

**Minutes**  
**Open Meetings Compliance Board**  
**Annual Meeting**  
**August 9, 2018, 1:00 pm**  
**Room 161, Arundel Center, 44 Calvert Street, Annapolis**

**Board members:** Jonathan Hodgson, Chair, and April Ishak, members

Absent: Rachel Grasmick, member

**Staff.** Ann MacNeille, Counsel; Janice Clark, Administrator; Jeffrey Hochstetler, Assistant Attorney General

**Members of the Public:** Attendees: Bonita Anderson, City of Greenbelt; Margaret-Ann Howie, Baltimore County Public Schools; Bill Jorch, Maryland Municipal League; and Janis Sartucci, Parents Coalition of Montgomery County, Maryland.

**1. Review of 2018 legislation.** Counsel provided a report on the legislation passed by the General Assembly in 2018 that affected the Open Meetings Act and the Open Meetings Compliance Board. In summary, she noted that there were two amendments to the Act in 2018. First, House Bill 695 added a 15<sup>th</sup> exception to GP § 3-305(b) to authorize a public body to meet in a closed session to discuss cybersecurity. This language added clarity regarding closing for public security, § 305(b)(10), to include cybersecurity. Second, Senate Bill 396 makes a stylistic change to last year's amendment to the training requirement to clarify it.

The Chairman asked members of the public to report on any impact of the training requirement that they had observed. Members of the public noted that the new training requirement created an increased awareness and desire among public body members to get trained. Mr. Jorch, MML, noted that there are full rooms for their OMA trainings and Ms. Howie added that all of the Baltimore County school board members have taken the online training developed by IGSR. The Chairman thanked everyone for their information and noted that it appears the training requirement has had a positive impact.

**2. Adoption of model regulations for open meetings.** The Chairman noted that the Board is being asked to adopt model meeting rules for itself only. The chairman read a copy of the draft model rules. He noted that these are fundamental rules of behavior that the Board is considering for adoption. Ms. Ishak also noted that a copy of these rules are available online on the Open Meetings Compliance Board website if other public bodies would like to adopt them as well.

Board members discussed the implication of allowing the recording of meetings on the privacy of attendees. Counsel noted that the Act allows the public to record a meeting. Board members agreed that they did not want to contradict the Act.

**Motion** by Ms. Ishak that the Open Meetings Compliance Board adopt the "model regulations for open meetings" for application to the Open Meetings Compliance Board. Seconded by Mr. Hodgson. Counsel noted that the Compliance Board was adopting the provisions as "rules," not regulations.

**Motion Passed unanimously.**

**3. Comments on the year's work.** Ms. Ishak reported on the summary of the year's work. She noted that there was an unusually high volume of complaints in FY 2018 and that a majority of those complaints were regarding closed meeting procedures. She also noted that public bodies seem to be more amenable to changing their procedures to comply with the Act based on the Board's opinions. She also thanked the OAG staff for their quality support.

Ms. Ishak added that the number of complaints does not reflect a problem with compliance by public bodies. She advised, "The number of complaints can be put into perspective when you consider that more than half the complaints were from one person." The Chairman asked Counsel if she agreed that the number of complaints has increased. Counsel agreed, noting that the volume of complaints usually averages from 20-30 and FY 2018 had 45 new complaints. She attributed some of that increase to one complainant's survey of a majority of all school boards (15) for any infractions, including complaints on some fairly technical issues.

Board members discussed the Board's opinions regarding the school board complaints to see if there were some over-arching complexities that school boards are facing. They agreed that the school boards are trying to follow the Act and there is no higher level of noncompliance relative to the volume of work they are doing.

The Chairman asked members of the public if they found the statute, and especially the closed meeting procedures, difficult to apply. There have been anecdotal comments regarding closed meeting processes and the number of things a presiding officer has to manage while managing the meeting.

Members of the public commented that they did not find the statute tricky, but did note that there are people who seek reasons to file a complaint. They emphasized that the public bodies try to do everything right and understand the process. The complexity for public bodies is being under a microscope for every action. Some public bodies have noted a trepidation toward closing the meeting. The goal of the Act is transparency so closing a meeting has ramifications and public bodies are using caution so as not to be perceived as secretive, even when they have a legitimate reason to close a meeting. Board members agreed that public bodies should seek transparency; hold your meetings in public, unless there is a reason not to.

**4. Issues to study or recommend for legislative action.** Ms. Ishak noted that the Board had received some complaints over the past year about issues that are not in its jurisdiction, e.g., Public Information Act matters. Counsel noted that the process has been used by some complainants as a means to communicate with a public body. The Board suggests that the Act appears clear and it is not recommending that the jurisdiction of the board or its procedures change. Seeing no suggestions or recommendations, the Chairman asked for public comment regarding any recommendations.

**5. Public Comments.** Ms. Howie asked if the board could create a resource for public bodies for creating closed-session minutes. Board members discussed the requirements of the Act for closed-session minutes, and the Chairman noted the difficulty of giving instruction in light of the fact that closed sessions present varying circumstances as to the detail that can be disclosed. Staff will create a broad template for closed-session minutes for posting on the Open Meetings page of the Attorney General's website.

Ms. Sartucci asked the board to reconsider its procedure of not publishing the name of the complainant with its opinions. The Chair explained his rationale for instituting this procedure and thanked Ms. Sartucci for bringing her concerns to the Board. Staff mentioned that the name of a complainant is public information and is available on request. The Board agreed that it would not change its procedure at this time.

**6. Review of draft annual report and instructions to staff for content.** Ms. Ishak noted that the report was well written and provided the information required. The Chairman asked staff to report on the process used in creating the Annual Report. Ms. Clark gave an overview of the process, noting that the staff tracks the required data throughout the year, including violations. She added that a large part of the report is the quarterly summaries of opinions that are published in the Maryland Register.

The Chairman agreed that the report reflected the activities of the Board and that no changes were necessary.

**Motion** by Ms. Ishak to amend the draft Annual Report stating that the Board has no changes to recommend to the Act for upcoming 2019 legislative session. Seconded by Mr. Hodgson.

**Motion Passed unanimously.**

**7. Closing remarks.** Chairman Hodgson thanked everyone for attending and closed the meeting. Counsel also thanked Mr. Hochstetler for his assistance in drafting opinions for the Board.

The Chairman adjourned the meeting at 1:58 pm.