

TWENTY-SIXTH ANNUAL REPORT
OF THE
OPEN MEETINGS COMPLIANCE BOARD



BOARD MEMBERS

JONATHAN A. HODGSON, ESQ.
RACHEL A. SHAPIRO GRASMICK, ESQ.
APRIL C. ISHAK, ESQ.

AUGUST 2018

**TWENTY-SIXTH ANNUAL REPORT
OF THE
OPEN MEETINGS COMPLIANCE BOARD**

Pursuant to §3-204(e) of the General Provisions Article (“GP”), the Open Meetings Compliance Board submits this annual report for the period running from July 1, 2017, through June 30, 2018 (“FY 2018”). In this report, we describe our activities, state the number and nature of our opinions and the violations we found, and discuss complaints that a public body has not given notice. We also state whether legislative improvements are needed.

INTRODUCTION

As detailed below, the Compliance Board’s primary function is to issue advisory opinions in response to complaints that public bodies have violated the Open Meetings Act. The Compliance Board also recommends improvements to the Act when needed. An additional function, in conjunction with the Office of the Attorney General, is conducting educational programs for the staffs and attorneys of public bodies, the Maryland Municipal League, the Maryland Association of Counties, and the Maryland Association of Boards of Education. GP § 3-204.

The Compliance Board is comprised of three members, all attorneys, who serve without compensation. GP §§ 3-202. The current members were initially appointed by the Governor in 2015 and confirmed by the Senate in 2016. Two members are now serving a second term, and the Chair is currently holding over in that position pending the appointment of a successor. Although the Compliance Board is an independent body, it has no budget and no staff of its own. The Office of the Attorney General provides counsel and administrative support.

I.

ACTIVITIES OF THE BOARD

A. Number of Complaints Received and Opinions Issued

From July 1, 2017, to June 30, 2018, we received **45** written complaints alleging violations of the Act by **38** separate public bodies. One complainant submitted **23** of these complaints, mostly about school boards.

We issued **37** opinions in all. In **12** of them, we did not find a violation. In **25** opinions, we found violations, in varying degrees of seriousness, by **21** separate public bodies.

The complaint docket was as follows:

Docketed Complaints from FY2017, pending on July 1, 2017:	6
Complaints on past violations, received during FY 2018	45
Total complaints on the docket for FY 2018:.....	51
Complaints consolidated	2
Complaints withdrawn.....	2
Total matters to address:	48
Opinions issued in FY 2018:	37
Complaints still pending on 7/1/17:	11

B. Nature of the Complaints: Complaints Involving the Failure to Provide Notice of a Meeting and the Provisions of the Act Violated

In this section, we report on two subjects: complaints involving a failure to provide notice of a meeting, and, more generally, the provisions of the Act that we found to have been violated and the number of times we have found those violations. References are to the General Provisions Article of the Maryland Code. Both sets of reports follow.

1. Notice complaints

This year's docket of notice-related complaints was routine. The allegations in the

18 notice-related complaints fell into four familiar categories: (1) lack of notice by an entity that has operated in the belief that it was not a public body covered by the Act; (2) lack of notice to the public, or a poorly-worded notice, that the public may attend when the public body is meeting in public only to vote on a motion to close the meeting; (3) as to the method of giving notice, the inconsistent use of website notices, the placement of notices within the public body’s website, or incomplete information on a webpage; (4) a failure to invite the public to a retreat, joint event, or “pre-meeting.”

We found 11 violations. Several were substantial—for example, a total lack of notice by a development corporation that was not operating as a public body (but began to after it received the complaint); a total lack of notice by a school board, meeting jointly with a county council public body and discussing a topic that the school board maintained was not subject to the Act; and a lack of adequate notice for a retreat at which a county council discussed legislation. Most violations were more in the nature of infractions. Some seemingly arose from a public body’s efforts to post meeting information in several places online—for example, on its home webpage and on a calendar maintained by the governmental body that hosts the website—either without clear direction on which page contains all of the required information or without ensuring that changes are made everywhere. Others arose from wording or posting errors concerning the sessions that would only be open for the purpose of voting to meet in closed session; in those matters, the public body failed to invite the public to the closing vote but did not conceal the fact of the closed session. As we have seen before, public bodies struggle with wording their notices for closed sessions that will only be open to the public for the vote to close, especially when they want to format their notices for an online calendar.

The quarterly summaries in Part III, below, cite our opinions on notice during the fiscal year.

2. *Provisions violated*

As shown below in Table 1, the greatest number of violations pertained to § 3-305, which contains most of the Act’s provisions on closing a meeting. As usual, many of the violations involved the adequacy of a public body’s disclosures before and after their closed sessions. Many violations occurred in meetings held before October 1, 2017, when the Act was amended to require each public body that holds a closed meeting to designate a member for training, and, if the designee is not present for the vote to close, to require the public body to complete the compliance checklist and attach it to the open-session minutes. § 3-213(d). It is too soon to assess the effect of the new training requirement.

Provision	# of Violations
3-103	1
3-104	2
3-211	3
3-301	7
3-302	11
3-302.1(a)	1
3-305	22
3-306	18
No Violation	12 opinions

Table 1

C. Nature of the Complaints

It is important to view the complaints and “violations” statistics in perspective. As to quantity, the number of complained-of public bodies, and of complaints culminating in a finding of a violation, remains extremely low when viewed in light of the many state, county, and municipal public bodies that operate in the state and the number of public meetings that they hold. The number of complaints increased this year, but, as we have frequently remarked, the number of complaints filed in a given year often says more about an individual’s general interest in the Act or disagreement with a particular public body’s decisions than about any trend in compliance. That said, generalizations might be drawn from the numbers of complaints from the media who cover public bodies and the organizations that monitor government activities; it is the work of these groups to follow public bodies, and more complaints from them might suggest rising non-compliance. We did not see more complaints from these groups. During this fiscal year, only three

complainants identified themselves as journalists; we found violations in one of those matters. One member of an advocacy group filed a complaint against an entity that we found to be not subject to the Act; another filed a complaint and withdrew it.

1. The complainants.

Of the **43** complaints submitted this year, **22**—over half—were submitted by one individual. In all, there were **18** complainants, consisting of **3** members of the media, **2** people acting for advocacy groups, and **13** individuals. Last year, there were **21** complainants.

2. The public bodies.

During this year, we received 43 complaints about 36 public bodies or their subsidiary committees that fell into the following categories: municipalities (8); counties (6); State boards and commissions (4); privately-incorporated entity (1); and school boards (16). Of the 19 complaints about school boards, 14 were submitted by one complainant, who stated that he was surveying school boards' open meetings practices.

3. Overview of the complaints

Increasingly, public bodies are streaming their meetings live and posting agendas and minutes online. Perhaps because of that, we saw very few instances in which a public body's violation substantially deprived the public of the opportunity to observe the conduct of public business; often, a public body's failure to provide information in the form required by the Act, although a violation of the Act, is ameliorated by the availability of that information online in another form. For example, a meeting notice, viewed in a vacuum, might be deficient, but the public body's agenda might have contained all the necessary information. A closed-session summary included in the official written minutes of the next open session might omit a required item of information, but the public body's video of the subsequent meeting might show that a member of the public body provided all of the required information orally.

As to the types of complaints, we are increasingly seeing complaints submitted by individuals who were not themselves deprived of information but speculated that an interested member of the public might have been and by individuals who easily could have obtained the information without invoking our procedures. We are also seeing complaints from individuals who could easily have brought lesser errors to the attention of the public body without invoking our procedures, or who *did* contact the public body, received an acknowledgment of the error, and complained to us anyway. The cluttering of our opinions with findings of violations arising from relatively inconsequential events likely detracts from the opinions in which we find substantial violations. We encourage complainants to interact with public bodies before complaining to us, to complain to us only when our advice will help the public body comply, and to recognize that it is not our role to referee their disputes with public bodies. The public will not be well served if public bodies come to view our opinions as background noise.

More specifically, the nature of the complaints that we addressed this year is reflected in the topic descriptions in the quarterly summaries in Part III, below.

D. Financial, Support, Educational, and Reporting Activities

The Attorney General's Office provides the Board with the services of counsel and the administrator, posts the Board's opinions and other Open Meetings Act materials on its website, and bears the incidental costs associated with administering the Board's work. The Board could not fulfill its statutory duties without this support, as no funds have ever been specifically appropriated for its operations, and none were for fiscal year 2018.

The Institute for Governmental Service and Research at the University of Maryland ("IGSR") hosts, maintains, and performs updates to the online class that many public bodies now rely on to comply with the Act's training requirement. We greatly appreciate the service that the Institute renders to the public in creating the online class, in conjunction

with the Office of the Attorney General, and in making it continuously available to the general public, currently at no charge for access, and, to date, without charging for its services. Particularly, we thank IGSR for making the extensive changes required by the 2017 amendments to the Act.

Training on the Open Meetings Act was provided to local government officials and employees through the certificate program offered by the Academy for Excellence in Local Governance, a program of the School of Public Policy at the University of Maryland. This fiscal year, courses were taught by Frederick County Attorney John S. Mathias, Frank Johnson, Assistant City Attorney, City of Gaithersburg, and our counsel at conferences held by the Maryland Association of Counties and the Maryland Municipal League and at stand-alone trainings held in Gaithersburg and Hyattsville.

Finally, we reported to the General Assembly, in accordance with 2017 Laws of Md. ch. 525, on its questions regarding the training requirement. The report is described in the minutes of our August 3, 2017 meeting. In November 2017, our Chair briefed the Joint Committee on Legislative Technology and Open Government.

E. Publication of opinions issued during the fiscal year

The Board's opinions for the 2018 fiscal year appear in Volumes 11, page 43 on, and Volume 12, pages 1 through 57. Both volumes are posted at <https://www.oag.state.md.us/Opengov/Openmeetings/board.htm>. The table of contents for each volume lists each opinion, along with the name of the public body, the topics discussed, and notations of any provisions that we found violated. Quarterly summaries are published in the Maryland Register. They appear in Part IV of this report in a modified form.

II.

LEGISLATION - 2018 SESSION AND BOARD RECOMMENDATIONS

A. Legislation proposed and enacted in 2018

Two amendments to the Act were enacted this year. First, House Bill 695, enacted as Chapter 304, amended GP § 3-305(b) to “[authorize] a public body to meet in a closed session to discuss cybersecurity if the public body determines that public discussion would constitute a risk to security assessments or deployments relating to information resources technology, certain network security information, or deployments or implementation of security personnel, critical infrastructure, or security devices.” Second, Senate Bill 396, enacted as Chapter 546, made a stylistic change to last year’s amendment to the training requirement to clarify it.

B. Board recommendations for the 2019 Legislative Session

The Board is not recommending Open Meetings Act legislation this year.

III.

QUARTERLY SUMMARIES OF OPINIONS ISSUED FROM JULY 1, 2017 – JUNE 30, 2018

The following summaries are attached to this report:

Opinions Issued from July 1 – September 30, 2017

Opinions Issued from October 1 – December 31, 2017

Opinions Issued from January 1 – March 31, 2018

Opinions Issued from April 1 – June 30, 2018

Open Meetings Compliance Board

Summary of Opinions Issued from July 1- September 30, 2017¹

11 Official Opinions of the Compliance Board 43 (2017)

Dorchester County Council, sitting as the Dorchester Board of Estimates
(Craig O'Donnell, Complainant)

August 1, 2017

Topics Discussed: Administrative Function Exclusion, Generally, Some Budgeting Tasks

Opinion: Regarding the Dorchester Board of Estimates meeting that the Council held on April 12, 2016, the Compliance Board found no violation.

Violations: No violation.

11 Official Opinions of the Compliance Board 47 (2017)

Charles County Board of Appeals
(Kenneth W. Hastings, Complainant)

September 8, 2017

Topics Discussed: Minutes of Closed & Open Sessions, Closed Session Disclosures, Training Requirement

Opinion: The County Board violated the following provisions of the Act: § 3-306(b), which requires public bodies to keep minutes of closed sessions as well as open sessions; § 3-305(d), which requires public bodies to have a reason for closing a meeting and articulate it; and § 3-306(c), which lists the disclosures to be made after a closed session. The Compliance Board was unable to determine whether the County Board's closed-door discussion exceeded the scope of the exceptions that the County Board had claimed. The County Board complied with the training requirement.

Violations: § 3-306(b)(c), § 3-305(d)

11 Official Opinions of the Compliance Board 51 (2017)

Council of the Town of Rock Hall

September 11, 2017

Topics Discussed: Closed Session Disclosures

Opinion: The Rock Hall Town Council violated §§ 3-305(d) and 3-306(c)(2) in November 2016 by not including in its closed-session disclosures each item of information required by those provisions.

Violations: § 3-306(c)(2), § 3-305(d)

11 Official Opinions of the Compliance Board 52 (2017)

Mayor and City Council of Cumberland

September 28, 2017

Topics Discussed: Meeting Notice, Vote to Close

Opinion: The City Council's advertisement of its "stand-alone" sessions as "closed" resulted in violations of §§ 3-301 (open meeting requirement), 3-302 (notice requirement), and 3-305(d) (preconditions to closing a meeting).

Violations: § 3-301, § 3-302, § 3-305(d)

11 Official Opinions of the Compliance Board 54 (2017)

Natalie M. LaPrade Maryland Medical Cannabis Commission and its Policy Committee

September 28, 2017

¹ The Compliance Board's opinions are posted at <http://www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx>. Statutory references are to the General Provisions Article (2014, with 2016 supp.)

Topics Discussed: Minutes of Closed and Open Sessions and Closed Session Disclosures

Opinion: Regarding the Commissions and Policy committee's meeting practices since mid-2015, the Compliance Board found:

Notice related allegations. No Violation.

Closing statement. The Commission violated § 3-305(d) by not preparing a § 3-305(d) closing statement.

Meeting minutes. With regard to two sets of minutes, the Commission violated § 3-306(b), which requires public bodies to prepare minutes "as soon as practicable" after they meet. The Policy Committee also violated § 3-306(b).

Violations: § 3-306(b), § 3-305(d)

Open Meetings Compliance Board
Summary of Opinions Issued from October 1- December 31, 2017²

11 Official Opinions of the Compliance Board 59 (2017)

Board of Education of Queen Anne’s County

October 31, 2017

Topics Discussed: Administrative Function Exclusion; Investment of Public Funds Exception; Collective Bargaining Exception; Closed Session Topics, Written Statement, and Summary; and Acknowledgment of Violation

Opinion: The public body violated §§ 3-211, 3-305, and 3-301. However, it streams its meetings live, posts its minutes promptly, and, for the most part, discloses in detail the topics that it discusses in closed session.

Violations: §§ 3-211, 3-305, and 3-301

11 Official Opinions of the Compliance Board 65 (2017)

Council of the Town of Rock Hall

November 1, 2017

Topics Discussed: Administrative Function Exclusion; Quasi-Legislative Function

Opinion: The Compliance Board elaborated on its opinion in 11 *OMCB Opinions* 38 (2017) to direct the public body’s attention to the limits of the “administrative function” exclusion, and, with the benefit of information made public since it issued that opinion, to give its advice in more detail.

Violations: Not Applicable

11 Official Opinions of the Compliance Board 68 (2017)

Baltimore City Criminal Justice Coordinating Council (BCCJCC)

November 14, 2017

Topics Discussed: Public Body Definition

Opinion: The entity is not a public body under the Open Meetings Act.

Violations: None.

11 Official Opinions of the Compliance Board 72 (2017)

Greenbelt City Council

November 15, 2017

Topics Discussed: Meeting Notice Content; Public Body’s Vote to Close; Announcement/Acknowledgment of Violation

Opinion: The public body did not violate the Act. The Compliance Board commended the public body for bringing its notices into compliance in response to the Compliance Board’s opinion in 11 *OMCB Opinions* 12 (2017) and for providing the public with ample notice of, and about, its closed sessions.

Violations. None.

11 Official Opinions of the Compliance Board 74 (2017)

County Council of Dorchester County (Council)

November 15, 2017

Topics Discussed: Meeting Notice; Exceptions Permitting Closed Session; and Closed Session Discussion and Minutes

² The Compliance Board’s opinions are posted at <http://www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx>. Statutory references are to the General Provisions Article (2014, with 2017 supp.)

Opinion: The public body violated §§ 3-302, 3-305, and 3-306 with regard to its conduct of its closed sessions.

Violations: §§ 3-302, 3-305, and 3-306

11 Official Opinions of the Compliance Board 78 (2017)

Prince George’s County Council

November 22, 2017

Topics Discussed: Meeting Notice: Content, Method, and Timing; Agenda Requirement; and Closed Session: Written Statement and Summary.

Opinion: The public body did not post adequate notice of its “agenda briefing” sessions and retreats. As a consequence of the notice violations, the public body violated § 3-301, the open-meeting requirement, by meeting in sessions that were effectively closed to the public. The public body violated § 3-305(d) by failing to state its reasons for closing on its written closing statements and violated § 3-306(c)(2) with regard to its disclosures about the events of its closed sessions.

Violations: §§ 3-301, 3-302, 3-305(d), 3-306(c)(2), 3-306(e)

11 Official Opinions of the Compliance Board 85 (2017)

Board of County Commissioners for Charles County

December 1, 2017

Topics Discussed: Exceptions Permitting Closed Sessions; Closed Session: Discussion and Written Statement; and Open Session Minutes

Opinion: The public body violated the Act by holding closed sessions without making adequate disclosures before and after those sessions. As a consequence of the violations, members of the public had little information about what the public body would discuss behind closed doors and no information on why the public body had decided to exclude them.

Violations: §§ 3-305(b), 3-305(c), 3-305(d), and 3-306(c)(2)

11 Official Opinions of the Compliance Board 88 (2017)

Maryland Committee on Paid Leave Policy

December 11, 2017

Topics Discussed: Public Body Definition

Opinion: The entity is not a “public body” as defined by the Act.

Violations: None

11 Official Opinions of the Compliance Board 90 (2017)

Downtown Frederick Hotel Advisory Committee

December 15, 2017

Topics Discussed: Public Body Definition

Opinion: When the entity was formed, it was an informal private group and was not a “public body” as defined by the Act. However, the City Council later adopted, by resolution, a memorandum of understanding that assigned certain functions to the entity. Although that fact might suggest that the entity is now an arm of the City, the Compliance Board is unable to reach that inference from the facts before it.

Violations: N/A (complaint not resolved)

Open Meetings Compliance Board

Summary of Opinions Issued from January 1- March 31, 2018³**12 Official Opinions of the Compliance Board 1** (2018)

Worcester County Board of Education

February 7, 2018**Topics Discussed:** Notice – Method; Closed Meeting – Written Statement; and Closed Meeting – Post Session Summary.**Opinion:** The school board violated the Act’s notice provision by not posting its work sessions on the calendar. The school board also violated the Act by not disclosing in its written closing statements the topics to be discussed and reasons for excluding the public. Further, the lack of adequate notice for the work sessions meant that the school board’s votes to close were not truly public. Finally, the school board’s closed session summaries also did not comply with the Act. The public body’s descriptions of the discussion, list of persons present for the vote to close, and location description were deficient.**Violations:** § 3-103, § 3-302, § 3-306(c), and § 3-305(d)**12 Official Opinions of the Compliance Board 5** (2018)

Natalie M. LaPrade Maryland Medical Cannabis Commission

March 5, 2018**Topics Discussed:** Administrative Function Exclusion, Closed-session Discussion – Legal Advice; Closed-session Summary; Closed-session Minutes; Compliance Board Opinions; and Announcement of Violation**Opinion:** A committee of the Commission violated the Act by failing to announce the violation found in 11 *OMCB Opinions* 54 (2017). Although the purpose of the Act was broadly fulfilled by the Commission’s announcement, its announcement did not comport with the letter of the law. The violation was minor. The Commission also violated the Act by not disclosing all of the required information in its closed-session summaries. The Board also found that it need not revisit the Commissions’ actions that it ruled on in its prior opinion.

The Board found that the topics that the Commission discussed fell within the claimed exceptions and that that meetings of the complained-of standing committees fell within the administrative function exclusion from the Act. Finally, the Board could not reach a conclusion on whether the Commission could have disclosed more details about its closed “pending litigation” discussion without compromising the confidentiality of the discussion.

Violations: § 3-211(b)(1) and § 3-306(c)(2)**12 Official Opinions of the Compliance Board 9** (2018)

Kent County Board of Education

March 9, 2018**Topics Discussed:** Closed-session Statement; and Closed-session Summary**Opinion:** The OMCB found, and the school board acknowledged, that the closed -session disclosures did not contain every item of information required by the Act pertaining to closing statements and disclosures to be made after a public body has met in closed session.**Violations:** § 3-305(d)(2) and § 3-306(c)(2)**12 Official Opinions of the Compliance Board 10** (2018)

Board of County Commissioners of Carroll County

March 16, 2018

³ The Compliance Board’s opinions are posted at <http://www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx>. Statutory references are to the General Provisions Article (2014, with 2017 supp.)

Topics Discussed: Closed-session Statement; Closed-session Summary; Closed-session Discussion – Property Acquisition; Closed-session Discussion – Procurement

Opinion: The County Board violated § 3-306(c)(2) when it did not include a closed-session summary in the minutes of the next open session and, on another date, when it adopted a closed-session summary that did not report on the closed session accurately.

The County Board also found that the public body’s closed-door discussions about disposing of public real estate violated the Act because the procurement exception, cited by the Commission, does not apply to that topic.

Violations: § 3-301, § 3-305, and § 3-306(c)(2)

12 Official Opinions of the Compliance Board 13 (2018)

Garrett County Board of Education

March 22, 2018

Topics Discussed: Administrative Function Exclusion; Collective Bargaining Exception; Closed-session Statement; Closed-session Summary; and Compliance Board Opinions

Opinion: The public body acknowledged, and the Board found, that the public body’s closing statements and closed-session summaries did not contain all of the information required by the Act. The Board was unable to determine whether the school board’s particular discussions about the superintendent’s evaluation and upcoming field trips fell entirely within the administrative function exclusion. The school board’s closed-session discussions about health benefits did not violate the Act because they fell within the collective bargaining exception.

The Board noted that the violations that it found were in the nature of imperfect efforts to comply with the Act and did not reflect an intent on the part of the school board to circumvent the Act.

Violations: § 3-305(d) and § 3-306(c)

12 Official Opinions of the Compliance Board 15 (2018)

Howard County Board of Education

March 23, 2018

Topics Discussed: Closed-session Discussion - Property Acquisition; and Closed-session Statement

Opinion: The Compliance Board found that the Howard County School Board did not violate the Act with regard to its closed session on January 3, 2018. The public body met the Act’s conditions for closing the meeting, and its closed-door discussion did not exceed the scope of the permitted reasons it had claimed for closing its meeting.

Violations: None

12 Official Opinions of the Compliance Board 19 (2018)

Housing Authority of the City of Annapolis, Board of Commissioners

March 28, 2018

Topics Discussed: Notice Requirement - Content; Closed-session Vote; Closed-session Written Statement – Generally

Opinion: The Housing Authority violated the Act with regard to the wording of its notice for its January 23, 2018 teleconference. The Authority also failed to vote to close the meeting and to make a written closing statement. The Board noted that the Authority had given public notice of its intention to meet in closed session and of the topic to be discussed, and that the topic discussed seemingly fell within one of the Act’s exceptions, but that the Authority had not met the Act’s conditions for closing a meeting.

Violations: § 3-302, § 3-305(d)

Open Meetings Compliance Board
Summary of Opinions Issued from April 1- June 30, 2018⁴

12 Official Opinions of the Compliance Board 21 (2018)

Mayor and Council of Boonsboro

April 9, 2018

Topics Discussed: Notice Requirement on Website; Agenda Contents

Opinion: The Council violated § 3-302.1(a) by making available an agenda that omitted an item of business “known” to members of the Council when the agenda was prepared.

Violations: § 3-302.1(a)

12 Official Opinions of the Compliance Board 23 (2018)

Montgomery County Board of Education

April 11, 2018

Topics Discussed: Guidance on Complaint Process

Opinion: No violations were found. The Board discouraged complainants from using the complaint process to indulge in speculation and to pose hypothetical questions.

Violations: None

12 Official Opinions of the Compliance Board 24 (2018)

Council of the Town of Rock Hall

April 19, 2018

Topics Discussed: Guidance on Complaint Process

Opinion: The complaint was dismissed. When taken as true, the complaint did not allege violations of the Act.

Violations: None

12 Official Opinions of the Compliance Board 25 (2018)

Board of Education of Somerset County

April 19, 2018

Topics Discussed: Administrative Function; Notice Requirement; Content of Written Statement for Closed Session; Minutes, Summary of Closed Session

Opinion: The school board violated various provisions with respect to its closed sessions, including meeting notice, closing statement, and closed session summary violations. The Compliance Board also provided guidance on the Administrative Function exclusion.

Violations: §§ 3-104, 3-302, 3-305(d), and 3-306(c)

12 Official Opinions of the Compliance Board 28 (2018)

Board of Education of Allegany County

April 27, 2018

Topics Discussed: Quasi-Legislative Function; Meeting Notice Content and Method; Personnel Exception; Content of Written Statement for Closed Session; Open-Session Minutes

Opinion: The school board violated various provisions with respect to its closed sessions, including meeting notice violations; failure to provide minutes of an open session whose sole purpose was to close the meeting; and inadequate written statements to close the meeting. The school board’s discussion of an individual’s employment contract fell within § 3-305(b)(1) (Personnel Exception).

⁴ The Compliance Board’s opinions are posted at

<http://www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx>. Statutory references are to the General Provisions Article (2014, with 2017 supp.)

Violations: §§ 3-302, 3-306(b)(1), and § 3-305(d)(2)(ii)

12 Official Opinions of the Compliance Board 33 (2018)

Board of Education of Anne Arundel County

April 27, 2018

Topics Discussed: Administrative Function Exclusion; Meeting Notice Content; Meeting Minutes; Guidance on Complaint Process

Opinion: The school board violated the Act's provisions on meeting notices, but not the provisions on meeting minutes and closed meeting discussions. The Compliance Board noted that the proposed change to the school board practices would address its meeting notice violation and also recommended that the school board use the newest sample closing form from the Attorney General's website for its closing statements.

Violations: § 3-302

12 Official Opinions of the Compliance Board 35 (2018)

Baltimore City Board of School Commissioners

May 11, 2018

Topics discussed: Content of Written Statement for Closed Session

Opinion: The Compliance Board found that the school board did not include all of the information required by the Act on its closing statements. The school board was commended for quickly adopting new closing statement procedures that would address this violation.

Violations: § 3-305(d)

12 Official Opinions of the Compliance Board 37 (2018)

Carroll County Board of Education

May 11, 2018

Topics discussed: Administrative Function; Guidance on Complaint Process

Opinion: The convening of school board members on Dec. 8, 2015 to discuss its selection of new officers fell within the administrative function exclusion and was not subject to the Act. The Compliance Board also gave guidance on the timeliness of complaints. Opinions of the Board serve to give timely advice with a goal of prompt resolution of current concerns and prompt compliance of the Act by public bodies. The Compliance Board encouraged complainants to focus on concerns with a public body's current practices or recent conduct.

Violations: None

12 Official Opinions of the Compliance Board 39 (2018)

City of Frederick Board of Aldermen

May 11, 2018

Topics discussed: Guidance on Complaint Process

Opinion: The complainant alleged violations of the Act between July 31, 2014 and February 19, 2014. The Compliance Board found that it was unable to resolve this complaint about long past events because it is unclear what actually happened.

Violations: None

12 Official Opinions of the Compliance Board 41 (2018)

Wicomico County Board of Education

May 17, 2018

Topics discussed: Meeting Notice Content and Method; Content of Written Statement for Closed Session; Minutes – Summary of Prior Closed Session

Opinion: The Compliance Board found violations of the notice provisions of the Act. The “Meetings” webpage of the school board must list all of its open meetings or alert the public that its list is incomplete. The school board also violated that Act by not including sufficient detail in its closing statements and closed session summaries as to its reasons for closing and topics to be discussed.

Violations: §§ 3-104, 3-302, 3-305(d), and 3-306(c)

12 Official Opinions of the Compliance Board 44 (2018)

Baltimore County Board of Education

May 17, 2018

Topics discussed: Property Acquisition Exception; Minutes – Summary of Prior Closed Session

Opinion: The school board violated the Act by not including sufficient detail in its closing statements and closed session summaries as to its reasons for closing and topics to be discussed. The Compliance Board also found that the school board cited the wrong statutory authority for closing one meeting. The property acquisition exception § 3-305(b)(3) does not apply to receiving counsel’s advice on granting an easement on school property. The school board also was found to have a technical violation of the minutes requirement of the Act by not reading aloud the closed session summary into its video minutes.

Violations: § § 3-305 and 3-306

12 Official Opinions of the Compliance Board 46 (2018)

Talbot County Board of Education

May 29, 2018

Topics discussed: Meeting Definition; Administrative Function; Property Acquisition and Legal Advice Exceptions; Closed Sessions Discussion; Minutes – Summary of Prior Closed Session

Opinion: The Compliance Board found that the town hall meeting attended by a quorum of board members who were not on the agenda was not a meeting, but that the quorum of board members attending a closed joint dinner to discuss a joint public matter was a meeting. The Open Meetings requirement was violated by the “joint dinner” and the public should have been invited. The Compliance Board also found multiple violations regarding the content of closing statements and closed-session summaries including incorrect citations for statutory authority to close the meeting and insufficient summaries of the discussion topics. The school board was found to appropriately adopt the administrative function for certain advisory committees. Finally, the school board also violated the act by discussing a lease agreement in closed session.

Violations: § § 3-301, 3-302, 3-305(d)(2)(ii), 3-306(c)(2)(iii) and 3-306(e)(2)

12 Official Opinions of the Compliance Board 52 (2018)

Harford County Board of Education

June 1, 2018

Topics discussed: Collective Bargaining Exception; Content of Written Statement for Closed Session

Opinion: The school board was found to have violated the Act due to insufficient information in its closing statements. The school board also recognized that a closed-door discussion about negotiations with school bus contractors did not fall within the collective bargaining exception as cited. The school board has addressed the practices that led to these violations.

Violations: §§ 3-301 and 3-305

12 Official Opinions of the Compliance Board 53 (2018)

Maryland Medical Cannabis Commission

June 18, 2018

Topics discussed: Definition of Public Body

Opinion: Informally-created subcommittees comprising only the parent commission's members were determined not to be public bodies.

Violations: None

12 Official Opinions of the Compliance Board 55 (2018)

Board of Education of Cecil County

June 25, 2018

Topics discussed: Closing Statement Practices; Minutes – Summary of Prior Closed Session

Opinion: The school board was found to have violated the Act by not preparing closing statements before closing all of its meetings. Preparing closing statements after-the-fact does not address this violation. Also, the school board was found to have insufficient information in its closed-session summaries, including inadequate descriptions of discussions and no identification of persons present. The school board correctly cited the statutory authority to hold a closed discussion for its June 12, 2017 meeting.

Violations: §§ 3-305 and 3-306

ERRATA SHEET

Open Meeting Compliance Board's 26th Annual Report

- The report, at page 2 section A, indicates a count of 38 separate public bodies of which written complaints alleged OMA violations. The correct number is **37**.
- On page 5, section (C)(2), the correct number of complained-of public bodies, not counting withdrawn complaints, is **35**, not 36.
- On page 10, the *Summary of Opinions Issued from July 1 – September 30, 2017* omitted this summary of 11OMCB57, issued on September 29, 2017:

11 Official Opinions of the Compliance Board 57 (2017)

Cumberland Economic Development Corporation (CEDC)

September 29, 2017

Topics Discussed: Meeting Notice, Open Meetings Requirement, Minutes Requirements, and Announcement of Violations

Opinion: CEDC violated the following sections: 3-301 (the open meeting requirement); 3-302 (the notice requirement); 3-306 (the requirement for posting minutes “as soon as practicable”) and 3-211, for failure to announce the violations that the Board found in November 2016. CEDC must also designate a member, officer, or employee for training in the Act if CEDC has not done so already.

Violations: § 3-301, §3-302, §3-306, and §3-211

September 07, 2018
Open Meetings Compliance Board
Administrative Officer
Janice Clark