



# Ethics and Open Government in a Virtual World

Ethics Week 2020  
Board of Ethics and  
Government  
Accountability

# ETHICS WEEK OPEN MEETINGS ACT PRESENTATION

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PRESENTED BY:  
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ATTORNEY ADVISOR

OFFICE OF OPEN GOVERNMENT

OCTOBER 21, 2020

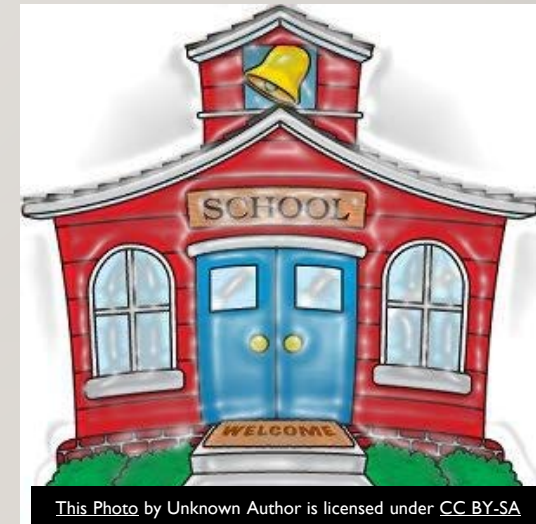


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## THE OFFICE OF OPEN GOVERNMENT

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- The Office of Open Government is a part of the Board of Ethics and Government Accountability.
- The Office enforces the Open Meetings Act and Regulations.
- The Office contacts are:
  - Niquelle Allen, Director
  - Johnnie Barton, Chief Counsel
  - Sheree DeBerry, Attorney Advisor
  - Kevon Bridges, IT Specialist



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## 4 WHY OPEN MEETINGS LAWS?

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Open meeting laws require that, with notable exceptions, most meetings of a public body be open to the public, along with their decisions and records.

This law is designed to give the public confidence in the decision-making activities of members of a public body.



## 5 WHAT IS A MEETING?

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- What constitutes a meeting is usually defined by its purpose — to perform public business (social gatherings are not considered meetings) — and the number of participants—a quorum.
- All such meetings, unless specifically and legally exempted, are presumed to be open to the public, and the public must receive advanced notice of the date, time, place, and agenda.



## 6 WHAT IS A MEETING AS DEFINED BY THE OMA?

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Gathering of a Quorum of the Members of a Public Body;

Board Members Consider, Conduct, or Advise on Public Business;

Public Business includes: Gathering Information; Taking Testimony; Discussing; Deliberating; Recommending; and Voting;

Gathering May Be Held: In Person; By Telephone; Electronically; or By Other Means of Communication.



## 7 WHAT IS NOT A MEETING?

A MEETING IS NOT:

A Chance or Social Gathering Where No Business is Discussed;

or

A Press Conference.

NOTE: If There is NO QUORUM Then The Public Body Cannot Conduct a Meeting.

*Unless Established By Enabling Legislation, Mayor's Order or Regulations, A Quorum is half of the Members + 1*



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## PUBLIC BODY

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- **Government Council**
- **Board of Directors**
- **Board of Trustees of a Public Charter School**
- **Board**
- **Council of the District of Columbia**
- **Commission**
- **Advisory Board**



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## NOT A PUBLIC BODY

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- **District Agency**
- **Mayor's Cabinet**
- **ANCs**
- **District of Columbia Courts**
- **Professional Staff of Public Bodies (outside presence of a quorum)**



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# 10 WHEN IS A MEETING CONSIDERED OPEN?

A Public Body's Meeting Must Be Open to the Public, *Unless* the OMA Permits Closure.

A Meeting is Open if:

Public is Permitted to be Physically Present.

News Media is Permitted to be Physically Present.

Meeting is Televised.



# NOTICE OF THE MEETING

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- As much notice as possible, but not less than **48 Hours or 2 Business Days** before each Meeting, whichever is greater;
- Notice must be **physically posted** in the school, office, or a place readily accessible to the public; AND
- Notice must be posted on the **Public Body's website or the District Government's website (Central Meeting Calendar at [www.open-dc.gov](http://www.open-dc.gov))**.

# WHAT SHOULD THE NOTICE INCLUDE?

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- Notice must include:
  - Time
  - Date
  - Location
  - and Proposed Agenda.
  
- If there will be a Closed Session, notice must include the OMA Citation and state the reason justifying the Closure.



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# WHAT SHOULD THE NOTICE INCLUDE?

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The following statement **MUST** be included at the end of all Draft and Final Meeting Agendas:

**“This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).**



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# 14 CLOSED MEETINGS OMA JUSTIFICATIONS

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- **Court Order / Statute**
- **Negotiations**
- **Attorney / Client Privilege**
- **Trade Secrets**
- **Testing / Grading**
- **Personnel**



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## **PROTOCOL FOR CLOSED PORTION OF A MEETING**

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- 1) Open the Public Meeting and Establish a Quorum**
- 2) Move to Enter into Executive Session / Second (Motion Must incl. Reference to OMA Citation, to Justify Executive Session)**
- 3) Take Roll Call Vote – and if Motion Passes - Enter into Executive Session**

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## PROTOCOL FOR CLOSED PORTION OF A MEETING

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- 4) Only Discuss the Matter(s) referenced in the Draft Agenda
- 5) Record what is discussed in Executive Session
- 6) Re-Open the Public Meeting, report publicly any official action taken in closure and Adjourn



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# RECORDING REQUIREMENTS

- **AUDIO RECORDING**
- **VIDEO RECORDING**
- **TRANSCRIPT – confer with Vendor to ensure no copyright restrictions with posting minutes publicly**
- **DETAILED MEETING MINUTES**



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# PUBLICATION REQUIREMENTS

- **DRAFT DETAILED MEETING MINUTES MUST BE PUBLICLY AVAILABLE NO LATER THAN THREE (3) BUSINESS DAYS AFTER MEETING; THIRTY (30) BUSINESS DAYS FOR BOARD OF TRUSTEES.**
- **AUDIO RECORDINGS, VIDEO RECORDINGS, AND TRANSCRIPTS (COPY OF THE FULL RECORD) MUST BE AVAILABLE NO LATER THAN SEVEN (7) BUSINESS DAYS AFTER THE MEETING.**



# ELECTRONIC MEETINGS

Note: Must meet remotely during the public health emergency.

- Members Can Meet via Video, Electronic, Conference, or Other Electronic Means If:
  - Reasonable Arrangements Made to Accommodate Public's Right to Attend;
  - Meeting are Recorded;
  - All Votes are Taken by Roll Call; and
  - All Provisions of the OMA are Adhered To that Are not Waived or Tolloed.



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# 20 PUBLIC HEALTH EMERGENCY RULES

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- Physical posting at the school, office, or any other physical location is not required during a PHE.
- Recordings: The Act has paused, or tolled, the time period for making a copy of the recording available during the PHE. We recommend that you make them available as soon as possible after the meeting.

## PUBLIC COMMENT

- Only if the public body's enabling legislation mandates a period for public comment.
- However, a public body may allow public comment absent a statutory requirement to do so.
- Agency / Body has the right to regulate the time allotted and duration of public comments if they choose to allow them, unless the requirement is already spelled out in enabling legislation or by-laws.

## HOW DO WE CANCEL?

- A Meeting Cancellation is a Change in Schedule.
- In Most Instances, Requires as Much Notice to the Public as Possible, But Not Less Than 48 Hours or 2 Business Days, *Whichever is Greater*, Before Meeting was to Occur.
- To Establish a Record the Electronic Notice to the Public of the Meeting, Must State “Cancelled.”

A golden scale of justice is centered in the background, with its pans hanging from a central beam. The scale is set against a dark, slightly blurred background. The lighting highlights the metallic texture of the scale.

## **ENFORCEMENT**

**The OOG may bring a lawsuit in the Superior Court of the District of Columbia for injunctive relief for any violation of the OMA BEFORE or AFTER the meeting takes place.**

**The court may order an appropriate remedy, such as, requiring additional forms of notice, postponing a meeting, or declaring action taken at meeting to be VOID.**

## CLOSING THOUGHTS

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- OOG will offer several in-depth Open Meetings Act Training in 2021.
- Our OMA Training Sessions will be posted to [open-dc.gov](https://open-dc.gov).

***Thank you for participating!***



# OFFICE OF OPEN GOVERNMENT

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# OFFICE OF OPEN GOVERNMENT

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