

INTRODUCTION

A. The Open Meetings Act – its policy and purpose

When it adopted the Open Meetings Act, the Maryland General Assembly declared the goals to be achieved by ensuring that public business be conducted openly:

- (1) The ability of the public, its representatives, and the media to attend, report on, and broadcast meetings of public bodies and to witness the phases of the deliberation, policy formation, and decision making of public bodies ensures the accountability of government to the citizens of the State.
- (2) The conduct of public business in open meetings increases the faith of the public in government and enhances the effectiveness of the public in fulfilling its role in a democratic society.

§ 3-102(b).¹

To those ends, the General Assembly stated the overriding policy of the Act that public bodies meet in public:

Except in special and appropriate circumstances when meetings of public bodies may be closed under this [Act], it is the public policy of the State that the public be provided with adequate notice of the time and location of meetings of public bodies, which shall be held in places reasonably accessible to individuals who would like to attend these meetings.

§ 3-102(c).

To implement this policy, the General Assembly has defined the entities that are subject to the Act, detailed the circumstances in which meetings could be closed to the

¹ As currently codified, the Act appears at §§ 3-301 through 3-501 of the General Provisions Article of the Maryland Annotated Code. The “§” and “Section” citations in this Manual are to that article. Links to the Act are posted under “Other Resources” on the Open Meetings page of the Attorney General’s website: <https://www.marylandattorneygeneral.gov/Pages/OpenGov/Openmeetings/default.aspx>

public, exempted some types of public business from the Act entirely, and set minimum standards for giving notice and disclosing in minutes the events of open and closed sessions. The Act thus reflects the balance that the General Assembly struck between the public’s need to know about the conduct of public business and the government’s need, in “special and appropriate circumstances,” to address certain types of matters behind closed doors. In case of doubt, the balance tilts towards openness: the default set by the Act is “except as otherwise expressly provided by [the Act], a public body shall meet in open session.” § 3-301.

B. Other laws

This manual only addresses the Maryland Open Meetings Act, §§ 3-101 through 3-501 of the General Provisions Article of the Maryland Code. Some public bodies are additionally subject to open meetings requirements set forth in different laws, such as a county charter or other law applicable only in certain political subdivisions. *See, e.g.*, 89 *Opinions of the Attorney General* 22 (2004) (discussing the St. Mary’s County Open Meetings Act). Under the Act, when the other law contains a provision that “is more stringent,” that provision will apply. § 3-105. As explained by the Maryland Supreme Court² in *City of College Park v. Cotter*, 309 Md. 573 (1987):

This provision establishes that, although the Maryland Sunshine Law is the touchstone by which public bodies are to conduct their meetings, the statute is not exclusive in its application. The statute only outlines the *minimum* requirements for conducting open meetings. . . . It does not supersede legislative enactments designed to bring more openness to public meetings.

Id. at 586. *See also* 94 *Opinions of the Attorney General* 161 (2009) (discussing the provision that is now § 3-105).

C. How to use this manual

This manual is based on four sources of information about the Act: the Act itself, the published opinions of Maryland’s appellate courts, the opinions that the Attorney General has issued in response to public officials’ questions about the Act,³ and the advisory opinions of the Open Meetings Compliance Board. Only the first two sources are

² In November 2022, Maryland voters ratified a constitutional amendment changing the name of the Court of Appeals of Maryland to the Supreme Court of Maryland, a change that took effect December 14, 2022. Throughout this manual, we use the Court’s current name.

³ Opinions of the Attorney General are posted at <https://www.marylandattorneygeneral.gov/Pages/Opinions/default.aspx>.

Open Meetings Act Manual (12th ed., October 2023)

binding authority. The other two, like this manual, are other sources that the courts sometimes consult.⁴ So, while this manual attempts to explain the current state of the open meetings law, it is not binding authority.

We have organized this manual by seven broad topics that correspond to the broad topics in the online index to the Compliance Board's opinions.⁵ By turning to the index, the reader can often find specific examples of the principles explained here. For example, a reader who has consulted Chapter 2 in the manual for information about the Act's meeting notice requirements can turn to Section 2 of the topical index for a list of the Compliance Board's opinions on subtopics such as timing, method, and content.

Compliance Board opinions are cited by volume, page number, and year. They can be found through the link for the particular volume and then by page number in that volume. For example, 9 *OMCB Opinions* 283 (2015) can be found by clicking on the link for volume 9, by scrolling down past the earlier opinions in that volume to the one at page 283, near the end, and, finally, by clicking on that link. The opinions are posted on the Open Meetings page of the Attorney General's website, at the following link:<https://www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx>.

D. A note about § 3-307

Effective October 1, 2022, the General Assembly amended the Act to include a new provision, § 3-307, which currently applies only to nineteen enumerated entities.⁶ Public

⁴ See, e.g. *Grant v. County Council of Prince George's County*, 465 Md. 496, 531-33 (2019) (quoting an earlier edition of this manual); *Dyer v. Board of Education*, 216 Md. App. 530, 536-38 & n.4 (2014) (noting the dearth of cases on the question before it and citing an Opinion of the Attorney General that, in turn, cited Compliance Board opinions and an earlier edition of this manual).

⁵ That index can be found at https://www.marylandattorneygeneral.gov/OpenGov%20Documents/Openmeetings/OMCB_Topical_Index.pdf.

⁶ They are: (1) the Board of Directors of the Bainbridge Development Corporation, (2) the Canal Place Preservation and Development Authority, (3) the Maryland 911 Board, (4) the Board of Directors of the Maryland Agricultural and Resource-Based Industry Corporation, (5) the Board of Directors of the Maryland Clean Energy Center, (6) the Board of Directors of the Maryland Economic Development Corporation, (7) the Board of Directors of the Maryland Environmental Service, (8) the Maryland Food Center Authority, (9) the Maryland Health and Higher Educational Facilities Authority, (10) the Maryland Industrial Development Financing Authority, (11) the Maryland Stadium Authority, (12) the Maryland Transportation Authority, (13) the Northeast Maryland Waste Disposal Authority, (14) the Public Service Commission, (15) the State Board of Elections, (16) the Maryland Technology Development Corporation, (17) the Historic St. Mary's City Commission, (18) the State Ethics Commission, and (19) the Maryland Aviation Commission.

Open Meetings Act Manual (12th ed., October 2023)

bodies subject to this provision should be aware that “[t]he requirements of this section are in addition to the other requirements” of the Act. § 3-307(k). Although the manual generally focuses on the requirements applicable to all public bodies, the manual highlights the stricter requirements of § 3-307 when relevant to the topic at issue.