

Open Government Advisory Group Recommendations
related to the Office of Open Government

Earlier this year, citing concerns about the working relationship between the Office of Open Government (OOG) and the Board of Ethics and Government Accountability (BEGA), BEGA voted to replace the OOG director when her five-year term expired in April, and subsequently appointed a new director. BEGA's chair and transparency advocates presented divergent views about the relationship in February to the Council's Committee on the Judiciary and Public Safety. In late June, the D.C. Council passed the Fiscal Year 2019 Budget Support Act, significantly altering the statutory relationship between BEGA and the OOG. If and when the amendments are enacted into law, the OOG director, like the Director of Government Ethics, will serve at the pleasure of the board, and at least one BEGA member must have expertise in open government and transparency. The amendments also create a right of appeal to the board by any public body or other person aggrieved by an advisory opinion the OOG issues to resolve a complaint made pursuant to the Open Meetings Act.

Mayor's Order 2016-094 assigns the Open Government Advisory Group (OGAG) several responsibilities. Among them are to:

1. Evaluate the District government's progress on making the District government more open, transparent, participatory, and collaborative; [and]
2. Make specific recommendations for improving the openness and transparency of the District government's operations and the participatory and collaborative nature of its decision-making.

In fulfillment of those responsibilities, the OGAG resolves to make the following recommendations to the Mayor, the Council, and BEGA regarding the OOG and its relationship to BEGA.

1. The OGAG recommends to the Mayor, who appoints BEGA's members with approval from the Council, that the next appointment to BEGA be someone who vigorously supports transparency and open government and who possesses the requisite expertise.
2. The BEGA Amendment Act states that appointees to the board must have "particular knowledge, training, or experience in government ethics or in open government and transparency," and that at least one member must have "particular experience in open government and transparency." However, the amendment does not describe what constitutes such experience. To inform the Mayor's future nominations of BEGA members, the OGAG resolves to begin immediately to work with stakeholders of open

government and transparency in the District to define what constitutes “experience in open government and transparency.”

3. The OGAG notes that the D.C. Council established the OOG as the government’s center of expertise regarding open government and transparency, and that it established BEGA primarily as the government’s center of expertise regarding the Code of Conduct and government ethics. The OGAG recommends that BEGA respect the expertise in open government and transparency in the OOG and seek resources for becoming more fluent in open government and transparency issues, including resources suggested by the OGAG.
4. The OGAG recommends that the D.C. Council, through the confirmation process, closely question nominees about their understanding of the different roles the OOG and Office of Government Ethics (OGE) play in guaranteeing accountability in the District government, and the importance of the OOG’s mission. The D.C. Council should ensure that the board, as a whole, possesses the necessary expertise to fulfill both missions.