

**COUNCIL OF THE DISTRICT OF COLUMBIA
COMMITTEE ON GOVERNMENT OPERATIONS**



COUNCIL OF THE DISTRICT OF COLUMBIA

PUBLIC HEARINGS

AGENCY PERFORMANCE OVERSIGHT HEARINGS

FISCAL YEAR 2013-2014

Testimony of Darrin P. Sobin
Director of Government Ethics

Monday, February 10, 2014
10:00 A.M.
1350 Pennsylvania Avenue, N.W.
Room 500
Washington, D.C. 20004

Good morning, Chairperson McDuffie and members of the Committee. I am Darrin Sobin, Director of Government Ethics, and I am pleased to be here today to update the Committee and the public on the status of the Board of Ethics and Government Accountability (“BEGA” or “Board”) and its operations.

What a difference a year makes! Last year at this time, Board Chairman Robert Spagnoletti began his testimony by recounting the efforts to get BEGA up and running – hiring personnel, procuring equipment, and settling into office space. Today, I can start off by highlighting the many achievements of the Board and staff in carrying out the core functions of our agency over the course of the performance review period.

Before I begin, however, I want to acknowledge the efforts of this Committee in supporting legislation intended to enhance BEGA’s ability to perform some of its statutorily mandated functions. The emergency and temporary versions of the Board of Ethics and Government Accountability Amendment Act of 2013 have already led to numerous negotiated dispositions and other alternate dispositions in cases of individuals willing to accept responsibility for violating the Code of Conduct. The permanent bill is projected to become law next month. And Bill 20-412, the “Universal Code of Conduct and BEGA Amendment Act of 2013”, is pending in this Committee. The Bill adopts many of our recommendations from our first annual Best Practices Report and, among other things, would clarify that the Code of Conduct applies to the entire District government, including instrumentalities of the District, and also would require BEGA to develop a Universal Code of Conduct applicable to all employees and elected officials serving the District. I very much hope the Committee prioritizes this important legislation so that it may be advanced for full Council consideration.

Moving on to the subject of this hearing -- our performance. Let me summarize BEGA’s accomplishments over the past year, focusing on those that most closely relate to our principal functions of administering and enforcing the District’s Code of Conduct, providing ethics advice and training, overseeing Lobbyists and government employee Financial Disclosure Filing, and meeting our publication and reporting requirements.

- In FY 2013 and FY 2014, to date, BEGA initiated 67 investigations and closed 55. This includes 15 matters that resulted in the issuance of sanctions, 40 dismissals of preliminary and formal investigations, 11 negotiated dispositions, and 3 contested evidentiary proceedings. We have issued fines in the amount of \$55,950. For those fines issued pursuant to negotiated dispositions, we have a near 100% collection rate. The remaining sums are being sought through proceedings being initiated in the Superior Court. As required by the Ethics Act, quarterly reports list all of our investigations and include for each a description of the allegations, status, and any resulting dispositions. All final contested decisions as well as negotiated dispositions are also posted on the

BEGA website, though the very few non-public negotiated dispositions have been redacted to remove the name of the subject respondent.

- In addition to the three contested evidentiary hearings, the Board held all of its statutorily required monthly meetings as well as several additional special meetings for a total of 17 meetings in FY 2013 and 7 thus far in FY 2014.
- BEGA has continued to conduct ethics training for District employees, including all new employees, and has expanded its training efforts to include Councilmembers and their staffs, board and commission members, ANCs, and lobbyists. In 2013 we conducted a total of 48 trainings and in 2014 thus far we have conducted 8.
- The plain-English District Ethics Manual, which is posted on our website, was last revised on November 1, 2013, to reflect changes to the federal Hatch Act and laws governing the political activity of District employees.
- In FY 2013, BEGA issued 22 safe harbor Advisory Opinions and 2 *sua sponte* Advisory Opinions. So far in FY 2014, BEGA has issued 2 safe harbor Advisory Opinions. All of the Opinions are posted on the website and were published in a timely fashion in the D.C. Register. The safe harbor Opinions are posted in redacted form, unless the person seeking the Opinion consents to publication with identifying information. Informal ethics advice also was given to scores of people who called or emailed with questions. In 2013 this totaled 186, and thus far in the first four months of FY 2014, 163.
- Lobbyist registration and activity reporting continued to be handled successfully. Registration fees for FY 2013 and FY 2014, to date, were recorded and deposited in the appropriate account (\$78,930). We significantly upgraded the lobbyist registration and activity reporting e-filing system in several ways, making the system more user friendly and accessible and also, for the first time, allowing lobbyists to pay their registration fees online through a payment gateway we established with the assistance of the OCFO.
- On October 3, 2013, the Board held its second annual public symposium. The theme was government ethics and transparency best practices. Like last year, the purpose of this symposium is to elicit input from members of the public, government employees and academia in advance of drafting our annual Best Practices Report. The event this year was very well attended. Minutes of the symposium and copies of the written statements submitted are posted on the website.

- With the symposium information in hand, on December 31, 2013, BEGA issued its second Best Practices Report. The Report, required by the Ethics Act, is posted on the BEGA website and contains an assessment of ethical standards for public employees and officials, including a review of national best practices, and recommendations for legislative action.
- On the personnel front, we are fully staffed. Over the summer BEGA hired a Senior Attorney Advisor, who assists in writing the formal Advisory Opinions for the Office and advises the Board in contested cases. We were also fortunate to recruit a Capital City Fellow – an attorney -- who recently joined our staff for a 6-month rotation, during which he will assist in researching information that would be helpful in any forthcoming Universal Code of Conduct, once our pending legislation becomes law.

As you can see, BEGA has accomplished much in the past year. That success can be measured in many ways, perhaps none better than that reflected in the feedback we daily receive from our colleagues within the government and from members of the public. In almost all cases we have developed close, collegial working relationships not only with the subordinate and independent agencies over which we have jurisdiction, but with our partner agencies such as the Attorney General's Office, the Auditor's Office, the Metropolitan Police Department and other law enforcement agencies. I would especially like to recognize the Attorney General for his continuing support and assistance including the provision of legal representation in several actions where BEGA has been sued.

We have accomplished a great deal in only one year, but I am constantly reminded of how much remains to be done. In the responses to the written Committee questions I identified several budget pressures facing BEGA. Those pressures mostly flow from a continuing effort to right-size a new agency with powers and responsibilities that are in some cases entirely new to the District.

In short, it will take a joint and continuing effort to ensure that BEGA can accomplish the many worthy goals with which it was charged when it was created and began operating only sixteen months ago. I am proud to say, though, thanks to so many, we have an excellent start.

I am pleased to answer any questions the Committee may have.