

TWENTY-SEVENTH ANNUAL REPORT
OF THE
OPEN MEETINGS COMPLIANCE BOARD



BOARD MEMBERS

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

The Open Meetings Compliance Board submits this annual report for the period running from July 1, 2018, through June 30, 2019 (“FY 2019”), in accordance with § 3-204(e) of the General Provisions Article (“GP”). 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 was established as an independent State board of three members who are appointed by the Governor and serve without compensation. The Chair, April C. Ishak, was first appointed by Governor Hogan in 2015. He appointed her Chair in June 2019, appointed Ms. Duden at the same time, and appointed Mr. Meighan in July 2019. All are attorneys; two have experience representing local governments. Although the term of our former Chair, Jonathan Hodgson, ended last year, he continued to serve in a holdover capacity until July 1, 2019, to ensure that the Board had a quorum to act. We thank him for his leadership and his service to the Board and the State.

The Compliance Board has no budget and no staff of its own. The Office of the Attorney General provides counsel and administrative support, as required by statute, and

posts the Compliance Board’s opinions on the Open Meetings webpage of the Attorney General’s website. However, the Compliance Board is an independent body and is not a part of the Office of the Attorney General.

I.
ACTIVITIES OF THE BOARD

A. Number of Complaints Received and Opinions Issued

From July 1, 2018, to June 30, 2019, we received 28 written complaints alleging violations of the Act by 23 separate public bodies.

We issued 34 opinions in all, including an opinion that was transmitted to the public body on July 1, 2019 but that we had decided during the year and therefore include in this report. In 16 opinions, we found violations, in varying degrees of seriousness, by 16 separate public bodies. In 18 opinions, we did not find a violation. That number includes three matters in which we were unable to reach a determination. There were no repeat violations by any public body.

The complaint docket was as follows:

Docketed Complaints from FY 2018, pending on July 1, 2018: 11
Complaints on past violations, received during FY 2019 28
Total complaints on the docket for FY 2019:..... 39
Complaints consolidated 0
Complaints withdrawn..... 3
Total matters to address: 36
Opinions issued in FY 2019: 34
Complaints still pending on 7/1/19: 2

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 mostly routine. We received 10 complaints expressly related to notice and found violations in five opinions. One of those opinions involved a legislatively-mandated advisory board that comes into existence only to advise an appointing authority on school board vacancies when one occurs. That board seemingly does not have fixed members, was not assigned to any particular government unit, and had neither staff nor counsel at the time of the complaint. In fact, no government entity—neither the school board nor the local government—considered itself the contact point for the board. We encourage legislative bodies, when creating public bodies, to provide for staff, or, at the least, for the placement of the public body within a governmental unit for administrative purposes.

Other violations had to do with deficiencies in the public body’s method of giving notice. In two matters in which we did not find a violation, the complainant asserted that the public body violated the Act by not posting notice on a website. In both matters, we found that the public body had used methods of posting notice that were reasonable for the members of the public who lived in the locality, who were likely to follow the public body’s activities, and, particularly in one case, who were not likely to have access to the internet, such that notice on a website alone would probably have been ineffective. We thus continue to see that there is no “one size fits all” method of giving notice.

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 opinions finding violations pertained to §§ 3-305 and 3-306, which contain the Act's provisions on closed session procedures and meeting minutes, respectively. Many of the violations involved closing statements and closed session summaries.

Provision	# of Violations
3-104	2
3-213	1
3-301	3
3-302	5
3-305	11
3-306	11

Table 1

C. *Nature of the Complaints*

1. *Complaint statistics*

The number of complained-of public bodies, and of complaints culminating in a finding of a violation, remains very low in light of the many state, county, and municipal public bodies that meet, the number of their meetings, and the ease of filing a complaint with our Board. We could try to discern compliance trends from the numbers of complaints from the media who cover public bodies and the organizations that monitor government activities because more complaints from them might suggest rising non-compliance. During this fiscal year, 2 complainants identified themselves as journalists; we found violations in both of those matters. Four complainants identified in 5 complaints represented members of an advocacy group. Two of those complaints had violations, while one is pending.

However, we again suggest that our complaint and violations statistics are not necessarily informative on the state of open meetings compliance in the State. For example, complainants usually have no way of knowing when a quorum of a public body has collectively conducted public business by electronic means. Although a member of the public or media may request access to electronic records under the Public Information Act and then submit an Open Meetings Act complaint to us, that person would not necessarily know what records to request and, even then, might be denied access to the records. We have no way of assessing the extent to which public bodies deliberate on non-

administrative public business by electronic communications among a quorum of their members.

2. *The complainants*

In all, 19 people¹ submitted complaints this year, consisting of 2 members of the media, 4 people acting for advocacy groups, and 13 individuals. Last year, there were 18 complainants. This year, most complaints were filed by individuals who followed the work of the public body.

3. *The public bodies*

During this year, we received 28 complaints about 22 public bodies or their subsidiary committees that fell into the following categories: municipality, county, State board or commission, privately-incorporated entity, school board, and housing authority.

4. *Overview of the topics we addressed*

The topics that we addressed this year are listed in the topic descriptions in the quarterly summaries in Part III, below. Here, we will focus on two of the many topics we addressed: the use of electronic communications to conduct public business and the posting of minutes online.

a. Deliberations on public business via electronic communications

This year, we received three complaints that public bodies were using email or other electronic communications to avoid conducting their business in public. Although that number was higher than in the past, such complaints are not new. *See, e.g., 9 OMCB Opinions 259 (2015)* (advising public bodies how to avoid inadvertent violations of the Act when the members communicate electronically); *see also* Open Meetings Act Manual, Chapter 1, part B(1) (summarizing the relevant principles). In 2016, at our annual meeting, we considered whether to recommend that the Act be amended to address that method of conducting public business.² As recorded in our minutes, “the Board concurred that the

¹ The number of complainants and public bodies in this section does not include withdrawn complaints.

² Those minutes are posted at:

<http://www.marylandattorneygeneral.gov/OpenGov%20Documents/Openmeetings/min090816.pdf>.

Act gave it the flexibility to address the issue on a case-by-case basis and that legislation was not needed at this time.” A member of the public commented that a town council member had complained to him that “the council frequently decided matters by replying, by email, to questions that the town manager emailed to them.” The Chair responded “that members of public bodies may complain to the Board about such practices.”

We reached three different results in this year’s complaints about electronic communications. In 12 *OMCB Opinions* 67 (2018), the members of a school system advisory committee had not communicated with each other at all on an item of substantive business; in keeping with our 2015 guidance, staff had emailed the members separately and had received separate responses. It seemed possible that a quorum of members had participated in an email exchange on another matter, but that matter was administrative in nature, and we found no violation because the Act would not have applied to the public body’s exercise of an administrative function.

Next, in 12 *OMCB Opinions* 91 (2018), a complainant alleged that a commission was violating the Act by conducting business electronically, as evidenced by the commission’s notice on its website that it “periodically takes action via email to approve regular business items.” In response, the commission chair acknowledged that “taking action by email creates suspicion,” cited our 2015 guidance, and stated that the commission had taken the notice down. She stated that the current commission had not actually conducted any business electronically, and the submissions contained no information on whether its predecessor had. We did not find a violation. We commended the chair for “acknowledging that the purposes of the Act are best served by conducting business in open meetings rather than by electronic communications and for applying the principles cited in our earlier opinions.” *Id.* at 92.

In the third matter, 13 *OMCB Opinions* 39 (2019), we found that a county council had violated the Act through the transmittal of a series of electronic communications that the council described to us as “[d]eliberations on whether the County Council should send letters to the General Assembly supporting or opposing [two bills].” There, a council

member's inquiry on that subject was emailed to all members. A series of fifteen electronic communications, including four messages that were identifiably among a quorum, ensued, beginning that evening, continuing to the next, and ending with the council president's message that the majority had decided on a particular course of action. The council did not submit to us the communications themselves; it had withheld them from an individual who had requested them under a Public Information Act request, and our authority to maintain the confidentiality of submissions, other than sealed minutes, is unclear at best. *See* GP § 3-206(b)(3). The submissions showed that the council had neither made the public aware that the council would hold the "deliberations" nor disclosed them afterwards. We applied the principles and factors that we had identified in 9 *OMCB Opinions* 259 (2015) and, from the totality of the circumstances, found that the council had violated the Act. We gave advice on giving proper notice when a public body must address an issue quickly. Usually, it appeared, the council holds public workshops on legislation.

b. Posting meeting information online

As to other types of complaints, we are increasingly seeing an expectation that all public bodies post all of their meeting information online and do so immediately. We have long encouraged public bodies to use websites as a mode of communication, and public bodies must post their minutes "[t]o the extent practicable." GP § 3-306(e)(2). However, as we have noted above in our discussion of notice, posting notices and other materials online, even when easy, is not an effective way for every public body to reach its interested public, and, particularly for public bodies whose public has limited access to the internet, it may not always be practicable to give website tasks priority over their other work. In any event, we continue to encourage complainants to interact with public bodies before complaining to us. For example, an individual who does not see the public body's most recent minutes posted online will likely get that information much more quickly by contacting the public body and requesting either inspection under § 3-306 or a copy under the Public Information Act than by proceeding under our complaint procedures.

D. Financial Support and Educational Activities

The Attorney General's Office provides the Board with the services of counsel and our 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 2019.

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 to the public for access, and, to date, without charging for its services.

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, Frederick County Attorney John S. Mathias, Frank Johnson, Assistant City Attorney, City of Gaithersburg, and our counsel addressed various groups and taught classes at stand-alone trainings in Mount Airy and Gaithersburg and at conferences held by the Maryland Association of Counties, the Maryland Municipal League, the Maryland Planning Commission Association, and the Maryland Association of Election Officials. We thank Messrs. Johnson and Mathias for helping us broaden our educational activities and for the valuable perspective they bring to these events.

E. Publication of Opinions Issued During the Fiscal Year

The Board's opinions for the 2019 fiscal year appear in Volume 12, page 58 on, and Volume 13, pages 1 through 46. Both volumes are posted at

<http://www.marylandattorneygeneral.gov/Pages/OpenGov/OpenMeetings/index.aspx>.

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 and appear in Part IV of this report in a modified form.

II.

LEGISLATION - 2019 SESSION AND BOARD RECOMMENDATIONS FOR 2020

A. Legislation proposed and enacted in 2019

The Act was not amended this year. The pause in legislative changes to the Act, coupled with the training requirement enacted in earlier years, may have enabled public bodies to focus on the Act's basic requirements.

B. Board recommendations for the 2020 Legislative Session

The Board doesn't recommend any legislative study or action at this time. The Board discussed the potential for electronic communications legislation but deemed that it would be premature and that the Board should continue to deal with those complaints on a case-by-case basis. The Board also considered a follow-up or updated training requirement and felt that that could best be handled by the public bodies themselves rather than by the Board.

III.

QUARTERLY SUMMARIES OF OPINIONS ISSUED FROM JULY 1, 2018 – JUNE 30, 2019

The following summaries appear below:

Opinions Issued from July 1 – September 30, 2018

Opinions Issued from October 1 – December 31, 2018

Opinions Issued from January 1 – March 31, 2019

Opinions Issued from April 1 – June 30, 2019

Summary of Opinions Issued from July 1- September 30, 2018

12 Official Opinions of the Compliance Board 58 (2018)

Baltimore City Board of School Commissioners – Enrollment Task Force
July 3, 2018

Topics Discussed: Definition of public body

Opinion: A task force formed by this school board’s chief executive officer is not a public body under § 3-101(h).³

Violations: No violation

12 Official Opinions of the Compliance Board 60 (2018)

City of Baltimore Development Corporation
July 3, 2018

Topics Discussed: Procurement exception

Opinion: The Board found no violation. Topics of discussion in the closed meeting were directly related to a competitive procurement process.

Violations: No violation

12 Official Opinions of the Compliance Board 62 (2018)

Carroll County Industrial Development Authority
July 17, 2018

Topics Discussed: Training requirement for closed session, closing statement, posting minutes, and minutes of closed session

Opinion: Multiple violations of the Act were found, including: No present member of the public body had received training on the requirements of the Act prior to closing the session; the closing statement did not provide the required information; and the minutes of the open session did not contain a meaningful summary of the prior closed session. No violation was found for the complaint regarding posting of minutes “to the extent practicable.” The Board also recognized that the public body was committed to take actions intended to bring its meetings into compliance with the Act.

Violations: §§ 3-213, 3-305, and 3-306

12 Official Opinions of the Compliance Board 65 (2018)

Crumpton Volunteer Fire Company
July 17, 2018

Topics Discussed: Definition of public body

Opinion: Volunteer fire departments, when formed and maintained as a voluntary association of individuals, are not public bodies.

Violations: No violation

12 Official Opinions of the Compliance Board 67 (2018)

Howard County Public School System Attendance Area Committee
July 19, 2018

Topics Discussed: Meeting definition, administrative function

Opinion: The Board explained that nearly contemporaneous email communications among a quorum may constitute a meeting. The Board found that non-substantive discussions about whether to schedule a meeting on an item already referred to the public body are within the administrative function exclusion.

Violations: No violation

12 Official Opinions of the Compliance Board 69 (2018)

Mayor and City Council – City of College Park
July 23, 2018

Topics Discussed: Agenda requirement, public access to an open meeting, personnel exception, legal advice exception, closed session vote, closing statement, and closed session summary

Opinion: The Board found multiple violations and multiple components of the complaint where there was no violation. The Board found that the public body did not violate the Act when it altered an agenda; that the public body followed correct procedures for an objection to a closed session; and that the closed session summary met the requirements of the Act. The Board found violations regarding the general requirement to meet in open session; that the personnel and legal advice exemption did not apply to topics discussed in closed session; and multiple violations with regard to the public body’s closing statements.

Violations: §§ 3-104, 3-301, and 3-305(d)(2)

12 Official Opinions of the Compliance Board 77 (2018)

³ Statutory references are to the General Provisions Article of the Maryland Annotated Code.

Board of Education of Howard County

July 30, 2018

Topics Discussed: Meeting definition, agenda requirement, public access to an open meeting, and personnel exception

Opinion: The Board found no violations within the complaint.

Violations: No violation

12 Official Opinions of the Compliance Board 80 (2018)

Council of Town of Rock Hall

July 30, 2018

Topics Discussed: Meeting minutes, complaint guidance

Opinion: Considering special circumstances, the Board found no violation of requirement to adopt minutes within a reasonable time. The Board also advised that the complaint procedure is most effective when invoked for actual interference with the right to observe the conduct of public business.

Violations: No violation

12 Official Opinions of the Compliance Board 83 (2018)

City of Greenbelt Advisory Planning Board

August 22, 2018

Topics Discussed: Meeting minutes, complaint guidance

Opinion: The Board found no violation with the completion and posting of meeting minutes as soon as practicable. The Board also advised that the complaint procedure is most effective when invoked for actual interference with the right to observe the conduct of public business.

Violations: No violation

12 Official Opinions of the Compliance Board 85 (2018)

Transportation Committee of the Mayor and City Council of the Town of Ocean City

August 22, 2018

Topics Discussed: Meeting notice, written statement, closed session summary

Opinion: The Board found multiple violations of the Act. Embedding a committee agenda within parent body meeting notice is not sufficient as the committee's notice. The public body also failed to prepare a written statement before closing the meeting or to include any summary of the closed session in its open meeting minutes.

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

12 Official Opinions of the Compliance Board 88 (2018)

City Council of the City of Mount Rainier

September 4, 2018

Topics Discussed: Administrative function, closing statement, closed session summary

Opinion: The Board found violations within the public body's closing statements and through its omission of closed session summaries in its meeting minutes. The public body did provide notice regarding its upcoming closed meetings and did properly cite the Act as a basis for its closed meetings. The Board noted the willingness of the public body to meet the Act's requirements and referred it to the Open Meetings Act Manual for further information.

Violations: §§ 3-305(d) and 3-306(c)

12 Official Opinions of the Compliance Board 91 (2018)

Interagency Commission on School Construction

September 4, 2018

Topics Discussed: Meeting definition

Opinion: The Board provided guidance on the definition of a meeting and noted that a meeting is an "[o]pportunity for a quorum to explore issues as a group and exchange comments and reactions" whether this is in-person or by consecutive emails. The Board found that posting a "notice of intent" to conduct public business by email does not prove that a quorum convened. Upon review of the complaint, the public body withdrew its "notice of intent" and emphasized "it will not conduct business by email"

Violations: No violation

12 Official Opinions of the Compliance Board 93 (2018)

Handgun Permit Review Board

September 11, 2018

Topics Discussed: Quasi-judicial function, agenda content requirement, private information exception, other law exception, closing statement, meeting minutes, and closed session summary

Opinion: The Board assumed that the public body's meetings to consider appeals fell within the permitting exception to the otherwise exempt quasi-judicial function. The Board recommended that, in general, closing statements only note the exceptions

that the public body expects to apply. The Board found that the “private information” and “other law” exceptions were appropriately invoked as authority for closing the public body’s meetings, but that the closing statements for these meetings contained uninformative boilerplate language. The Board also found the following violations of the Act: The public body failed to include in its agenda the fact that it expected to vote to close the meeting; did not post its meeting minutes to its website; and did not provide an adequate description of its closed meeting in its open meeting minutes.

Violations: §§ 3-302.1, 3-305, 3-306(c), and 3-306(e)

Summary of Opinions Issued from October 1- December 31, 2018

12 Official Opinions of the Compliance Board 98 (2018)

Baltimore City Public School Board Community Panel

October 3, 2018

Topics Discussed: Public body definition, meeting definition, advisory function, and notice requirement

Opinion: The Board found that the Panel is a public body subject to the Act and that it held a meeting on November 20, 2017. The Panel convened to discuss public business on the November date without giving advance notice required by the Act and thus violated § 3-302. Because the Panel appears to have no “official or entity” appointed to it, guidance was sent to Baltimore City and well as the school system for future reference.

Violations: § 3-302

12 Official Opinions of the Compliance Board 102 (2018)

Mayor and Town Council of the Town of Forest Heights

October 4, 2018

Topics Discussed: Meeting definition

Opinion: Without knowing what was actually discussed at the May board retreat, the Board was unable to reach a conclusion as to whether the public was entitled to observe the discussion. The Board offered guidance to the Council for future such events.

Violations: Unable to reach conclusion

12 Official Opinions of the Compliance Board 104 (2018)

Baltimore City Board of School Commissioners

October 25, 2018

Topics Discussed: Administrative function exclusion

Opinion: The Chief Executive Officer’s status report on legal staff’s progress, and the closed-session review of a “script” when it solely entailed rehearsing procedures already set by law and did not include discussion of a decision to be made, were both found by the Board to be within the administrative function exclusion. The Compliance Board found no violation but noted that the school board could avoid any appearance of secrecy if it handled administrative functions during the public portion of its meetings or at a separately convened meeting prior to its public meeting.

Violations: No violation

12 Official Opinions of the Compliance Board 108 (2018)

Housing Authority of Queen Anne’s County

November 19, 2018

Topics Discussed: Method of notice, agenda requirement, notice procedures for objection to closing, closing statement, and closed session summary

Opinion: The Board found that the housing authority violated the Act by not following required procedures after an objection to close. The Board also found that the housing authority failed to provide information required by the Act in its closing statement and closed session summary. The Board found that there was a meeting notice violation and noted that there is no requirement for public bodies to post meeting agendas online.

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

12 Official Opinions of the Compliance Board 112 (2018)

Transportation Committee of the Mayor and City Council of the Town of Ocean City

December 10, 2018

Topics Discussed: Meeting minutes and announcement of violation

Opinion: The Board found no violation of the method by which the committee’s minutes are prepared, adopted, or amended and noted that this process is within public body’s discretion. The Board also found that there was no violation of the announcement requirements of the Act as the Committee had timely made the announcement about the Board’s earlier opinion.

Violations: No violation

12 Official Opinions of the Compliance Board 114 (2018)

County Commissioners of Worcester County
December 10, 2018

Topics Discussed: Administrative function exclusion and closed session summary

Opinion: The Board found that the County Commission's consideration of a penalty in a particular code enforcement matter is within administrative function exclusion. The Board also found that the County Commission violated the Act by failing to include a summary about the closed administrative session in the minutes of its open session.

Violations: § 3-104

12 Official Opinions of the Compliance Board 117 (2018)

Board of Trustees, Montgomery College
December 31, 2018

Topics Discussed: Method of notice, closed session vote, and closing statement

Opinion: The Board found no violations in the method of notice for the closed session or the closed session vote during the challenged time period. The Board also found that the Board of Trustees violated the Act by failing to provide all of the information required by the Act in its closing statements.

Violations: § 3-305(d)

Summary of Opinions Issued from January 1- March 31, 2019**13 Official Opinions of the Compliance Board 1 (2019)**

Montgomery County Revenue Authority
January 18, 2019

Topics Discussed: Meeting notice, posting of minutes, closing statement, and closed session summary

Opinion: The Board found violations with regard to meeting minutes, closing statements, and closed meeting summaries. The Authority does not post meeting minutes or agendas on its website or the County's website and does not explain why this is not practicable. The Authority also failed to timely adopt meeting minutes. The Board offered guidance on adopting minutes when a public body meets infrequently. The Board also found violations in the Authority's closing statements, which did not include a description of the topic to be discussed beyond merely parroting the statutory language of the exception. Additionally, the Authority violated the Act by not including a summary of the closed session in the minutes of the next open meeting. The Board found no violation of the notice provision of the Act, or in the administrative meetings that are held before the Authority's open meetings.

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

13 Official Opinions of the Compliance Board 5 (2019)

Mayor and Town Council of Town of Cheverly
February 11, 2019

Topics Discussed: Administrative function exclusion, closed session discussion – legal advice, closed session discussion – pending or potential litigation, closing statement, and closed session summary

Opinion: The Town Council acted properly in treating its facility discussions as subject to, and closed under, the Act, as opposed to excluded from the Act as an administrative function; the Council itself was not charged with administering the Town's facility policy. The Council violated §§ 3-305 and 3-306(c)(2) regarding the disclosures required before and after the closed session. The complaint also alleged that the Council's closed session discussions did not fall within the exceptions it had claimed as authority for excluding the public, i.e., legal advice, and pending or potential litigation. The Board could not assess the degree to which the topic of potential liability was intertwined with a discussion of a facility's use, so did not reach a determination. The Board did note that when a meeting is closed to receive advice of counsel, counsel must be present.

Violations: §§ 3-305 and 3-306(c)(2)

13 Official Opinions of the Compliance Board 9 (2019)

Housing Authority of Prince George's County
March 18, 2019

Topics Discussed: Meeting notice, closing statement, open session minutes, and closed session summary

Opinion: The Board found that the Housing Authority's practice of posting meeting notices at public housing sites and on the County's events calendar was a reasonable method calculated to give notice to interested members of the public. However, the Board found that the Authority failed to prepare closing statements, failed to record a vote to close, and failed to include a closed session summary in the open session minutes of the next meeting. The Board provided guidance on closed meeting procedures and referred the Housing Authority to the Open Meetings Act Manual (Chapter 5). The Board commended the Housing Authority for its constructive response to the complaint.

Violations: §§ 3-305(d) and 3-306

13 Official Opinions of the Compliance Board 12 (2019)

Montgomery County Council
March 18, 2019

Topics Discussed: Posting of minutes and complaint guidance

Opinion: The Board found that the Montgomery County Council timely posted meeting minutes; the Council adopted the minutes on schedule and within one month of meeting. The Board urged complainants to bring their questions, suspicions, and concerns to the public body before filing a complaint.

Violations: No violation

13 Official Opinions of the Compliance Board 14 (2019)

Allegany County Board of Education
March 20, 2019

Topics Discussed: Administrative function exclusion; agenda requirement, and closed session discussion – personnel exception.

Opinion: Meetings to elect School Board officers are within the Act's administrative function exclusion. The Board did not find a violation with regard to the School Board's agendas—nothing "prevent[s] a public body from altering an agenda or meeting after the agenda has been made available to the public." § 3-302.1(e). Additionally, the School Board's closed-session discussion of its counsel's performance was permitted by the Act's personnel exception.

Violations: No violation

13 Official Opinions of the Compliance Board 16 (2019)

Anne Arundel County Special Education Citizens' Advisory Committee
March 26, 2019

Topics Discussed: Public body definition

Opinion: The Board determined that the school system's Special Education Citizen's Advisory Committee is a public body that was created pursuant to regulation. Because the Committee has been operating under the mistaken assumption that it is not a public body subject to the Act, the Board assumed that it has not been complying with the Act's requirements and referred the Committee to the Open Meetings Act Manual and the online class on the Open Meetings Act. The Board noted that the Committee's website dedicated to meetings appears to give notice of upcoming meetings and contains minutes of some past meetings but it was unable to determine the completeness or sufficiency of those minutes.

Violations: Undetermined

Summary of Opinions Issued from April 1- June 30, 2019**13 Official Opinions of the Compliance Board 18 (2019)**

Queen Anne's County Housing Authority
April 19, 2019

Topics Discussed: Minutes, complaint guidance

Opinion: The Board determined that it was not practicable at the time for the Housing Authority to post minutes on its website. The Board also noted that the complaint process should not be used for conduct of public body that it has already addressed.

Violations: No violation

13 Official Opinions of the Compliance Board 21 (2019)

Audit Committee of the Board of Education of Baltimore County
April 19, 2019

Topics Discussed: Public body definition, meeting notice

Opinion: The Compliance Board determined that a School Board committee created only by president/chair is not a public body. It also found that the website notice for meetings posted by the School Board was adequate.

Violations: No violation

13 Official Opinions of the Compliance Board 25 (2019)

Board of Trustees for Montgomery College
April 29, 2019

Topics Discussed: Compliance board procedures

Opinion: The Board noted that the complaint process should not be used for conduct of public body that it has already addressed.

Violations: No violation

13 Official Opinions of the Compliance Board 27 (2019)

City of Taneytown

May 14, 2019

Topics Discussed: Meeting notice, written closing statements, closed session discussions, legal advice and procurement exceptions, and meeting minutes

Opinion: The Board found that use of the calendar function on the town's website met the Act's notice requirement and that the pre-prepared closing statements used by the council in the past were inadequate. The Board found that the council's receipt of "legal advice on implication of anonymous employee misconduct complaint" and "implication of issues related to federal investigation, and LEOBR statute" fell within the legal advice exception, but that its discussion of a negotiation strategy not involving competitive bidding or proposals exceeded the Procurement exception. The Board found that the written summary of the prior closed session in the written open session minutes was insufficient when the public body's official minutes are in the video format.

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

13 Official Opinions of the Compliance Board 33 (2019)

Board of Trustees for Montgomery College

May 28, 2019

Topics Discussed: Compliance Board authority

Opinion: The Board found that it was unable to gather and determine the facts needed to resolve the complaint regarding violations of the Open Meeting Act and that it had no authority regarding alleged violations of other laws.

Violations: Undetermined

13 Official Opinions of the Compliance Board 34 (2019)

Calvert County Special Education Citizens Advisory Committee

June 18, 2019

Topics Discussed: Minutes - posting

Opinion: The Board determined that the school system's Special Education Citizen's Advisory Committee's (SECAC) administrative relationship with the school board made it practicable for SECAC and the school board to post minutes online.

Violations: § 306(c)(2)

13 Official Opinions of the Compliance Board 36 (2019)

Deep Creek Lake Policy & Review Board

June 18, 2019

Topics Discussed: Meeting notice, minutes

Opinion: The Compliance Board found that the Review Board violated the Act by not adopting and posting minutes online in a timely manner, to the extent practicable, and that the Review Board did give reasonable advance notice of meetings.

Violations: §§ 306(b) and 306(e)

13 Official Opinions of the Compliance Board 39 (2019)

Talbot County Council

July 1, 2019

Topics Discussed: Guidance - electronic communications, giving notice for meetings held on short notice; meeting definition, administrative function.

Opinion: The Board found that the Council, through electronic communications, collectively deliberated on public business subject to the Act and thereby held a meeting subject to the Act. The Council violated the Act by failing to give notice to the public.

Violations: §§ 3-301 and 3-302