

**DISTRICT OF COLUMBIA  
BOARD OF ETHICS AND GOVERNMENT  
ACCOUNTABILITY  
MEETING MINUTES – August 6, 2026**

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 August 6, 2026 at 10:00 a.m. Chairperson Norma Hutcheson and Board members Charles Nottingham, Felice Smith, and Darrin Sobin attended the meeting. Board member Melissa Tucker did not attend the meeting.

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 was called to order at 10:02 a.m.

**II. Ascertainment of Quorum**

Four Board members, Chairperson Hutcheson and Board members Nottingham, Smith, and Sobin were present at the start of the meeting.

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

The Board voted unanimously to adopt the agenda for the meeting and approve the minutes for the July 2026 meeting.

**IV. Report by the Director of Open Government**

Good morning, 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”). Our mission is to ensure that all persons receive full and complete information concerning the affairs of the District of Columbia government and the actions of its officials. Since the last Board meeting, OOG has continued its work to ensure that the District of Columbia government’s operations are transparent, open to the public, and promote civic engagement. To that end, OOG has enforced the Open Meetings Act, advised on the Freedom of Information Act’s requirements, and provided training on those transparency laws. OOG has proudly served as advocates for an open and transparent government.

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

**1. Advisory Opinions**

a. Dismissal of OMA Complaint – Advisory Neighborhood Commission, #OOG-2026-0012

On July 13, 2026, I dismissed Complaint #OOG-2026-0012, which concerned Advisory Neighborhood Commission (“ANC”) meetings for lack of jurisdiction pursuant to 3 DCMR § 10403.1(a). ANC meetings are excluded from the D.C. Open Meetings Act pursuant to D.C. Official Code § 2-574(3)(F), which excludes ANCs from the definition of public bodies subject to the OMA.

I advised the Complainant that the Advisory Neighborhood Councils Act of 1975 (D.C. Official Code § 1-309.01 *et seq.*) governs ANC meetings and the Sunshine Act (D.C. Official Code § 1-207.42) provides a private right of action in D.C. Superior Court. I referred the Complainant to the Office of the Attorney General if more information is required concerning the private right of action. A copy of the Complaint and Dismissal Letter are in Dropbox.

b. OMA Advisory Opinion – Board of Trustees for District of Columbia International Public Charter School, #OOG-2025-0018

On July 28, 2026, I issued an Advisory Opinion #OOG-2025-0018, in response to a complaint which alleged that the District of Columbia International School Public Charter School Board (“DCIS”) does not publish the location, including web links, of its meetings.

I dismissed the Complaint pursuant to 3 DCMR §10403.1(b), because I found that DCIS did not violate the Open Meetings Act. OOG’s investigation did not substantiate the allegation of an unpublished meeting location, including web links. The investigation revealed that the Board’s complete meeting notices from the date of the OMA complaint and for upcoming meetings were posted on the Public Charter School’s website. A copy of the Complaint and Advisory Opinion are in Dropbox.

2. Informal Advice

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

7 requests for OMA advice;  
9 requests for FOIA advice; and  
14 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's attorneys provide legal advice on OMA compliance and take corrective action, if necessary.

Since the last Board meeting, OOG's legal staff have attended fifteen (15) public body meetings. As a result of the monitoring, one corrective measure was communicated. The public body failed to publish a complete meeting notice pursuant to the Open Meetings Act.

**C. Training/Outreach**

1. "What Agencies Get Wrong: DC FOIA Exemptions" Training

On July 9, 2026, Attorney Advisor Joan Lelma presented "What Agencies Get Wrong: DC FOIA Exemptions" training, the first in OOG's FOIA Officers summer webinar series. The training covered misapplication of DC FOIA exemptions and their correct application with selected case law. I, along with OOG's staff, attended the training.

2. Open Meetings Act ("OMA") Training for Board of Acupuncture, Chiropractic, and Naturopathic physicians

On July 14, 2026, Attorney Advisor Anthony J Scerbo facilitated an Open Meetings Act ("OMA") training for Board of Acupuncture, Chiropractic, and Naturopathic physicians. The training provided an in-depth examination of the application of the OMA to public bodies.

3. American Society of Access Professionals ("ASAP") 18<sup>th</sup> Annual National Training Conference

From July 15-16, 2026, American Society of Access Professionals held its 18<sup>th</sup> Annual National Training Conference, in Arlington, Virginia. I, along with Chief Counsel Neal and Attorney Lelma, attended the ASAP conference in-person. The conference included various learning sessions on the federal Freedom of Information Act and Privacy Act. Among the sessions were "Office of Information Policy and Office of Government Information Services Initiatives," "Getting Sued – Appeals and Litigation," and "FOIA-Privacy Act Interface." I was a panelist at the session "Plenary: The Requesters," along with Danielle McGee, Executive Director and General Counsel, Connecticut Freedom of Information Commission, and Lauren Harper, Daniel Ellsberg Chair, Freedom of the Press Foundation. The panel discussion was moderated by Kirsten Mitchell, Lead of Compliance at the federal FOIA Ombudsman Office, Office of Government Information Services ("OGIS"), National

Archives. The panelists provided an overview of their respective office's functions, addressed the workability of FOIA, and required changes to federal and DC FOIA. OOG team members attended 14 training courses and a list of the courses, including details regarding which members attended, is included in Dropbox for your information.

4. "FY26 DC FOIA Legislation and Litigation Update" Training

On July 16, 2026, Attorney Scerbo presented "FY26 DC FOIA Legislation and Litigation Update" training, the second in OOG's FOIA Officers summer webinar series. The training session covered legislative actions and litigation impacting the DC Freedom of Information Act. Trial Attorney Brandon Lewis and Paralegal Specialist Kimberly Brown attended the training.

5. Open Meetings Act ("OMA") Training for Board of Veterinary Medicine and Board of Optometry

On July 16, 2026, Attorney Scerbo facilitated an Open Meetings Act ("OMA") training for Boards of Veterinary Medicine and Optometry. The training provided an overview of OOG's functions and covered the application of the OMA to public bodies.

6. "Contracts, Procurement, and DC FOIA" Training

On July 22, 2026, Attorney Lewis presented the third training in OOG's FOIA Officers summer webinar series, "Contracts, Procurement, and DC FOIA." The training session provided an overview of the application of DC Freedom of Information Act to contracts and procurement records and focused on the following: procurement documents subject to disclosure, the application of common FOIA exemptions to vendor and contract materials, and best practices for redaction, responding to requests, and ensuring compliance. Attorneys Lelma and Scerbo and Paralegal Specialist Brown attended the training.

7. "DC FOIA Appeals: Analysis & Insights" Training

On July 30, 2026, Chief Counsel Neal presented "DC FOIA Appeals: Analysis & Insights," training, the fourth in the FOIA Officers summer webinar series. The training was offered in-person and virtually and discussed the DC FOIA appeal process and the Mayor's Office of Legal Counsel's ("MOLC") decisions, particularly the correct application of FOIA exemptions. I, along with OOG's staff, attended the training in-person.

## **D. Litigation and Legislative Update**

### **1. Litigation**

- a. Heritage Foundation, et al. v. U.S. Department of Justice (Case No. 24-cv-200 (D.D.C.))

This is a federal Freedom of Information Act (FOIA) case in which the Heritage Foundation brought suit against the U.S. Department of Justice (“DOJ”). The plaintiffs seek records related to statements made by Attorney General Merrick Garland regarding U.S. Attorney David Weiss’ authority over the Robert Hunter Biden investigation. DOJ denied the request on the basis that the Plaintiff’s “request was not reasonably described, and as such, [the Defendant] would not be able to fulfill the request.” The Heritage Foundation filed an administrative appeal before subsequently filing this lawsuit.

Subsequently, DOJ “decided to offer the request its most reasonable interpretation” and conducted a search for “records reasonably likely to have been made available to the Attorney General in preparation for Congressional hearings and public statements.” DOJ released 193 pages to the Plaintiffs in full, 478 pages in part, and withheld 82 pages in full pursuant to FOIA Exemption 5 (Deliberative Process).

The Court granted in part and denied without prejudice in part DOJ’s Motion for Summary Judgment and held portions of Plaintiffs’ Cross-Motion in abeyance. The Court concluded that the Plaintiffs’ request, which broadly sought all records “relied upon” by the Attorney General in numerous oral statements, failed to reasonably describe specific records because most statements reflected general assertions and institutional knowledge rather than identifiable documents. The Court held that DOJ reasonably interpreted the FOIA request and conducted an adequate search for materials likely given to the Attorney General to prepare for congressional hearings and public statements. The draft talking points and proposed responses were properly withheld under FOIA Exemption 5 because they constituted pre-decisional and deliberative materials reflecting strategic recommendations and internal decision-making. However, the Court found DOJ had not sufficiently justified withholding four pages of selected congressional hearing transcript excerpts, and the Court required supplemental briefing and an updated declaration regarding those materials.

A copy of the Court’s decision is in Dropbox.

- b. Jeremy Bates v. U.S. Department of Justice (Case No. 25-cv-1277 (D.D.C.))

This is a federal Freedom of Information Act (FOIA) case in which the U.S. District Court for the District of Columbia granted summary judgment to the Department of Justice in an action seeking Office of Legal Counsel (“OLC”) opinions addressing whether the President is a fiduciary or owes fiduciary duties to the American people.

In January 2021, the Plaintiff sued President Donald Trump in his official capacity for “breach of fiduciary duty to the United States.” The Trial Court dismissed the suit, the Court of Appeals for the Second Circuit Court affirmed, and the Plaintiff petitioned for certiorari to the U.S. Supreme Court. The Plaintiff alleged that while the action was pending before the Supreme Court, the Office of Legal Counsel “should have considered whether the President . . . is a fiduciary of, or whether the President owes fiduciary duties to, the United States of America or the American people.”

The Plaintiff submitted a FOIA request to OLC seeking “[a]ny OLC opinion written after January 1, 2020, that discusses whether the President of the United States (i) is a fiduciary or (ii) owes fiduciary duties.” OLC conducted a search and informed the Plaintiff that it was unable to locate any responsive records.

The Court held that OLC conducted an adequate and reasonable search by searching its Document Archiving and Management System using multiple overlapping Boolean search terms and consulting attorneys with subject-matter knowledge and institutional memory. The absence of responsive records did not render the search inadequate, and the Plaintiff’s speculation that additional records might exist or that other locations should have been searched was insufficient to overcome the agency’s detailed declarations describing its search methodology.

A copy of the Court’s decision is in Dropbox.

## 2. Legislation

- a. Legislative Action regarding New District Data Privacy Law:

On April 27, 2026, Councilmember Brianne Nadeau introduced B26-0670, the “District of Columbia Government Data Privacy and Protection Act of 2026.” The measure establishes comprehensive privacy protections governing the collection, use, sale, and disclosure of individuals’ personal data by District government agencies and third parties. It also confers specific rights upon individuals regarding their personal information. The measure further provides for the creation of a Chief Privacy Officer position

within the Office of the Chief Technology Officer (OCTO) to ensure agency-wide compliance and implementation.

The Committee on Public Works and Operations held a hearing regarding the measure on June 29, 2026. Witnesses broadly supported comprehensive privacy protections for personal data held by District agencies but recommended significant revisions. Privacy advocates called for stronger protections for publicly available government records, retroactive data audits, prompt breach reporting, stronger enforcement, an independent Chief Privacy Officer, and regulation of data brokers. Industry representatives cautioned that broad definitions and consent requirements could disrupt government contracting, fraud prevention, identity verification, and federally regulated activities. OAG and OCTO recommended clarifying key terms, preserving records-retention and litigation obligations, reconsidering deletion and consent requirements, identifying an independent enforcement entity, and providing OCTO with sufficient authority, staffing, funding, and technology. OAG and OCTO also discussed how the bill's proposed individual access, deletion, and opt-out rights would interact with existing D.C. FOIA procedures, public-data practices, records-retention requirements, and litigation-preservation obligations.

A copy of the bill and the hearing record are in Dropbox.

b. DC Hospitality Amendment Act of 2026 – Protests Concerning Alcohol Beverage Licenses (FOIA-Related):

The Committee on Public Works and Operations held a hearing on July 8, 2026, regarding B26-0648, “DC Hospitality Amendment Act of 2026” that would create a pop up restaurant license category. Under the bill, the Alcoholic Beverage and Cannabis Board must make a licensee’s quarterly statements available to anyone protesting the license and to any member of the public who requests them under the D.C. FOIA. This disclosure would allow a protestant to determine the licensee’s gross annual receipts. However, the quarterly statements remain subject to the disclosure exemptions in D.C. Official Code § 2-534. The lengthy hearing did not produce an extended legal discussion of the D.C. FOIA issue, but the Restaurant Association of Metropolitan Washington (RAMW), opposed this provision on the basis that the statements contain proprietary trade secrets and confidential financial information and should not be available to competitors.

The hearing record, which includes the RAMW testimony, is in Dropbox.

c. The FY27 Budget Support Act - Homeland Security Commission Dissolution Amendment Act of 2026:

The “Homeland Security Commission Dissolution Amendment Act of 2026” passed as part of the Budget Support Act (“BSA”). It requires that on October 1, 2026, the Homeland Security Commission (“Commission”) transfer all of its records and information to the Homeland Security and Emergency Management Agency (HSEMA). Those records and information “shall be destroyed by HSEMA by September 30, 2027.” The legislation also restricts disclosure of closed Commission meeting information to anyone outside of Commission members in attendance at the closed meeting. It also restricts Commission members, closed meeting attendees and meeting presenters from disclosing “information presented or opinions formed as a result of a Commission meeting” in administrative, civil or criminal proceedings.

The legislation also designates all of the Commission’s records as confidential and HSEMA and the Commission cannot disclose this information due to a subpoena, discovery request, or D.C. FOIA request. It also prohibits this information being introduced into evidence in any administrative, civil, or criminal proceeding. However, if the information and records could have been obtained through other sources they may be disclosed.

The legislation also provides a narrow category for HSEMA to disclose information to related agencies. It reads, “information and records may be disclosed by HSEMA as necessary to carry out its duties and purposes ... to another homeland security agency or a homeland security commission if the other agency or commission is governed by confidentiality provisions that afford the same or greater protections.”

The Office of Open Government will continue to monitor this legislation and the other open government related legislation in this report.

**E. Administrative**

FY2026 Budget Close Out: OOG is currently coordinating with the Office of the Chief Financial Officer (OCFO) to close out the FY26 budget and to plan for OOG-related expenses for FY27. We are working with the Executive Office of the Mayor through the OCFO to reprogram surplus funds from OOG’s PS fund to its NPS fund for employee training and to purchase supplies.

**This concludes the Office of Open Government’s August 6, 2026, report. I am happy to answer any questions the Board may have.**

Board Member Sobin asked about the data privacy legislation. Director Allen noted that the legislation attempts to address the lack of data privacy laws for the District and would create a data protection position to consolidate the handling of the data that the government collects. She discussed the prospect that OOG could play a role in the enforcement mechanism for any data privacy law.

## V. Report by the Director of Government Ethics

Good morning, 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 Investigations

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.

| OPEN INVESTIGATIONS BY STATUS |    |
|-------------------------------|----|
| Open                          | 71 |
| Open - Negotiations           | 0  |
| Open - Show Cause Hearing     | 0  |
| Grand Total                   | 71 |

| OPEN "UNDOCKETED MATTERS" |   |
|---------------------------|---|
| Grand Total               | 6 |

| PENDING/STAYED INVESTIGATIONS BY STATUS |    |
|-----------------------------------------|----|
| Closed - Pending Collection             | 33 |
| Stayed - Pending DC Superior Court Case | 3  |
| Stayed - OAG False Claims Act Case      | 0  |
| Stayed - OIG Investigation              | 0  |
| Stayed - US District Court Case         | 2  |
| Grand Total                             | 38 |

| REGULATORY MATTERS BY STATUS |     |
|------------------------------|-----|
| Closed - Pending Collection  | 60  |
| Open                         | 635 |
| Grand Total                  | 695 |

|                       | Current | Last month | June |
|-----------------------|---------|------------|------|
| Investigations Open   | 71      | 73         | 80   |
| Investigations Stayed | 5       | 5          | 5    |

The number of open preliminary and formal investigations includes 16 new matters. The investigative team resolved 18 investigations since the Board last met. This total does not reflect the number of complaints that were dismissed for a lack of jurisdiction.

The Board of Ethics and Government Accountability (“BEGA”) released its Quarterly Complaint Summary Report for the third quarter of FY 2026, covering the period from April 1, 2026, to June 30, 2026. During FY 2026 Q3, OGE closed 87 matters. Less than half the matters (40 out of 87 matters) involved allegations that were outside of BEGA’s jurisdiction.

For the 47 closed matters within BEGA’s jurisdiction, allegations involving rules governing outside employment or activities accounted for ten matters (21.28%), while allegations involving conflicts of interest accounted for nine matters (19.15%), and alleged preferential treatment or lack of impartiality accounted for seven matters (14.89%). There were four matters (8.51%) involving allegations of using public office for private gain and three matters each (6.38%) for alleged violations of the rules governing gifts and donations, violations of the Local Hatch Act or political activity, misuse of government property/resources/vehicles, and violations of the nepotism rules. Two matters each (4.26%) stemmed from allegations that employees failed to put forth honest effort in the performance of their official duties or violated the post-employment rules. A copy of the quarterly report and heat map were placed in the Dropbox.

## **B. Training/Outreach**

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

Since the last board meeting, Supervisory Attorney Advisor Amber Anderson completed PeopleSoft trainings – “Communicate Strategically MSS” and “Principles of Management MSS”. Program Support Assistant Tionna Smith completed Peoplesoft course “Project Management Fundamentals”. Senior Attorney Lynn Tran attended a training entitled “Understanding Employment Law 2026”. Attorney Advisor Brenda Keels completed “The Writing You Do Before You Start Writing (Or The Benefits of Thinking First)” presented by the DC Bar.

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

Since the last Board meeting, OGE conducted 5 training sessions: the monthly Hatch Act training, the Monthly Brown Bag session, two New Employee Orientations, and the Quarterly Boards and Commissions training.

In July, fifty (50) District employees completed ethics training using Peoplesoft and fifty-seven (57) new employees attended New Employee Orientation and received information on the District’s ethics rules in July

**C. Advisory Opinions/Advice**

1. Informal Advice

OGE’s legal staff provided advice for approximately 28 ethics inquiries, which is 5 less than the 33 reported at the July 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

Since the last meeting, OGE issued one advisory opinion in response to a request, entitled “Outside Employment with a Third-Party Delivery Business”. The opinion addresses whether Alcoholic Beverage and Cannabis Administration (“ABCA”) Investigators can maintain employment with third-party delivery services such as Door Dash and Uber Eats. I concluded that, since investigating and regulating those third-party delivery services is such a large portion of the Investigators’ work and recusal would make the Investigators ineffective in their District government work, they are prohibited from working for the third-party delivery services. The opinion is posted on the BEGA website, and it was published in the DC Register on July 31, 2026, with the comment period closing on August 31, 2026.

**D. Legislation and Rulemaking Updates**

1. Financial Disclosure Rulemaking

B26-0325 - Board of Ethics and Government Accountability Authority Clarification Amendment Act of 2025, which would repeal BEGA’s authority to designate employees as public financial disclosure statement filers, is still pending.

2. FY 27 Budget Support Act of 2026

On July 7<sup>th</sup>, the Council approved the Budget Support Act (“BSA”) which amends the lobbyist section of the Ethics Act. Specifically, the amendment will increase lobbyist registration fees by \$150 and the late filing penalty from \$100 to \$200 per day. Under the new law, general lobbyists will pay \$500 and non-profit lobbyists will pay \$250. The amendment removes the exclusion of Saturdays, Sundays, and weekends from the late filing timeframe. The amendment will require 501(c)(4) organizations to register as lobbyists and submit quarterly activity reports. Lastly, the BSA will transfer funding from the Lobbyist and Accountability Funds for fiscal years 2027 through 2030.

**E. OGE Administrative Matters**

**1. Staffing**

OGE has two Attorney Advisor vacancies, which we plan to fill in the coming months. BEGA welcomed two SYEP interns, Aukiea Miller and Maurice Hall six weeks ago and their internship concludes this week. We wish Aukiea and Maurice the best in their future endeavors.

**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 deadline to file financial disclosure statements was May 15, 2026. We have started 2026 financial disclosure enforcement. We plan to bring enforcement action against almost 500 late and non-filers.

**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.

In response to the BSA changes to the lobbyist program, we have begun updating the informational and training materials for the lobbyist program and planning outreach and education. We plan to contact all 501(c)(4)s doing business in the District to inform them of the change and educate lobbyists of the changes during our quarterly lobbyist trainings. We are also updating all FAQs and other informational materials on the website and drafting an update to the regs that reflects the new timeline, fee schedule and registrant group.

**H. Public Investigations**

**26-0005-F In re Phil Mendelson** – this is a formal investigation based on allegations that the Respondent, Chairman of the D.C. Council, misused government property and resources to oppose a political candidate's declaration of candidacy with the Board of Elections.

**Thank you. This concludes the Office of Government Ethics' August 6, 2026, report.**

Board Member Sobin asked whether notices were already sent to the 500 late FDS filers and how the numbers compared to the number of late filers last year. Director Cooks advised that filers were sent a notice that they were late and will receive the fine notice next week.

## **VI. Public Comment**

There were no public comments.

## **VII. Executive Session**

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 11:32 a.m.

The Board approved s negotiated disposition in **26-0030-P In re J. Zollacoffer.**

The Board approved a new hearing date and scheduling order in **26-0004-F In re Cleo Subido.**

The next monthly Board meeting will be held at the Board of Ethics and Government Accountability, 1030 15th Street NW, Suite 700 West, and virtually on September 3, 2026 at 10:00 a.m.

The meeting adjourned at 11:32 a.m.