

BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY
OFFICE OF OPEN GOVERNMENT



August 9, 2017

VIA ELECTRONIC MAIL

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District of Columbia Public
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VIA ELECTRONIC MAIL

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RE: #OMA OOG-0004_7.03.17_AO

Dear Chairman Woodruff and Ms. Streeter:

Thank you for the July 21, 2017¹ response to the Complaint #OMAOOG-0004_7.03.17_AO (Complaint) that was filed against the District of Columbia Public Charter School Board (DCPCSB) on July 1, 2017. As the Complaint was issued to the Office of Open Government (OOG) in its enforcement capacity, the Director of the OOG, Traci L. Hughes, Esq., would customarily issue any findings. However, in this matter, Director Hughes has recused herself from participation as she has a child who attends DC Preparatory Academy Public Charter School Prep (DC Prep) – the school at issue in this Complaint.²

As you may know, the Open Meetings Act (OMA) (D.C. Official Code § 2-571 *et seq.*) empowers the OOG to ensure that public bodies strictly observe the provisions of the Act. The issuance of this binding opinion is in response to the OOG's investigation of the above referenced Complaint. The OOG's goal in addressing the Complaint is to ensure that future DCPCSB meetings are in strict conformity with the OMA and to provide guidance to public bodies that may face the same issue.

¹ The OOG requested that the DCPCSB respond to the Complaint by July 19, 2017. The DCPCSB's response states that "BEGA" received the complaint. However, it is actually the Office of Open Government, an independent office within BEGA which the Act authorizes to resolve OMA complaints and to issue opinions.

² In a communication on July 5, 2017, Director Hughes informed Nicole Streeter, Esq., that all communications regarding the Complaint were to be addressed to OOG Attorney Advisor Johnnie Barton.

The statutory intent of the OMA is to ensure the public has full and complete information regarding the affairs of government and the actions of those who represent them (D.C. Official Code § 2-572). To that end, the OMA is to be construed broadly to maximize public access to meetings (D.C. Official Code § 2-573). Therefore, it is essential that public bodies properly notice their meetings, which includes the intent to meet in a closed or executive session.

COMPLAINT

On July 1, 2017, the OOG received a complaint that alleges the DCPCSB improperly revised, and therefore failed to properly notice, the June 19, 2017, public meeting in violation of D.C. Official Code § 2-576. To completely investigate the merits of the Complaint, the OOG undertook a comprehensive review and analysis of the following: (1) the livestream recording of the DCPCSB March 20, 2017, public hearing; (2) the transcript of the DCPCSB April 24, 2017, public meeting; (3) the livestream recording of the June 19, 2017, DCPCSB public meeting; (4) the minutes of the June 19, 2017, public meeting; (5) the April 24, 2017, DCPCSB public meeting agenda; (6) the June 19, 2017, DCPCSB public meeting agenda; (7) Robert's Rules of Order (online edition); (8) the DCPCSB's website; (9) the OOG central meeting calendar;³ (10) the DCPCSB regulations (5-E DCMR § 5-E9); and (11) the DCPCSB's July 21, 2017, response to the Complaint.

BACKGROUND

The DCPCSB was established by section 2214 of District of Columbia School Reform Act of 1995, approved April 26, 1996 (110 Stat. 1321; D.C. Official Code § 38-1802.14) (SRA). According to information published on the DCPCSB's website: "[T]he DC Public Charter School Board is governed by a seven-member Board, nominated by the Mayor, with the advice and consent of the Council of the District of Columbia. The volunteer Board approves new schools, provides oversight of schools while in operation, and revokes school charters if they fail to meet their performance goals."⁴ The language which follows shows that the DCPCSB is a public body and is therefore subject to the OMA's requirements.⁵

(3) "Public body" means any government council, including the Council of the District of Columbia, board, commission, or similar entity, including a board of directors of an instrumentality, a board which supervises or controls an agency, or an advisory body that takes official action by the vote of its members convened for such purpose . . .

Public Body would include any council, board, or commission of the District government established by statute, regulation, or order. This definition would include all boards and commissions defined under D.C.

³ Found at <https://www.open-dc.gov/public-bodies/meetings>.

⁴ While this information was taken from the DCPCSB website at: <http://www.dcpsb.org/public-charter-school-board> the OOG finds that it is consistent with the DCPCSB's enabling legislation, legislative history and its regulations at 5-E DCMR – Ch. 9.

⁵ The DCPCSB does not dispute that it is a public body subject to the OMA.

Official Code {sic} section 1-523.016, the District of Columbia State Board of Education, *the District of Columbia Public Charter School Board* ... (Emphasis added).

(Report on the Committee on Government Operations and the Environment on Bill 18-716, the Open Meetings Act of 2010, at 5 (Council of the District of Columbia December 2, 2010) (Committee Report)).

The genesis of the Complaint is the submission by DC Prep to the DCPCSB of a request to approve the following three (3) charter amendments: (1) an enrollment increase of an additional 856⁶ students than currently authorized; (2) a program replication to operate a feeder middle school for its Anacostia campus beginning in school year (SY) 2020-21; and, (3) a new permanent location for its Anacostia elementary campus beginning in SY 2017-18.

During its April 24, 2017, public meeting, the DCPCSB voted only to approve DC Prep's charter amendment for the relocation of Anacostia Middle School to a new permanent location, 1409 V. Street, SE. (Transcript at page 32 lines 8-14). The DCPCSB's next scheduled monthly meeting was May 22, 2017. The two DC Prep charter amendment requests that had been disapproved by the DCPCSB on April 24, 2017 (addition of students and campus replication), did not appear on the DCPCSB's May 22, 2017, public meeting notice. The record does not reflect that the DCPCSB discussed the two failed charter amendments or took any official action on these items at its May 22, 2017, public meeting.

Approximately one month later, on June 19, 2017, the DCPCSB held its scheduled monthly public hearing and public meeting.⁷ It is the DCPCSB's actions during this June 19, 2017, meeting that give rise to the Complaint. The DCPCSB's June 19, 2017, public meeting notice⁸ did not apprise the public that the Board would undertake business on the two DC Prep charter amendments that had been disapproved on April 24, 2017. The draft public meeting agenda does list an item regarding DC Prep for discussion during the June 19, 2017, DCPCSB public hearing: "DC Preparatory PCS-PMF as Goals."⁹

At the start of this public meeting, Vice Chair Don Soifer, by "*Renew the Motion*" put before the DCPCSB a proposal to amend the final meeting agenda for the June 19, 2017, public meeting so that the DCPCSB might have the opportunity to reconsider the two DC Prep charter amendments that failed to pass at the April 24, 2017, public meeting. Vice Chair Soifer cited Robert's Rules of Order as authority for the motion. After passage of the motion to amend the agenda by a 5 to 2 vote, both items subsequently met the DCPCSB's approval.

⁶ The meeting minutes of the March 20, 2017, hearing reflects 846 as the student enrollment ceiling increase. The transcript of the April 24, 2017, meeting indicates DC Prep requested an increase of 856 students to raise its ceiling to 2,912 students by the end of the 2024-25 school year. (Transcript at page 8).

⁷ The DCPCSB conducts hearings to obtain information from the public and interested parties. Meetings are held to reach decisions on matters.

⁸ The OOG last accessed the June 19, 2017, public meeting agenda on July 17, 2017. The agenda was found at: http://www.livebinders.com/play/play?id=2215191&utm_source=Test%20List_Tomeika&utm_campaign=65c7dc5b03-EMAIL_CAMPAIGN_2017_06_16&utm_medium=email&utm_term=0_69fce04733-65c7dc5b03-180601985.

⁹ PMF is an acronym which represents the phrase "Performance Management Framework."

On July 21, 2017, Nicole Streeter, Esq., sent by electronic correspondence the DCPCSB's response to the Complaint. In essence, the DCPCSB contends that it acted lawfully and in full compliance with the OMA and the SRA in the conduct of the June 19, 2017, public meeting. As discussed below, the OOG respectfully disagrees with the DCPCSB's position, and opines the following: (1) the DCPCSB did not properly notice to the public its June 19, 2017, meeting in violation of the OMA's "Notice of meeting" provisions; (2) the "*Renew the Motion*," pursuant to Robert's Rules of Order is in conflict with the SRA's statutory requirement mandating a period of public comment, and violated the OMA and SRA requirements that meetings be open to the public; and, (3) the result of the DCPCSB's non-compliance with the OMA's statutory "Notice of meetings" requirement is an improper closure which prevented the public from attending the June 19, 2017, public meeting.

DISCUSSION

THE DCPCSB DID NOT PROPERLY NOTICE TO THE PUBLIC THE JUNE 19, 2017, MEETING IN VIOLATION OF D.C. OFFICIAL CODE § 2-576; AND IMPROPERLY RELIED UPON ROBERT'S RULES OF ORDER AS AN AUTHORITY.

In support of its reliance on Robert's Rules of Order as the authority to revise the June 19, 2017, draft public meeting agenda, the DC PCSB's response to the Complaint states: "[T]he School Reform Act ("SRA"), and the DC PCSB's enabling statute is silent on the rules of parliamentary procedure that govern meetings of the Board. In keeping with the practice of other District Boards and Commissions, DC PCSB refers to Robert's Rules of Order to govern its meetings in areas where its bylaws, the SRA, and the OMA are silent." However, the discussion which follows confirms that both the OMA and the SRA provide guidance and are controlling in this instance.

I. The OOG has consistently interpreted D.C. Official Code § 2-576 to provide the protocol for public bodies to revise draft meeting agendas at the start of public meetings.

The OOG is well aware of the balance that must be maintained between a public body conducting its business and the public's right to full and complete information regarding the affairs of government and those who represent them. To maintain this balance, the OOG has consistently interpreted D.C. Official Code § 2-576¹⁰ to authorize public bodies to revise a draft public meeting agenda for adoption as the final public meeting agenda provided: (1) at the start of a meeting a roll call vote is taken by members of the public body; and (2) the vote to revise the public meeting agenda is unanimous.¹¹ There is legal precedent for the OOG's interpretation of D.C. Official Code § 2-576. It is well established in the law that:

¹⁰ It is unclear whether the DCPCSB was aware of the OOG interpretation of this provision.

¹¹ As an agenda must be in draft form when published and can only be adopted upon the establishment of a quorum at the start of a public body meeting, all amendments must necessarily be made and approved by roll call vote when the body is convened to consider, conduct, or advise on public business. (*See generally*, D.C. Official Code § 2-574(1)). The OOG's interpretation would not apply where the public body's enabling legislation authorizes revision of the agenda with less than a unanimous vote.

An agency's interpretation of its own enabling statute must receive great deference from a reviewing court so long as it is reasonable. *Investment Co. Institute v. Camp*, 401 U.S. 617, 626-627, 28 L. Ed. 2d 367, 91 S. Ct. 1091 (1971); *Red Lion Broadcasting Co. v. FCC*, 395 U.S. 367, 381, 23 L. Ed. 2d 371, 89 S. Ct. 1794 (1969).

Application of the OOG's interpretation of D.C. Official Code § 2-576 to the DCPCSB's June 19, 2017, public meeting reveals that a roll call vote to revise its draft public meeting agenda was taken at the start of the June 19, 2017, public meeting. However, the vote was 5 to 2 in favor of revising the agenda. Since the vote was not unanimous under the protocol which the OOG has advised public bodies for the revision of public meeting agendas, the revision must fail. The DCPCSB's reliance on Robert's Rules of Order must also fail as discussed below since it violates the spirit and letter of the SRA's public notice and public comment requirements.

THE “RENEW THE MOTION” IS IN CONFLICT WITH THE SRA’S STATUTORY REQUIREMENT MANDATING A PERIOD OF PUBLIC COMMENT; AND VIOLATED THE OMA AND SRA REQUIREMENTS THAT MEETINGS BE OPEN TO THE PUBLIC.

I. The SRA’s requirement that all DCPCSB meetings are open to the public and include a period of public comment does not authorize the DCPCSB to revise a public meeting agenda to include items which void these requirements.

As previously stated, there was reliance by the DCPCSB on the “*Renew the Motion*” pursuant to Robert's Rules of Order to bring the two disapproved DC Prep charter amendments back before the body for reconsideration on June 19, 2017. Normally, revising a public body's draft meeting agenda for adoption as the final meeting agenda under the protocol the OOG has provided to public bodies would present no affront to the OMA or SRA. However, the DCPCSB's enabling legislation is unique. The statute requires, without limiting language, for all DCPCSB's meetings to be open to the public with a reasonable period for public comment on the agenda items. It is also for this reason that DCPCSB's “*Renew the Motion*” was not a lawful means to revise the DCPCSB draft meeting agenda before adoption as the final agenda. This is because revising the DCPCSB draft meeting agenda at the start of its meeting to include additional items that require a public hearing and a period of public comment voids the statutory public notice and period for public comment mandated by the SRA. The analysis of the SRA below reflects the plain meaning of the statute and confirms that the “*Renew the Motion*” (i.e., revising the draft agenda), voids the requirements of the SRA and therefore cannot prevail.

II. It is clear from the plain meaning of the SRA and the DCPCSB’s custom and practice of providing notice to the public, that all DCPCS meetings must be open to the Public.

The D.C. Official Code § 38-1802.14(c)(3) reads: “(3) Meetings. — The Board shall meet at the call of the Chair, subject to the hearing requirements of §§ 38-1802.03, 38-1802.12(d)(3), and 38-1802.13(c)(3), and all meetings of the Board shall be open to the public and shall provide a reasonable time during the meeting for public comment.” (Emphasis added). At issue in this matter, is the interpretation of D.C. Official Code § 38-1802.14(c)(3).

To determine the drafters' legislative intent, a reviewing court first looks to the plain meaning of the statute. "The primary and general rule of statutory construction is that the intent of the lawmaker is to be found in the language that he has used." *United States v. Goldenberg*, 168 U.S. 95, 102-03, 42 L. Ed. 394, 18 S. Ct. 3 (1897); accord *District of Columbia v. Gallagher*, 734 A.2d 1087 (D.C. 1999). "The words of the statute should be construed according to their ordinary sense and with the meaning commonly attributed to them." *Davis v. United States*, 397 A.2d 951, 956 (D.C. 1979). For reasons which follow, application of the plain meaning rule to D.C. Official Code § 38-1802.14(c)(3) is warranted.

First, a thorough review of the SRA's legislative history does not support deviating from the plain and ordinary meaning of the statute; hence, there is no alternate interpretation. Secondly, it has been the DCPCSB's custom and practice as provided in its public notices that all meetings are open to the public, and include a reasonable period of public comment.

On March 20, 2017, the DCPCSB provided to the public on its website a "Notice of Petition to Amend Charter: Enrollment Ceiling Increase, Campus Replications, and New Location-DC Prep." This notification "announces an opportunity for the public to submit comments on a request by the DC Preparatory Public Charter School ("DC Prep") on January 30, 2017, to increase its existing enrollment ceiling, replicate its program to operate two new schools over the next three years, and add a new location in SY 2017-2018 to accommodate its existing Anacostia Elementary School campus."¹² The DCPCSB Public Comment tab on its website contains the following language which encourages the public to attend and to comment and/or offer public testimony at its hearings and meetings:

*Every month, DC PCSB holds a public hearing and a public meeting. The public is always welcomed to speak before the Board at every meeting and is encouraged to submit comments in writing during the public comment period or present testimony in-person during the public hearing or board meeting on items before the Board.*¹³

The public is encouraged to comment on proposed policies, new charter school applications, and requests to change charter agreements. (Emphasis added).

The plain meaning of the SRA language regarding DCPCSB's meetings is abundantly clear and unqualified, in that all meetings of the Board must be open and provide a period of public comment. D.C. Official Code § 38-1802.14(c)(3) mandates that the public has the right to be present, and is encouraged to comment and/or present testimony at every meeting and hearing on items before the DCPCSB. In the instant case, the DCPCSB completely changed its position on the two charter amendments that it had taken official action on at the April 24, 2017, public meeting. It is clear that the plain meaning and intent of D.C. Official Code § 38-1802.14(c)(3) is to afford the public the right to be both present and offer public comment and/or testimony on

¹² The announcement was last viewed by the OOG on July 27, 2017, at <http://www.dcpcsb.org/public-comment/notice-petition-amend-charter-enrollment-ceiling-increase-campus-replications-and-new>.

¹³ The Public Comment page was last viewed by the OOG on July 27, 2017 at <http://www.dcpcsb.org/public-comment>.

the agenda items which the DCPCSB will take official action. In the instant case, the draft public meeting agenda was revised to include items without providing the public with advance notice. Therefore, the SRA's statutory requirements for a public meeting with a period of public comment did not exist and is therefore voided by revisions to the agenda.

The DCPCSB response to the Complaint states “[S]ince that meeting, Board members reconsidered DCPCSB’s Enrollment Ceiling Increase Policy and members wished to reconsider their votes.”¹⁴ The record does not provide information as to when the DCPCSB’s decision to reconsider their votes took place or in what forum or context. However, this statement clarifies that the DCPCSB took a new position on matters previously under its consideration. Furthermore, the DCPCSB admits the two items were not included on the June 19, 2017, public meeting agenda. “[V]otes on the DC Preparatory Academy Public Charter School’s (“DC Prep) enrollment ceiling increase were {sic} not included on the planned agenda, since they were not originally planned to be addressed in the meeting.” The meeting referred in this instance is the June 19, 2017, public meeting. Clearly, where the DCPCSB takes official action on items that are inapposite to its previous official action, the SRA provides the public with statutory rights: (1) to be present during public meetings and hearings; and (2) to offer public comment and/or testimony on the DCPCSB’s changed position. The OMA’s “Statement of policy,” “Rules of construction” and legislative history lends further support to this contention.

The OMA “Statement of policy” and Rules of construction respectively state, “[T]he public policy of the District of Columbia is that all persons are entitled to *full and complete information regarding the affairs of government and the actions of those who represent them.*” (D.C. Official Code § 2-572). The “Rules of construction” provide, “[T]his title *shall be construed broadly to maximize public access to meetings.*” (D.C. Official Code § 2-573). (Emphasis added). In addition, excerpts from the OMA’s legislative history makes equally clear that the instant matter is precisely the situation which the OMA “Open meetings” and “Notice of meetings” provisions are meant to safeguard. This language states:

To ensure that the public is aware of meetings, the committee print would create specific notice requirements. The bill would require a public body to provide annual notice of planned meetings, and notice at the time a meeting is scheduled or changed... (Committee Report, *ibid.*)

The purpose of an open meetings law {sic} to provide the public knowledge of and access to the meetings and actions of these bodies, where important government decisions often occur. (Committee Report, at 2).

This bill has several goals---to effectively *notify the public about when public bodies will meet and what will be discussed at meetings*; to establish procedures that ensure public attendance at meetings...

¹⁴ DCPCSB’s response to the Complaint, page 2. The meeting referred to is the April 24, 2017, public meeting.

(Robert S. Becker's July 10, 2010, public hearing testimony, page 2.)¹⁵

It is abundantly clear from the plain meaning of the SRA, the DCPCSB's custom and practice, the OMA's "Policy statement" and "Rules of construction," and the OMA's legislative history that the public has a statutory right to be present and offer public comments and/or testimony at every DCPCSB public meeting and hearing. Therefore, any action taken by the DCPCSB to curtail these statutory rights is unlawful.

III. The OMA "Notice of meeting" provisions contain the statutory scheme for providing notice to the public.

While the SRA requires that all its meetings are open to the public, it is the OMA's "Notice of meeting" provisions found in D.C. Official Code § 2-576 which regulates how public bodies must notify the public of their meetings. Public bodies may not deviate from these provisions.

The OMA's decorum to properly notice a meeting to the public requires: (1) that notice shall be provided when meetings are scheduled and when the schedule is changed; (2) establishment of an annual schedule of meetings with updates throughout the year;¹⁶ (3) public notice as early as possible, but not less than 48 hours or 2 business days, whichever is greater, before a meeting; (4) posting in the office of the public body or a location that is readily accessible to the public; and either on the website of the public body or the District Government; (5) publication of the notice of meeting in the District of Columbia Register; and (6) the notice must contain the date, time, location, and planned meeting agenda (D.C. Official Code § 2-576).

With respect to the June 19, 2017, public meeting, the DCPCSB did not adhere to the OMA's "Notice of meeting" provisions. The DCPCSB's response to the Complaint states, "[A]nd no notice is required." Footnote 6, which references this statement states, "[N]otice to board members is required only if the renewed motion in question involves amendment of the Board's construction, bylaws, or rules of order, which this motion did not."¹⁷ Robert's Rules of Order Newly Revised, XI. 68." While the aforementioned statement may accurately reflect Robert's Rules of Order, it has no bearing on, and cannot trump, the notice requirements of the OMA. As discussed below, case law addresses the issues that arise and legal consequences that flow from a public body's failure to properly notice its meetings.

¹⁵ Mr. Becker assisted with drafting Bill 18-0716, which became the OMA.

¹⁶ The DCPCSB annual schedule of meetings for 2017 was published in the December 12, 2016, DCR Vol 63/52 and may be found at <http://www.dcregs.dc.gov/Gateway/NoticeHome.aspx?noticeid=6322283>.

¹⁷ In addition, this provision is in conflict with the "Notice of meeting" provision at D.C. Official Code § 2-576(4), which states: "(4) When a public body finds it necessary to call an emergency meeting to address an urgent matter, notice shall be provided at the same time notice is provided to the members . . ."

THE RESULT OF THE DCPCSB'S NON-COMPLIANCE WITH THE OMA'S STATUTORY "NOTICE OF MEETING" REQUIREMENTS IS AN IMPROPER CLOSURE THAT PREVENTED THE PUBLIC FROM ATTENDING THE MEETING

In the instant matter, the DCPCSB did not provide the statutorily required notice for its June 19, 2017, public meeting. As mentioned previously, the failure to do so violates the "Notice of meeting" provisions of D.C. Official Code § 2-576. The OMA's "Notice of meeting" provisions require advance public notice. This is required even in cases where a public body has previously taken official action on items at a properly notice public meeting. It is clear that the public notice provided for the April 24, 2017, public meeting where official action was first taken by the DCPCSB on the DC Prep charter amendment request, was legally and technically sufficient under the OMA. However, the OMA does not authorize, and therefore the DCPCSB cannot use, the April 24, 2017, public notice to notify the public of its public meeting which took place two months later on June 19, 2017. In such cases, courts have held that a closure of a public meeting occurs where the public was not given the requisite statutory notice.¹⁸

In a 2006 decision, a Florida state court held: "[A]s a hallmark of open meeting law, a covered governmental entity must provide reasonable notice of, and continuing public access to, its "meetings . . . at which official acts are to be taken." § 286.011(1), Fla. Stat. (2006). *Grapski v. City of Alachua*, 31 So. 3d 193 (2010) at 198. Additionally, the court in *Board of Trustees v. Board of County Commissioners*, 606 P.2d 1069, 1073, made clear that, "[I]t is difficult to envision an open meeting held without public notice that still accomplishes the legislative purpose of the Montana open meeting statutes. Without public notice an open meeting is open in theory only, not in practice. This type of clandestine meeting violates the spirit and letter of the Montana Open Meeting Law."

The DCPCSB's failure to publically notice the June 17, 2017, public meeting was an improper closure in violation of D.C. Official Code §§ 2-575(c)(1-2) and (d); § 38-1802.14(c)(3); and established case law.

RECOMMENDATIONS

To ensure all future DCPCSB meetings fully comply with the provisions of the OMA, the OOG recommends the following for immediate implementation by the Board: (1) that the DCPCSB abide by the letter and spirit of the OMA and SRA by adhering to the OMA's notice requirements, and the OMA and SRA's public meeting requirements; (2) that it cease to revise its final public meeting agendas during a public meeting to include any items that require a reasonable period of public comment per the SRA, and which requires the meeting be open to the public pursuant to the OMA and SRA; (3) in an emergency, the DCPCSB must avail itself of the OMA's emergency meeting procedures which require that the DCPCSB provide the public

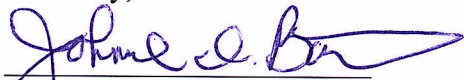
¹⁸ See June 7, 2017 OOG Advisory Opinion to the BZA. https://www.open-dc.gov/sites/default/files/OOG%20005_1%2007%2015%20AO-OMA%20signed%20pdf%20%28BD%20of%20Medicine%29_Redacted.pdf

with as much notice as possible under the circumstances and allows the DCPCSB to take official action on matters¹⁹; and (4) the DCPCSB attend an OMA training within 60 days of the issuance of this binding advisory opinion.

CONCLUSION

The DCPCSB may not rely on Robert's Rules of Order, bylaws, if adopted, or any other rules of parliamentary procedure to revise a draft meeting agenda at a public meeting with items that require public comment at a meeting open to the public. This is because the OOG's interpretation of D.C. Official Code § 2-576 and statutory provisions of the SRA address this issue and are therefore dispositive. In the conduct of its June 19, 2017, public meeting the DCPCSB: (1) did not properly notice this meeting to the public in violation of the OMA's "Notice of meeting" provisions; (2) inappropriately relied on the *Renew the Motion* pursuant to Robert's Rules of Order, which is in conflict with the SRA's statutory requirement of a period of public comment, and in this instance the OMA and SRA requirements that meetings be open to the public. Therefore, the DCPCSB may not revise its draft agenda at the start of a public meeting to include items that require a statutorily reasonable period of public comment, unless properly noticed under the OMA; and (3) the result of the DCPCSB's non-compliance with the OMA's statutory "Notice of meetings" requirements is an improper closure that prevented the public from attending the meeting. The aforementioned acts and omissions by the DCPCSB deprive the public from obtaining "full and complete" information regarding the affairs of government and the actions of those who represent them, and are in violation of the letter and the spirit of the OMA and the SRA.

Sincerely,



JOHNNIE I. BARTON, ESQ.

Attorney Advisor, Office of Open Government
Board of Ethics and Government Accountability

¹⁹ The protocol for emergency meetings are found at D. C. Official Code § 2-576(4); and 2-577(d).