

## **Open Meetings Act Compliance 2014-2015**

August 2015

### **Background to the Study**

The D.C. Open Government Coalition is considering filing complaints against D.C. public bodies that have failed to follow the requirements of the Open Meetings Act, D.C. Code § 2-571-580. The Office of Open Government published a formal rule for handling such complaints, D.C. Mun. Regs. Title 3, Chapter 104 (Dec, 17, 2014), but the Director has told the Coalition few are submitted. We know compliance varies from the results of the Coalition's three previous annual reviews, the latest covering over 300 meetings of 24 bodies for the year ending July 31, 2014.

To help select possible subjects for complaints in fall 2015, the Coalition updated its compliance data. A volunteer attorney reviewed web information available from ten bodies since the last Coalition review. As most likely targets for complaints of continuing problems, we reviewed only the 10 bodies whose records were weakest in the last Coalition review. The new review covered August 1, 2014, through June 30, 2015, and was done as before, by one researcher, trained in the law and the Coalition's evaluation protocol, who examined websites of 10 D.C. government bodies to locate the information the law requires be posted online.

For seven, we could locate 77 meetings to analyze for completeness of notice, agenda, meeting closing procedures (if any), and post-meeting record or minutes. For the other three bodies, we found no posted information at all about meetings. See full results in table below.

### **Findings on 2014-15 Meetings**

- Three public bodies posted no information of any kind – Contract Appeals Board, Commission on Judicial Disabilities & Tenure, Rental Housing Commission. This was less than before for the Contract Appeals Board, which last year started posting notices and agendas and told us full meeting records were available at the Board office. The other two have consistently published no information before or after meetings.
- Four others posted meeting notices and most agendas, but no full meeting records or minutes. These were the Housing Commission, Public Employee Relations Board, Real Property Tax Appeals Commission, and Taxicab Commission (which posted no meeting records with one exception). Without meeting records we couldn't tell if meetings had been closed or if so, whether properly voted and with a lawful reason. (Last year the Housing Commission said full meeting records were available from a contractor at cost, and minutes by email. The Taxicab Commission published no meeting records last year and at the time we couldn't reach them to learn their view. Same for the PER Board.)
- Of the remaining three bodies, we found various shortcomings of compliance:
  - The Education Licensure Commission held 10 meetings but with some problems of notice, agenda and records and five closed sessions that entirely lack records.
  - The Board of Elections & Ethics held 18 meetings, most with notices though inconsistent agendas and post-meeting records.
  - The Board of Medicine held 10 meetings and complied except for one missing agenda, one missing meeting record. There appear to be closed sessions not noticed or in the record.
- We contacted each of the lowest performing bodies to let them know our findings and get comments. Those results are in the individual organization notes after the table below.

Board or Commission ("public body" under the law)	Total Meetings: 8/1/14-6/30/15	Open Meetings	Closed Meetings (all or any part)	Notice	Agenda	Statutory Basis of Closing	Record Vote to Close	Minutes	Full Record
Contract Appeals Board	N/A*	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Educational Licensure Commission	10	4	6	10?	0	1	0	5	0
Board of Elections and Ethics	18	18	-	7	14	-	-	9	13
Housing Authority Commission	9	9	-	9	9	-	-	0	0
Judicial Disabilities and Tenure Commission	N/A*	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Board of Medicine	10	10	(see note)	10	8	-	-	9	0
Public Employee Relations Board	11	11	-	11	7	-	-	0	0
Real Property Tax Appeals Commission	5	5	-	5	5	-	-	0	0
Rental Housing Commission	N/A*	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Taxi Commission	14	14	-	14	12	-	-	0	1

\*N/A indicates we couldn't apply the categories. The body publishes no information whatsoever about meetings.

## **Notes on Individual Public Bodies Reviewed**

### **Contract Appeals Board**

This body is an administrative court, a quasi-judicial body that does its work in hearings. The board has an electronic calendar on its website that links to its hearings. Each hearing number in turn can be typed into a search bar to access the voluminous Board filings and orders (in essence, the case dockets). We looked at a sample of hearings and saw no full hearing records or minutes.

### **Educational Licensure Commission**

No agendas posted. Meeting notices appear to be posted for a while then removed. Those for 2015-16 are now posted but those for 2014-15 are not; perhaps they were posted earlier. The website also refers to five “working meeting dates” in 2015 with no further details. As they were apparently not open to the public nor were there records, we tallied them as closed. The commission compliance improved in one way, posting relatively detailed minutes for all but one open/public meeting.

### **Board of Elections and Ethics**

The website gives inconsistent information about meetings. “Announcements” include more meetings than may be found under “past meetings” where details are posted. Some 2014 meetings lacked any information. Positive note: BOEE has email notification for upcoming meetings and changes to meeting dates, times, and locations. BOEE also had transcripts (which qualify as a “full record”) for most of its meetings, sometimes in addition to meeting minutes. Notices are not kept in pdf form after meetings are over, so older meetings’ notices unaccounted for. But two meeting notices/agendas were posted on the website’s “announcements” tab.

### **Housing Commission**

Agendas and notices available, but no full meeting record (or minutes) available under “meetings” tab.

### **Board of Medicine**

Website provides links to agendas and minutes of “open session” meetings. Agendas appear to combine minutes (for instance, they include board member attendance for each meeting) and overview of anticipated topics of discussion. One so-called agenda (from May 2015) was actually minutes and had been mislabeled. Posted minutes show the board sometimes holds closed sessions. These are nowhere else mentioned (in agenda and notice, or with recorded votes to close), so the content and authority for closing are uncertain.

### **Public Employee Relations Board**

Website tab, “Open Government and FOIA” leads to information on FOIA but nothing about Open Meetings Act; nor does this webpage contain any meeting records (agendas, meeting records or minutes). Agendas are not downloadable documents but rather are lists on the webpage itself; many (about a third) are incomplete or were not labeled as “agendas.” No minutes could be found even though some agendas reference adopting past meeting minutes.

### **Real Property Tax Appeals Commission**

It was difficult to tell how many meetings were held during the period analyzed. Two “notices” turned out to also contain draft agendas once the links were opened. Some agenda links turned out to contain notices as well. Notice of meetings skipped from December 2014 to June 2015, so there is potentially large gap in compliance. The agendas themselves are barebones. The website states that “final agendas” will be posted later, but none found. Most of this agency’s work involves adjudicating property appraisals; links to lists of hearings were available elsewhere on the website.

### **Rental Housing Commission**

This is also a quasi-judicial body with primarily an adjudicative function with some tangential reporting requirements to its umbrella agency, the Department of Housing and Community Development (DHCD). As before, we saw this year no meeting minutes or other records for the Commission. Last year the Commission said check DHCD’s website for minutes of public hearings, but we now see none (though there are some DHCD meeting minutes).

### **Taxicab Commission**

Website has “Meetings” tab that included notices and all but two agendas, but as in past years, limited meeting records (under an “Archives” tab, only one transcript of a meeting/public hearing almost a year ago) and a few meeting minutes from prior years.) The Commission usefully posts copies of agency rules to be discussed or voted on at upcoming meetings.