

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

MEETING MINUTES – September 12, 2024

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

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 approved the agenda and minutes of the August 2024 meeting.

IV. October 2024 Meeting Date

The Board approved moving the date of the October meeting from October 3, 2024 to October 10, 2024.

V. Report by the Director of Open Government

Good afternoon, Chairperson Hutcheson, and Members of the Board. I am Louis Neal, Chief Counsel for the Office of Open Government (“OOG”) and I am pleased to present this report on the activities of the Office of Open Government, on behalf of Director Niquelle Allen. Since the last Board meeting, OOG has continued to fulfill its mission of ensuring that all persons receive full and complete information regarding the affairs of the District 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

- a. FOIA Advice Concerning Denials Due to "Significant Interference" with the Agency's System (# OOG-2023-006 AO)

On August 26, 2024, the Office of Open Government (OOG) issued a D.C. FOIA Advisory Opinion in response to a request for advice from an agency's FOIA Officer (# OOG-2023-006_AO). The advisory opinion addressed whether the Deputy Mayor for Planning and Economic Development's (DMPED) denial of a D.C. FOIA request was proper when DMPED denied the request as unreasonable because searching for, retrieving, redacting, and delivering so many e-mails would "significantly interfere with the operation of [DMPED]'s automated information system." The D.C. FOIA requester insisted that DMPED's FOIA Officer use specific search terms to locate the e-mail records he requested. DMPED's FOIA Officer executed the search in the specific manner requested. This search yielded thousands of unresponsive e-mail records and caused the agency's computer system to malfunction. OOG advised that DMPED may properly refuse to undertake an e-mail search with the D.C. FOIA requesters specific search terms because of the significant interference with the agency's system. Courts view this action as proper when it is supported by evidence of an actual significant interference. It cannot be a proscriptive denial. Notwithstanding, D.C. case law also suggests that DMPED should, in good faith, carry out the reasonable e-mail search with the search terms that its FOIA Officer and OCTO estimated would likely produce the requested records. This more reasonable search included targeted search terms likely to produce responsive records and not disrupt DMPED's system.

2. Informal Advice

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

- 4 requests for OMA advice;
- 8 requests for FOIA advice; and
- 10 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.

Since the last Board meeting, OOG's legal staff attended 18 public body meetings. As a result of the monitoring, OOG communicated 3 corrective measures. The public body failed to do the following: (1) cite the OMA regulatory statement; (2) post meeting agenda; and (3) post meeting cancellation.

C. Training/Outreach

1. D.C. FOIA Webinar Series: D.C. FOIA Litigation Update / Recent Records-Access (FOIA) Cases

On August 6, 2024, the Office of Open Government presented D.C. FOIA Litigation Update “Recent Records-Access (FOIA) Cases,” facilitated by Attorney Advisor Anthony J. Scerbo. The webinar highlighted the FOIA litigation process, impactful D.C. FOIA cases, reviewed the latest appellate opinions from the Mayor’s Office of Legal Counsel, and outlined how to search for them. I, along with Director Allen, Attorney Lewis, and Paralegal Brown, attended the webinar.

2. National Institute for Trial Advocacy (“NITA”) Building Trial Skills

From August 12th -16th, 2024, Attorney Scerbo attended the National Institute for Trial Advocacy (“NITA”) “Building Trial Skills” course at Hofstra University, which included instruction and practical exercise in delivering persuasive opening statements and closing arguments; maximizing the effect of direct examination; mastering the admission and use of exhibits; and honing cross-examination skills and learning the most persuasive way to impeach witnesses.

3. D.C. FOIA Officer Webinar Series: Preparing for a FOIA Civil Case / Defensive Litigation

On August 13, 2024, Attorneys Adam Daniel and Brendan Heath from the D.C. Office of the Attorney General, Civil Litigation Division, presented information on how to prepare for a FOIA civil case. I along with Director Allen, Attorney Lewis, and Paralegal Brown attended the session.

4. GovDelivery Administrator Training 101

On August 13, 2024, Paralegal Brown attended the Granicus GovDelivery service live webinar “GovDelivery Administrator Training 101.” The webinar provided a demonstration of Topic Administrator functions, system navigation, and program utilization.

5. AI Values Alignment Advisory Group Training

On August 14, 2024, Director Allen attended the Office of the Chief Technology Officer (OCTO) presentation “Artificial Intelligence (AI) Values Alignment Advisory Group Training.” The session included an overview of the AI values alignment project and its importance; review of the Mayor’s Order on AI; and interactive discussions on ethical considerations and best practices concerning AI.

6. A Stroll Through the Juvenile Justice System

On August 23, 2024, Senior Assistant Attorney General Dave Rosenthal from the Office of the Attorney General for the District of Columbia presented “A Stroll Through the Juvenile Justice System.” The presentation provided key definitions and an overview of the juvenile adjudication process. Director Allen, Attorney Scerbo and Paralegal Brown attended the session.

7. DC Bar Pro Bono Center’s Bankruptcy Training Series

On August 22nd, 29th, and September 5th, 2024, Attorney Scerbo participated in DC Bar Pro Bono Center’s Bankruptcy Training Series.

8. Center for Creative Leadership Welcome Session

On August 27, 2024, Director Allen attended a welcome webinar hosted by the Center for Creative Leadership’s Leadership Development Program (LDP) Team. The webinar included an introduction to the Leadership Development Institute at Eckerd College and the members of her leadership cohort. Director Allen is also completing the in-person intensive training portion of LDP this week. _

9. COGEL Connect Training

On August 29, 2024, Director Allen attended a webinar hosted by the Council on Government Ethics Laws (COGEL) concerning best practices in facilitating and hosting training courses. The webinar was titled, “COGEL Connect” and the facilitator was Anne-Sophie St-Gelais, Communications and Institutional Relations Advisor, Office of the Ethics Commissioner of the Quebec National Assembly.

10. Supreme Court Term Review and Preview for FY25

On September 4, 2024, Solicitor General Caroline Van Zile and Principal Deputy Solicitor General Ashwin Phatak facilitated “Supreme Court Term Review and Preview for FY25”. The presentation provided a review of term decisions from the Supreme Court’s last term and previewed upcoming cases for the next term. Attorney Scerbo and Paralegal Brown attended the presentation.

11. OMA Training for Mundo Verde PCS

On September 3, 2024, Attorney Scerbo facilitated Open Meetings Act (“OMA”) training for Mundo Verde PCS. The presentation included an overview of the OMA for Public Charter Schools. Attorney Lewis and OOG’s newest Attorney Advisor Joan Lelma attended the session.

12. DC Bar Pro Bono Center's Small Business Advice Clinic

On September 5, 2024, Attorney Scerbo volunteered with the DC Bar Pro Bono Center's Small Business Advice Clinic, which provides brief legal information to small business owners and prospective entrepreneurs who operate in economically disadvantaged areas or who have limited financial resources.

13. DC Bar Pro Bono Center's Immigration Clinic

On September 7, 2024, Attorney Scerbo volunteered with the DC Bar Pro Bono Center's Immigration Clinic which provides legal information, brief advice, and referral services to qualified individuals and families.

D. Litigation and Legislative Update

1. Litigation

- a. DC Open Government Coalition v. District (Case No. 2023-CAB-007251 (D.C. Super. Ct.))

As Director Allen has previously reported, this case involves DCOGC's suit seeking an accounting of the backlog of public-records requests submitted through the FOIAXpress Public Access Link. A Status hearing is set for September 13, 2024, at 2:00 pm. OOG Staff will continue to monitor.

- b. Gooch v. District (Metropolitan Police Dept.) (Case No. 2023-CAB-002404 (D.C. Super. Ct.))

Director Allen first reported on this case in December 2023. A requester-plaintiff sued the District for records "related to his... conviction." He had received partly redacted records.

Cross-motions for summary judgment were filed. The District argued that the redactions were correct applications of D.C. FOIA's privacy exemptions and an "other law" exemption, namely the Driver Privacy Protection Amendment Act of 2012's (D.C. Law L19-0207; D.C. Official Code § 50-1401.01b.) "prohibitions on the release and use of certain personal information from motor vehicle records and accident reports."

On July 2, 2024, the Superior Court denied the District's motion for summary judgment. The Court concluded that the record contains a genuine factual dispute regarding surveillance footage. While MPD contends the footage is not responsive to the FOIA request, the Court found that Mr. Gooch's "...broader request likely encompasses evidentiary materials collected and retained by MPD, including surveillance footage." Regarding the redactions, the Court found that it could not conclude that MPD's stated interests in privacy outweigh the public's interest in disclosure. Specifically, the Court expressed its skepticism that the broad

redaction of witness statements was necessary to fulfill MPD's stated interest in witness privacy.

On July 24, 2024, the District filed a motion for reconsideration of its motion for summary judgment. Following the court's denial of Defendant's Motion for reconsideration of his motion for summary judgment, the next status hearing is set for September 18, 2024, at 2:00 PM.

The Court order, as well as the District's motion for reconsideration are in DropBox. OOG Staff will continue to monitor.

c. Tax Analysts v. District (Case No. 2020-CA-001999-B)

As Director Allen has previously reported, Tax Analysts, a publisher of tax journals; and reporter Aaron Davis, both sued the District under D.C. FOIA after the Office of Tax and Revenue ("OTR") denied their request for 24 private letter rulings, or PLRs. PLRs respond to circumstances and data submitted by particular taxpayers, but the advice given in them has broader applicability, and so the requester-appellants argued that OTR must still release them after redacting specific details that would identify the underlying taxpayers. Following the filing of Defendants' Amended *Vaughn* index on June 18, 2024, a Status Hearing has been scheduled for December 2, 2024.

d. Tomell DuBose v. District (Case No. 2018-CA-000378-B)

This is the previously reported case involving Board of Dentistry disciplinary records. The latest hearing was held remotely on August 23, 2024. The Defendant is expected to file a renewed motion for summary judgment by September 13, 2024, with Plaintiff to file a response by September 27, 2024. A remote status hearing is set for November 1, 2024.

e. Chicago Justice Project (Case No. 2022-CA-001175-B (Super Ct.))

This is an update on CJP's suit to compel the Metropolitan Police Department ("MPD") to release certain records concerning the Gang Tracking and Analysis System, in a dispute between an advanced fee that MPD demanded for its FOIA review, and a similar amount that CJP demanded in attorney's fees. We have previously reported that the attorney for the defendant made representations that the parties entered into a settlement agreement in December. The Case has been stayed. A Motion to Withdraw was filed by the Plaintiff, the Chicago Justice Project, on August 9, 2024. An Order granting motion was e-filed; e-served; and signed on: August 22, 2024. A remote status hearing is scheduled for September 13, 2024.

f. Leslie Richards v. "D.C. Finance & Treasury" (Case No. 24-CV-0034 (D.C. Ct. of App.); Case No. 2021-CA-003762-B (Super. Ct.))

Director Allen has previously reported on this pro se case in which the plaintiff-appellant sought information about a disbursement. The Superior Court dismissed the complaint because the plaintiff failed to properly serve the District nor state a claim upon which relief could be granted. The requester appealed.

On July 8, 2024, the District filed a motion for summary affirmance of the Superior Court's dismissal. The District argued that on appeal, the plaintiff failed to challenge the reasons for the dismissal and offered no basis for reversal. The plaintiff-appellant filed a response to the District's motion on July 15, 2024.

The District's motion for summary affirmance is in DropBox. The plaintiff-appellant's response has not been uploaded to the Court of Appeals website yet. OOG Staff will continue to monitor.

2. Legislation

a. Act A25-0496 - DC Water Critical Infrastructure Freedom of Information Clarification Emergency Amendment Act of 2024

As mentioned previously, this measure was introduced on June 10, 2024, passed on June 11, 2024, signed by the Mayor on June 26, 2024, and published in the DC Register on July 5, 2024. This temporary legislation will expire on September 24, 2024. The Mayor stated her intent to work with the Council to enact permanent legislation, and OOG will continue to monitor any new developments.

E. Administrative Matters

1. OOG Welcomes Attorney Advisor Joan Lelma

On August 27, 2024, Joan Lelma joined OOG's staff as Attorney Advisor. Attorney Lelma holds a Bachelor of Laws (Hons.) degree from the University of the West Indies, a Legal Education Certificate from Norman Manley Law School, a Master of Laws degree in Public International Law from the University of London (Queen Mary), and a Master of Divinity from Oral Roberts University. We are pleased to have Joan with us.

This concludes the Office of Open Government's September 12, 2024, report. I am happy to answer any questions the Board may have.

VI. 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.

OPEN INVESTIGATIONS BY STATUS	
Open	63
Open - Negotiations	0
Open - Show Cause Hearing	0
Grand Total	63

OPEN "UNDOCKETED MATTERS"	
Grand Total	9

PENDING/STAYED INVESTIGATIONS BY STATUS	
Closed - Pending Collection	35
Stayed - Pending DC Superior Court Case	3
Stayed - OAG False Claims Act Case	0
Stayed - OIG Investigation	5
Stayed - US District Court Case	2
Grand Total	45

REGULATORY MATTERS BY STATUS	
Closed - Pending Collection	32
Open	277
Grand Total	309

	Current	Last month	July
Investigations Open	63	62	68
Investigations Stayed	10	13	11

The number of open preliminary and formal investigations includes 31 new matters. The investigative team resolved 30 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 continue holding regular meetings with the CCU team.

On August 9th, OGE published its Quarterly Complaint Report and Ethics Heat map for the third quarter of fiscal year 2024. OGE closed 77 matters. Over a third of the matters closed (37% or 28 out of 77 matters) involved allegations that were outside of BEGA's jurisdiction. The remaining 49 matters closed in the third quarter include three matters that are still pending collection of the civil penalty, three matters that were consolidated with other matters, two matters referred to another agency, and one matter where a regulatory matter was initiated.

For the 49 closed matters within BEGA's jurisdiction, allegations of preferential treatment or lack of impartiality and misuse of government resources were at the top of the list, accounting for 10 matters or 21% each. Violations of the rules governing outside activity or employment accounted for 7 matters (14%) and use of confidential information for 5 matters (10%) while allegations of using public office for private gain and retaliation each had 4 matters (8%). Rounding out the list were violations of the gifts rule, conflict of interest, and post-employment restrictions at 2 matter each (4%) and violations of the representation and nepotism rules and the financial disclosure requirements with one matter each (2%). A copy of the quarterly report was placed in the DropBox.

B. Trainings/Outreach

1. Professional Development Trainings Attended by Staff

Investigator Ileana Corrales took the following Wicklander & Zulawski trainings: Interview Environmental Factors, Applied Investigative Logic, and Incorporating Trauma-Informed Principals In all Interviews. Senior Attorney Advisor Lynn Tran and Supervisory Attorney Asia Stewart-Mitchell attended the 4-day Society of Corporate Compliance and Ethics Basic Compliance and Ethics Academy in downtown D.C. General Counsel Rashee Raj took the following trainings: Hot Topics in Ethics and Risk Management, PaymentNet Demonstration by the D.C. Office of Contracting and Procurement, Ethics and Conflicts of Interest in Law Practice 2024, COGEL Connect: Training Edition on Training Strategy (Timing is Everything), and the D.C. Office of the Attorney General's Supreme Court Term Review and Preview for FY25.

2. Conducted by staff

Since the August Board meeting, OGE conducted eight trainings, which included three New Employee Orientation Ethics Trainings, August & September Monthly Ethics Trainings, August & September Monthly Hatch Act Trainings, and the August Ethics Counselor Brown Bag Session.

On Monday, August 26th, General Counsel Rashee Raj presented the August Ethics Counselor Brown Bag Session with guest speaker, Matthew Wilcoxson, the Deputy Inspector General for External Affairs at the D.C. Office of the Inspector General. This session offered brief overviews of OIG and BEGA's agency duties, areas of overlap, and how ethics counselors can decide where to send a complaint.

Thirty ethics counselors attended and asked questions. A copy of the presentation was placed in the DropBox.

During the month of August, 786 employees completed ethics training using PeopleSoft and 11 employees were added to the Learning Management System. On August 28th, the Learning Management System was upgraded to include images, for a new look to the end user interface and enhanced ability for BEGA Admin to tailor the site for learners. We continue to work with LRN to ensure that we are maximizing the system's capabilities.

3. Outreach

OGE is in the final planning stages of our annual conference, Ethics Week 2024, which will take place October 15-18. This year's theme is "Empowered by Ethics", and the courses are designed to provide attendees with knowledge and ways to apply ethics and open government rules. The first two days of the conference will take place at our office, but the remaining days will be virtual. We plan to offer new courses such as Common Ethics Violations: Learn Them and Avoid Them, a Recusal Workshop, and a Fireside Chat: Journalism and Ethics, as well as traditional courses such as Parliamentary Procedure and Being Ethical is Harder Than You Think. We are finalizing guest speakers and working on presentations, which will be ready before September ends. A copy of the most recent schedule was published on the website and placed in the Dropbox for your review.

Lastly, OGE published the fourth issue of its bi-monthly newsletter, Ethically Speaking, on August 16th. A copy was placed in the Dropbox for your reading pleasure.

C. Advisory Opinions/Advice

1. Informal Advice

OGE's legal staff provided advice for approximately 66 ethics inquiries, which is 42 more than the 24 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

As mentioned last month, three advisory opinions were published on July 12, 2024, for a 30-day comment period. We have received several comments on the advisory opinion concerning Advisory Neighborhood Commissioner Sign-on Letters. This advisory opinion responds to the Office of Advisory Neighborhood Commissions' request for advice on the parameters around the drafting, circulating, and sending of sign-on letters by Advisory Neighborhood Commissioners. This advisory opinion is still in edit, and we intend to repost with another comment period.

The other two advisory opinions mentioned last month, titled “Guidance on Social Media use for Official Purposes by District Government Elected Officials and District Government Employees” and “Post-employment – Attorney Appearance Advisory Opinion,” have not received any comments and were sent to the D.C. Register to be finalized this week. We anticipate they will be published on Friday, September 20, 2024.

OGE published an additional two advisory opinions upon request since the last Board meeting. The first was written by request and provides guidance to the Mayor's Office of the Senior Advisor (“OSA”) regarding whether representatives of OSA may attend the 2024 Democratic National Convention to present information regarding D.C. Statehood. The second was a request for guidance on the District’s ethics rules pertaining to serving as President and CEO of an organization that does business with the District. Both are published on BEGA’s website and were sent to the DC Register for publication. Copies were placed in the Dropbox.

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. After the 30-day comment period, the second proposed rulemaking, which contained minor edits and added four additional boards was published on July 12, 2024. The second 30-day comment period ended on August 12th. The rulemaking will become final after a final notice is sent to the Register.

Finally, we are in the process of drafting another rulemaking which addresses technical and minor substantive changes to the financial disclosure regulations. This rulemaking will provide clarity for regulations that are ambiguous and corrects language that aligns with the Ethics Act and Chapter 18 of the District Personnel Regulations.

2. Lobbyists Registration Fees and Fines

The enactment of the Fiscal Year 2025 Budget Support Act of 2024 will amend the Ethics Act by increasing the lobbying registration fees and fines. Specifically, the Act increases lobbying registration fees from \$250 to \$350 for for-profit entities and from \$50 to \$100 for non-profit entities. It also increases the late filing fee from a maximum \$300 fine to a \$6,000 fine. The increases will become effective on October 1, 2024. OGE is in the process of rolling out a campaign to make lobbyists and their clients aware of the changes. Notice has been posted on the Lobbying page of the BEGA website.

E. OGE Administrative Matters

1. Attorney Advisor Vacancy

OGE is in the final stages of filling its Attorney Advisor vacancy. The position was posted in July and after two rounds of interviews we have selected a candidate. Pending passage of suitability standards, the candidate will start at the end of this month.

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 has closed! The 2024 Financial Disclosure Statements (CY2023) were due on May 15, 2024. Through July 2024, 94% of designated filers submitted their statements. The FDS team has begun enforcement measures for those filers who did not submit their statement in a timely manner. A fine notice was sent to these individuals on August 7, 2024. Several recipients filed fine waivers requests. The FDS Team scrubbed the list for OPRS, removing those seeking waivers and those who have left District employment. A list of confirmed active non-filers and a list of non-filers who have left the District will be shared with OPRS for the processing of garnishments. Finally, Auditor Courtney Walker has completed the FY23 Designated Filers Audit.

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.

Pursuant to D.C. Official Code § 1-1162.29(b)(2), the Office of Government Ethics publishes a summary of registered lobbyists' information submitted to the Office on or before August 15, 2024, by persons registered as lobbyists with the Director. This summary was published in the DC Register on August 2, 2024.

The deadline for the third quarter reporting for 2024 is October 15th. OGE will send reminder notices to registrants and Attorney Advisor Maurice Echols and Program Coordinator Stan Kosick will give their quarterly LRR Training on September 25th. As previously stated, registration fees and late filing fees will increase on October 1, 2024.

H. Public Investigations

1. 24-0009-F In re Aretha Chapman – This is a formal investigation based on allegations that the Respondent violated the outside employment restrictions by working 5 or 6 hours per day but claiming 8 or 9 hours on her timesheet; violated the government property restrictions by obtaining confidential information under false pretenses; and violated the prohibition on using public office for private gain by using her status as DC Public School employee to obtain confidential information. A hearing is scheduled for November 14-15, 2024.
2. 24-0010-F In re Marcellus Willis - This is a formal investigation based on a complaint that the Respondent, former employee of the University of the District of Columbia, used a government purchase card to make unauthorized purchases. Respondent worked at UDC for five years and was responsible for handling procurement for the University. The Board approved a Notice of Violation at the last meeting which contains assertions that Respondent violated DPM § 1800.3(g) by using public office for private gain and DPM § 1808.1 by failing to protect and conserve government property. Respondent was personally served with the NOV but failed to respond. A public hearing will be scheduled in this matter.

Thank you. This concludes the Office of Government Ethics' September 12, 2024, report.

Board Member Sobin stated that the increase in lobbyist fine was long overdue. He also commended OGE on the newsletter. Board Member Sobin noted the discussion in the newsletter about the Supreme Court decision in *Snyder v. United States*, which involved the payment of gratuities to state and local official as a thank you for official actions, stating that *Snyder* is part of a long line of decisions dating back to the *McDonnell* that make it harder to enforce anti-corruption laws.

Board Member Nottingham asked about the advisory opinion to the Mayor's Office of the Senior Advisor (“OSA”) regarding whether representatives of OSA may attend the 2024 Democratic National Convention to present information regarding D.C. Statehood. Director Cooks stated that the opinion was based on the definition of partisan political activity in the Local Hatch Act, which did not include discussions about statehood. Accordingly, the opinion concluded that the District could pay for an employee of OSA to attend the convention in that limited capacity only. Board Member Nottingham noted that he found it troubling that the District government could pay for an employee to attend political gatherings.

Board Member Nottingham also asked about the nine undocketed matters. Director Cooks explained that the number was higher than normal and was based on receiving an influx of matters within the last week that OGE did not have the opportunity to decide whether the case should be converted to an open matter or whether it should be dismissed as outside BEGA’s jurisdiction.

VII. Public Comment – if received

The Board received one public comment.

VIII. 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).

Board Members Nottingham and Smith did not participate in the executive session.

IX. Resumption of Public Meeting

The meeting resumed at 1:19 p.m.

The Board approved a Notice of Final Rulemaking to amend the financial disclosure regulations. The notice will be published to the DC Register.

The Board approved a Notice of Hearing and Scheduling Order in **24-0010-F In re Marcellus Willis**.

The Board dismissed **23-0005-F In re Larry Garrett**.

The Board opened formal investigations in **24-0014-F In re Dana V. Garrett** and **24-0016-F In re Trayon White**.

The Board approved a negotiated disposition in **24-0086-P In re A Akeredolu**.

The Board will next meet on October 10, 2024 at 12:00 p.m.

The meeting adjourned at 1:22 pm