Investigations Stayed	12	11	8

The number of open preliminary and formal investigations includes 24 new matters. The investigative team resolved 12 investigations since the Board last met. This total

does not reflect the number of complaints that were dismissed for a lack of jurisdiction.

OGE has continued its communications and referrals to the Chief Financial Officer's Central Collection Unit ("CCU") for collection of delinquent debts. We have commenced monthly meetings with the CCU team and learned that approximately \$3000 has been collected to date. We are transferring over new debts and will continue to update the list monthly. According to CCU, ten of the larger and older debts will be sent to the Office of the Attorney General for judgment through Superior Court.

OGE published its Quarterly Complaint Report for the second quarter of fiscal year 2024 on May 1, 2024. A copy has been placed in the DropBox.

## **B. Trainings/Outreach**

### **1. Professional Development Trainings Attended by Staff**

Auditor Courtney Walker attended How to Create an Excel Pivot Table. Program Coordinator Stan Kosick took Communicating Non-Defensively. Chief of Staff Christina Mitchell attended Spring into Microsoft by OCTO and the MSS course Communicating Strategically. Attorney Advisor Fran Vann attended Compliance & Ethics Essentials 2024. Attorney Advisor Marissa Jones took an Overview of White-Collar Crime. General Counsel Rashee Raj attended Government Investigations 2024: Investigations Arising from Data Breach and Privacy Concerns and Parallel Proceedings. Senior Board Attorney Lynn Tran and Attorney Advisor Maurice Echols attended Everything You Needed to Know about Experts but Were Afraid to Ask presented by the Office of the Attorney General.

I am pleased to announce that General Counsel Raj was accepted into the DC Bar's John Payton Leadership Academy for the class of 2024. The Leadership Academy is an intensive training program designed to help D.C. Bar members hone their leadership skills and develop pathways of professional leadership through involvement with the Bar and other organizations. The goal of the program is to help participants increase self-awareness and finetune their leadership style and skillsets, and to learn how to work with others in a way that brings out the best in people and organizations. The academy started on April 22<sup>nd</sup> and ends on June 17, 2024.

### **2. Conducted by staff**

April was a busy month for ethics training. Since the April Board meeting, OGE conducted ten training courses, which included the April Local Hatch Act Training, the April Monthly Ethics Training, a quarterly Board and Commissions training, and agency trainings for the following: the Office of Returning Citizens, the Department of Licensing and Consumer Protection, the Office of the Advisory

Neighborhood Commission, the Office of Unified Communications (specifically for FDS), the DC Health Benefit Exchange, and an OAG Hatch Act Training.

On Monday, April 28th, Attorney Advisor Fran Vann presented the April Ethics Counselor Brown Bag Session on the Financial Disclosure Program Updates. Twenty-two ethics counselors attended and engaged in discussions about the FDS program and offered a forum to discuss any thoughts and to exchange ideas. A copy of the presentation was placed in the DropBox.

During April, 393 employees completed courses using the Learning Management System. The courses with the highest completion rates were Financial Interests and Disclosure, Board of Ethics and Government Accountability Ethics Training, and Conflicts of Interest: An Overview. Three hundred and forty employees completed our ethics training using PeopleSoft.

### 3. Outreach

OGE is in the process of updating and implementing new training courses for the Learning Management System. OGE staff members attended a Catalyst Design course as the first step to updating our training courses. Supervisory Attorney Asia Stewart-Mitchell is the point of contact for this project and has begun updating the Financial Disclosure Statement training. Last week we met with LRN, the vendor that hosts our LMS, to discuss the best course of action for creating the new courses. The LMS has provided the opportunity to train and reach a broader audience of employees. With these updates, our goal is to fine-tune the ethics information we provide and increase the number of courses that are available on the system.

OGE began its outreach initiative, “Ask BEGA” in which Attorney Advisors will visit agencies and government buildings to provide on-site ethics advice to employees, as well as information about the office. This initiative is a spin-off of BEGA’s Roadshow that existed prior to the pandemic. This past Tuesday, Attorney Advisors Maurice Echols and Marissa Jones visited the Department of Energy and provided advice to a group of employees. Our next Ask BEGA event will take place in June.

## C. Advisory Opinions/Advice

### 1. Informal Advice

OGE’s legal staff provided advice for approximately 38 ethics inquiries, which is 7 more than the 31 reported at the last Board meeting. This number does not include responses we have provided to questions regarding the Lobbyist and FDS e-filing systems.

## 2. Formal Advisory Opinions

On March 29th, OGE published an advisory opinion titled “Guidance on Social Media use for Official Purposes by District Government Elected Officials and District Government Employees.” The 30-day comment period extended through April 29<sup>th</sup> and a few comments have already been received. The opinion is complicated by a recent Supreme Court opinion from March 15, so OGE will update the opinion and post it for second comment period. A copy of the advisory opinion and the recent Supreme Court opinion were placed in the drop box.

OGE is in the process of publishing an advisory opinion, Advisory Neighborhood Commissioner Sign-on Letter, which responds to the Office of Advisory Neighborhood Commissions (“OANC”) request for advice on the parameters around the drafting, circulating, and sending of sign-on letters by Advisory Neighborhood Commissioners (“Commissioners”). Specifically, OANC would like this Office to identify the circumstances under which it is appropriate for Commissioners to participate in sign-on letters in their official capacity. Once finalized, the opinion will be published in the D.C. Register for a 30-day comment period.

### **D. Legislation and Rulemaking Updates**

#### 1. Financial Disclosure Rulemaking

OGE has identified board and commission members that do not meet the definition of public official under D.C. Official Code § 1-1161.01(47) and don’t file financial disclosure forms even though they engage in conduct that creates a financial conflict of interest or the appearance of a conflict of interest. OGE drafted a proposed rulemaking that would designate those board and commission members as public financial disclosure statements filers and it was posted in the D.C. Register on March 29, 2024, for a 30-day comment period and was emailed to all ethics counselors. Also, a press release was posted on the BEGA website. To date, we have received two comments, one from an affected Board and the other from the Executive Office of the Mayor, and a request to consider a comment after the deadline, which OGE will allow. We will provide the Board with an update regarding the comments at the next meeting.

### **E. OGE Administrative Matters**

#### 1. 2025 Budget Oversight Hearing

BEGA appeared before the Committee on Executive Administration and Labor for its FY25 budget oversight hearing on Monday, April 8, 2024. Both OOG and OGE provided information and testimony on the agency’s current budget and FY 25 budget enhancement requests. Supplemental responses to questions raised at the hearing were sent to the Committee on April 12<sup>th</sup>.

**F. Financial Disclosure Statement (FDS)**

Pursuant to D.C. Official Code §§ 1-1162.24 and 1-1162.25, public officials and certain government employees must file a financial disclosure statement as a means of transparency and to prevent engaging in conduct that violates the financial conflicts of interest statute. BEGA is responsible for ensuring that employees and public officials, who meet the statutory requirement, file their annual financial disclosure statement.

The 2024 FDS season is underway! The 2024 Financial Disclosure Statements (CY2023) are due on May 15, 2024. In April, the FDS team sent emails and mail notices to 4,282 Public Filers announcing the 2024 Financial Disclosure season's arrival. And each agency sent notice to its confidential filers. As of Monday, April 29th, 3,132 of the 8,821 filers have submitted their statements. Of those filers, 1,594 are confidential filers and 1,538 are public filers. We have been processing support tickets of which the majority have been due to name and agency changes.

Lastly, in an effort to streamline the processing of financial disclosure forms, such as waiver requests, designation appeals, and extension requests, OGE has created a FDS Tracker using the QuickBase application. Requesters can access the QuickBase system via the BEGA website and electronically submit their request forms. Upon submission, requesters are provided confirmation. OGE staff are then able to access and process the submission. The application serves as internal storage and provides data on the amount and types of requests the agency receives. It also allows relevant staff the opportunity to track the progress of each request in one designated location.

**G. Lobbying Registration and Reporting (LRR)**

Pursuant to D.C. Official Code § 1-1162.27(a), a person who receives compensation or expends funds in an amount of \$250 or more in any 3-consecutive-calendar-month period for lobbying shall register with the Director of Government Ethics and pay the required registration fee. According to D.C. Official Code § 1-1162.30, each registrant shall file a quarterly report concerning the registrant's lobbying activities during the previous quarter.

Lobbyist reporting has remained steady since the start of the 2024 calendar year. The 2024 first quarter activity reports were due April 15, 2024. A filing reminder was sent to 373 recipients on March 27, 2024. The Lobbyist Registration electronic filing system registered 9 Late Activity Reports and fine letters will be sent to those entities. As mentioned last month, OGE sent notice to all registered lobbyists and their clients informing them that the 15-day grace period that was allotted during the COVID-19 pandemic would end on April 1, 2024, and fines will be imposed on the day after the filing deadline. A press release was issued as well.

Lastly, IT Specialist Kevin Brown and Program Support Assistant Naquita Titus are working to complete an LRR Tracker, which will be equivalent to the FDS Tracker.

## **H. Public Investigations**

1. 24-0006-F In re Vincent Slater - This is a formal investigation based on a criminal complaint that Vincent Slater accepted bribes to erase or change the tax obligations of several DC businesses. Mr. Slater was a senior revenue officer at the D.C. Office of Tax and Revenue. Mr. Slater's sentencing took place on April 18, 2024. Mr. Slater was sentenced to twenty-seven (27) months of incarceration followed by three (3) years of supervised release and restitution imposed in the amount of \$1.2 million.

**Thank you. This concludes the Office of Government Ethics' May 2, 2024, report.**

## **VI. Public Comment – if received**

No public comments were received.

## **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 meeting resumed at 1:01 p.m.

The Board approved a negotiated disposition in **24-0050-P In re U. Ogbue**. The Board dismissed **24-0006-F In re Vincent Slater**.

The Board will next meet on June 6, 2024, at 12:00 p.m.

The meeting adjourned at 1:02 p.m.