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STATE OF MARYLAND
OPEN MEETINGS COMPLIANCE
BOARD

19 Official Opinions of the Compliance Board 259 (2025)

September 29, 2025

Somerset County Board of Education

The Complainant alleges that the Somerset County Board of Education (“Board of Education” or “Board”) violated the Open Meetings Act (the “Act”) by failing to provide adequate notice of an emergency meeting on February 13, 2025, and by failing, in the notice or agenda of an April 15, 2025, meeting, to disclose the purpose or statutory authority for a planned closed session. She also suggests that the Board may have improperly met in secret, in advance of the February 13 meeting, to reach consensus on a matter. For the reasons below, we find no violations of the Act.

Discussion

A. February 13, 2025, meeting

The Complainant first alleges that the Board improperly voted to rescind a Board policy on February 13, 2025, and appointed new legal counsel, “without adequate public notice or discussion.” The submissions establish the following facts:

On January 23, 2025, the Board of Education provided notice that it would meet at 5:30 p.m. on February 11, 2025, for a budget work session.

On February 11, the Board provided notice that the budget work session would be postponed until 5:30 p.m. on February 13, due to inclement weather.

On February 12, around 2 p.m., the Board chairperson emailed other members of the body saying that he was “declaring an Emergency Meeting to meet directly after the Board work session concerning the budget that [wa]s scheduled for Thursday, February 13, 2025, at 5:30pm.” The emergency meeting, he said, would start at 6:45 p.m.

On February 13, around 9:30 a.m., the Board publicized the emergency session, via text and instant messaging apps, and by posting on the Board’s website. The Board indicated that the body planned to consider “policy 100-18” during an open session then convene in closed session to discuss “confidential personnel matters.”

At 5:30 p.m. that day, the Board convened for the budget work session. After concluding its discussion of budget matters, the Board voted to repeal and rescind Board Policy 100-18, which had established a procedure for hiring Board counsel. After that vote, the Board of Education entered closed session, during which the body discussed a contract for legal counsel.

We understand the Complainant to be raising two separate concerns about what transpired on February 13. We address each in turn.

1. Notice

First, the Complainant alleges that the Board of Education failed to provide adequate notice of the 6:45 p.m. “emergency meeting” because the Board provided only about nine hours’ notice that the body would be discussing Policy 100-18. The Board of Education responds that the emergency session was not a separate meeting but, rather, “an additional item” that was added “to [a]n already existing agenda” for the budget work session.

We understand why the Complainant (and perhaps other members of the public) considered the “emergency meeting” a separate meeting from the budget work session. In an email to members of the Board of Education, the chairperson himself described it as an “[e]mergency meeting” to follow the budget work session. Moreover, the Board’s communications to the public described an “emergency meeting,” not an amendment to the agenda for the budget work session.

That said, we have, on at least one prior occasion, accepted a public body’s assertion that a newly announced meeting was, in fact, an extension of an already scheduled meeting. In 19 *OMCB Opinions* 2 (2025), a public body announced that it was canceling a public comment period that was planned as part of a 4:15 p.m. open meeting and instead scheduling a “joint town hall” to take place at 7 p.m. the same day. *Id.* at 2. A revised agenda, included in the news release, listed the town hall meeting as an agenda item for the previously scheduled 4:15 p.m. open session, and, at the start of the town hall, a clerk described it as “the next item on[the] agenda.” *Id.* at 3. We concluded that the town hall was part of an ongoing meeting and not an entirely new, separate meeting.

Here, the Board of Education prepared one agenda for February 13, listing the budget work session, the motion to repeal Board Policy 100-18, and the closed session as

separate items that the Board intended to address in one meeting.¹ A single video recording posted on the Board’s website² captured both the budget work session and the subsequent emergency session; the recording shows members of the Board sitting around a table in the Board’s meeting room to discuss budget matters, after which the presiding officer asked for a motion to adjourn, another member so moved, and the body voted to adjourn the budget session. The members of the Board then moved to a dais in the same room and, about four minutes later, the Board chairperson called the emergency session to order.

Although some of these facts suggest that the budget work session was a separate meeting from the emergency session, we think that, on balance, the record shows that the Board convened once, to address various separate matters. We thus conclude, as we did in 19 *OMCB Opinions* 2 (2025), that the Board of Education convened just one meeting.

Returning, then, to the question of notice, we consider whether the Board provided adequate notice of the February 13 meeting. The Act requires that, “[b]efore meeting in a closed or open session, a public body . . . give reasonable advance notice of the session.” § 3-302(a).³ Because “[t]he Legislature’s use of the term ‘reasonable advance notice’ does not lend itself to a brightline test,” 4 *OMCB Opinions* 51, 55 (2004), “we have measured the adequacy of a meeting notice by considering its content,^[4] its timing, and the method by which the public body provided the notice,” 18 *OMCB Opinions* 138, 140 (2024) (citing 8 *OMCB Opinions* 76, 80 (2012)).

As already noted, the Board initially gave notice on January 23 that the body would meet on February 11, but the Board rescheduled the meeting to February 13 due to inclement weather. The Board provided notice of the postponement on February 11, the same day as the inclement weather and two days before the new date. We have no evidence that the Board failed to provide notice of the meeting as soon as practicable after the Board set the date, time, and location of the meeting—either when the Board first provided notice of the original meeting date, or when the Board advised the public that the meeting would be postponed due to inclement weather. *See, e.g.*, 18 *OMCB Opinions*

¹ The agenda is available at https://files-backend.assets.thrillshare.com/documents/asset/uploaded_file/3497/Scps/b8c3c7f8-2c74-41d4-a413-56a3280a413a/February_13_2025_Open_Budget_Work_Session_-_S.pdf?disposition=inline (last visited Sept. 29, 2025).

² The video recording is available at https://townhallstreams.com/stream.php?location_id=136&id=65664 (last visited Sept. 29, 2025).

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

⁴ “Whenever reasonable, a notice . . . shall: (1) be in writing; (2) include the date, time, and place of the session; and (3) if appropriate, include a statement that a part or all of a meeting may be conducted in closed session.” § 3-302(b).

179, 180 (2024) (applying that standard “[i]n matters involving allegations that a body has failed to provide enough notice of a meeting”). We thus find no violation with respect to the Board’s notice to the public that the body planned to meet on February 13.

The Complainant’s grievance, however, is specific to an item of business that the Board of Education took up on February 13—that is, the repeal of Board Policy 100-18. We thus consider also whether the Board of Education violated the Act by adding this item of business to the agenda.

Section 3-302.1 of the Act requires, “before [a public body] meet[s] in an open session,” that the body “make available to the public an agenda: (i) containing known items of business or topics to be discussed at the portion of the meeting that is open; and (ii) indicating whether the public body expects to close any portion of the meeting” § 3-302.1(a)(1). “If an agenda has been determined at the time the public body gives notice of the meeting . . . , the public body shall make available the agenda at the same time the public body gives notice of the meeting.” § 3-302.1(a)(2). “If an agenda has not been determined at the time the public body gives notice of the meeting, the public body shall make available the agenda as soon as practicable after the agenda has been determined but no later than 24 hours before the meeting.” § 3-302.1(a)(3).⁵ But “[n]othing in [§ 3-302.1] may be construed to prevent a public body from altering the agenda of a meeting after the agenda has been made available to the public,” § 3-302.1(e), in order to add “topics that were not known when the agenda was made,” 14 *OMCB Opinions* 42, 43 (2020).

That apparently is what the Board did here, adding to the agenda the motion to repeal Board Policy 100-18 and the closed session discussion about a personnel matter. There is some indication that the Board of Education may have known, at least by February 7, that it would soon consider repealing Board Policy 100-18 and discuss a contract for new legal counsel. Counsel for the Board asserts that, as of that date, her law firm had drafted a contract for the Board’s consideration. But the record does not establish that the Board knew either on January 23, when the body first provided notice of the February meeting, or on February 11, when the body rescheduled the meeting, that the Board would consider the contract for new counsel *at the February meeting*. Counsel asserts that the body did not add the emergency items to the February 13 meeting agenda until February 12, as reflected in the Board chairperson’s email to the body’s other members. The record thus does not establish that the Board omitted a known item of business from the agenda that it issued on January 23. And the body was “not require[d] . . . to post subsequent updates to an agenda it ha[d] already made available online” (though “we encourage that practice to

⁵ These timing requirements do not apply “[i]f a public body is unable to comply . . . because the meeting was scheduled in response to an emergency, a natural disaster, or any other unanticipated situation.” § 3-302(b). Under those circumstances, the body “shall make available on request an agenda of the meeting within a reasonable time after the meeting occurs.” *Id.*

the extent it would timely and practicably inform interested members of the public”). 14 *OMCB Opinions* 46, 48 (2020). We thus find no violation based on the Board of Education adding the motion to repeal Board Policy 100-18 and the personnel matter to the agenda. Nor do we find a violation based on the Board notifying the public of this addition about nine hours before the body took up those items.

Nonetheless, we reiterate what we said in 14 *OMCB Opinions* 89 (2020):

Agendas published with a meeting notice can make the difference in whether a member of the public attends the meeting or not. For that reason, . . . “last-minute and unexplained changes in meeting agendas often lead the public to conclude that the public body is trying to rush a matter through without public scrutiny.” In short, given the policy of the Act to “increase[] the faith of the public in in government,” § 3-102(b), public bodies should adhere as closely to the agendas that they have posted as circumstances allow.

Id. at 91 (quoting 14 *OMCB Opinions* 75, 77 (2020)).

2. Alleged secret meeting

The Complainant’s second allegation with respect to the February 13 meeting is that the Board’s decision to appoint new legal counsel “was arranged prior to any open vote.” She infers this from the fact that the draft contract for new counsel was dated February 7, and the attorneys who were hired were already present at the February 13 meeting. She suggests that “decisions may have been made outside of open session by certain board members.”

We find no violation based on the information before us. For one thing, the Act does not apply to individual members of a public body but, rather, to the body as a whole. *See, e.g.*, 2 *OMCB Opinions* 77, 77 (1999). For another, “[t]he Act does not require a public body to conduct its business in a meeting,” 15 *OMCB Opinions* 148, 151 (2021); it “simply sets forth the requirements that apply when a quorum of the public body *does* convene to transact public business,” 16 *OMCB Opinions* 101, 102 (2022) (emphasis added) (quoting 94 *Opinions of the Attorney General* 161, 173 (2009)); *see also* § 3-101(g) (“‘Meet’ means to convene a quorum of a public body to consider or transact public business.”).

To the extent that the Complainant alleges that the Board of Education impermissibly met in secret, ahead of the February 13 meeting, we find no violation. Whether a public body has “met” is often a matter of dispute, particularly when a complainant has obtained email messages exchanged among members of the body and alleges that these communications rose to the level of a “meeting” under the Act. *See, e.g.*,

19 *OMCB Opinions* 204 (2025) (involving such a dispute). Even when a public body has denied that it has “met,” we have sometimes concluded that an exchange of emails on public business, among a quorum of the body, over a relatively short period of time, constituted a “meeting” that violated the Act because the public had no notice or an opportunity to observe. *See, e.g., id.* at 207-09. Here, however, the Complainant merely references “the appearance that the decision” to repeal Board Policy 100-18 and hire new counsel “was made privately in advance.” She has alleged no facts from which we could determine that a secret meeting occurred in violation of the Act. We thus decline to find a violation based on the record here. *See, e.g., 15 OMCB Opinions* 132, 134 (2021) (declining to find a violation when the complainant inferred that a meeting must have taken place but the public body denied that any such meeting occurred); 4 *OMCB Opinions* 67, 68 (2004) (same); *cf. 16 OMCB Opinions* 69, 75 (2022) (noting that we ordinarily do not address “hypothetical or speculative allegations”).

B. April 15, 2025, meeting

Finally, the Complainant alleges that the Board of Education violated the Act with respect to a closed session on April 15, 2025. Specifically, the Complainant alleges that the Board “posted an agenda stating that the Board would enter executive session,” but “no purpose or statutory authority was provided in the notice to the public.”

We find no violation. Neither a notice nor an agenda must disclose a public body’s reason for entering closed session or the statutory authority for closing a meeting. As to the notice, the Act requires only that it include, “[w]henever reasonable” and “if appropriate,” “a statement that a part or all of a meeting may be conducted in closed session.” § 3-302(b)(3). As for the agenda, the Act requires only that it “indicat[e] whether the public body expects to close any portion of the meeting.” § 3-302.1(a)(1)(ii). Those requirements were met here. The notice advising the public that the Board of Education would meet on April 15 for a regularly scheduled meeting indicated that regular meetings “begin at 4:00 PM with a motion to immediately convene into a closed session to discuss confidential and business matters” and “reconvene to an open session for public viewing at 6:00 PM.”⁶ The agenda similarly reflected a motion to enter “executive closed session.” We thus find no violation based on this allegation.

Conclusion

We conclude that the February 13 “emergency meeting” was part of the budget work session that took place the same day. We further find that the Board of Education provided

⁶ An archived version of the notice is available at <https://web.archive.org/web/20240919181937/https://www.somerset.k12.md.us/page/meeting-dates> (last visited September 29, 2025).

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reasonable advance notice of the meeting, and the Board did not violate the Act by altering the agenda to include items of business that the Board addressed during the part of the meeting that it referred to as the emergency session. To the extent that the Complainant alleges that the Board of Education improperly met in secret, in advance of the February 13 meeting, we have no basis in the record to conclude that a secret meeting took place, and we find no violation. Finally, we find no violation with respect to the notice and agenda of the Board's April 15 meeting omitting the purpose or statutory authority for an expected closed meeting, as the Act does not require meeting notices or agendas to include those details.

Open Meetings Compliance Board

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