



Statute and Bylaws Overview

Office of the Attorney General

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PRESENTED BY

Alan Dunklow, Assistant Attorney General



Presentation Outline

1. Council Origins
2. Statute and Bylaws Overview
3. Open Meetings Act

Legislative History

- 2007: The Council was established in accordance with the federal Improving Head Start for School Readiness Act
- 2008: The Early Care and Education Committee of the Children's Cabinet was designated to serve as the State's Council by Executive Order of the Governor
- 2014: The Council was codified in State law to recognize the importance of the work that Council members had undertaken to improve the early childhood system in Maryland
- 2016: The provisions governing the Council were transferred to Title 9.5 of the Education Article with the formation of the Division of Early Childhood

What's the Difference?



**What are
statutes?**

**What are
bylaws?**

Statutes are laws enacted by the General Assembly that typically authorize, require, or prohibit something

Bylaws are rules adopted by an organization to govern its internal operations and the conduct of members

Statutory Purposes

The purposes of the Council are to:

Coordinate efforts among
early childhood care and
education programs

Conduct needs
assessments concerning
early childhood education
and development programs

Develop a statewide
strategic report regarding
early childhood education
and care

See Md. Code Ann., Educ. § 9.5-202; ECAC Bylaws Art. 1

Statewide Strategic Report

- The statute directed the Council to submit a statewide strategic report on or before December 1, 2015
- The Council submitted its report in 2015
- The Council meets periodically to review implementation of the report's recommendations and any changes in State and local needs
- The Council identified priorities in 2019 (public awareness & workforce development)

Statutory Duties

The Council shall:

- (1) Conduct a periodic **statewide needs assessment** concerning the **quality** and **availability** of early childhood education and development programs and services for children from birth to school entry
- (2) Identify opportunities for, and barriers to, **collaboration and coordination** among federally funded and State-funded child development, child care, and early childhood education programs;
- (3) Assess the **capacity** and **effectiveness** of 2-year and 4-year public and private institutions of higher education in the State toward supporting the **development of early childhood educators**;
- (4) Make **recommendations**;
- (5) Hold **public hearings** and provide an opportunity for **public comment** on the activities described in items (1) through (4); and
- (6) Perform any other duties that may be requested by the Governor

See Md. Code Ann., Educ. § 9.5-208; ECAC Bylaws Art. III

“Advisory” Means Making Recommendations

The Council shall make
recommendations...

- (a) For **increasing the overall participation** of children in existing programs, including outreach to underrepresented and special populations;
- (b) Regarding the establishment of a **unified data collection system** for public early childhood education and development programs and services throughout the State;
- (c) Regarding **statewide professional development** and **career advancement** plans for early childhood educators in the State; and
- (d) For improvements to **state early learning standards** and how to undertake efforts to develop high-quality comprehensive early learning standards, as appropriate

See Md. Code Ann., Educ. § 9.5-208; ECAC Bylaws Art. III

Membership

The Council consists of 41 members:

- A member of the Senate and a member of the House
- The State Superintendent and the Secretary of Health (or designee)
- Directors of Head Start Collaboration and Office of Child Care
- Assistant State Superintendents for Early Childhood and Special Education
- The Special Secretary of the Governor's Office for Children
- An ex-officio member appointed by the Council
- 31 members appointed by the Governor to staggered 4-year terms

See Md. Code Ann., Educ. § 9.5-203; ECAC Bylaws Art. IV

Organizations Represented by Governor Appointees

Local Education Agency	Local Management Board	Maryland State Education Association	Maryland Chapter of American Academy of Pediatrics
Institute of Higher Education	State Interagency Coordinating Council	Service Employees International Union	School Health Services
Maryland State Child Care Association	Ready at Five Partnership	Department of Disabilities	Maryland Developmental Disabilities Council
Maryland State Family Child Care Association	Maryland Parent Teacher Association	Social Services Administration of Department of Human Services	Maryland Council for American Private Education
Maryland Association for the Education of Young Children	Maryland Library Association	Philanthropic Institution	Maryland Association of Boards of Education
Maryland School Age Child Care Alliance	Business Community Member	Maryland Association of Elementary School Principals	Home Visiting Alliance
Nonpublic Prekindergarten Provider	Maryland Family Network	Local Government Agency Serving Children	Advocate for Homeless Children
Head Start	Office of Child Care Advisory Council	Local Community Action Agency	

Compensation of Members

- A member of the Council may NOT receive compensation as a member of the Council

But...

- A member may be reimbursed for expenses under the Standard State Travel Regulations, as provided in the State budget

See Md. Code Ann., Educ. § 9.5-204; ECAC Bylaws Art. VIII

Resignation of Members

- A member appointed by the Governor who fails to attend at least 50% of regularly scheduled meetings during any consecutive 12-month period shall be considered to have resigned
- On or before January 15 of each calendar year, the Chair shall forward to the Governor the name of any such member and a statement describing the member's history of attendance
- The Governor shall appoint a successor for the remainder of the member's term OR may waive the resignation if member's absence was for reasons satisfactory to the Governor
- A member who voluntarily resigns must provide written notice to the Chair and Council staff and to the head of the organization they were representing

See Md. Code Ann., Educ. § 9.5-207, ECAC Bylaws Art. IV

Officers and Staff

The Governor shall designate the Chair, whose duties include:

- Developing the agenda, with input from members
- Conducting meetings and overseeing public hearings
- Representing opinions of the Council to the Governor and the public
- Convening special meetings as necessary
- Appointing the chairs of any task forces, workgroups, or other ad-hoc committees

MSDE shall provide staff for the Council

See Md. Code Ann., Educ. § 9.5-204; ECAC Bylaws Art. VII

Conflicts of Interest

No member of the Council shall cast a vote on any matter which would:

- Provide direct **financial benefit** to that member; or
- Otherwise give the **appearance of a conflict** of interest under State law

If a member is employed by an organization which is a recipient of financial support from the State of Maryland or any of its affiliates, that member shall:

- **Disclose** the potential conflict of interest; and
- **Not participate** in any deliberations (including proposal criteria), decisions, or vote which may determine the outcome of a potential funding award to that organization

If uncertain, a member can request clarification and determination:

- From the Council; or
- The State Ethics Commission

See Title 5 of the General Provisions Article; ECAC Bylaws Art. V

Meetings

- The Council shall meet at least three times per calendar year
- Meetings shall be:
 - Open to the general public;
 - Held in a place accessible to the general public; and
 - Announced in advance
- Minutes shall be kept of all Council meetings

See Md. Code Ann., Educ. § 9.5-205; ECAC Bylaws Art. VI

Procedures

- The Council may adopt procedures and bylaws as necessary to ensure the orderly transaction of business
- The Council approved bylaws in 2017 and adopted Robert's Rules of Order (e.g., motion, second, debate, vote), with the Chair or designee functioning as parliamentarian
- A majority of Council members constitutes a quorum (21 members)
- Bylaw amendments require a two-thirds majority (28) and must be submitted for review at least 2 weeks prior to the meeting where vote takes place

See Md. Code Ann., Educ. § 9.5-206, ECAC Bylaws Art. IX

Open Meetings Are Effective (And Required)

“The conduct of public business in open meetings increases the faith of the public in government and enhances the effectiveness of the public in fulfilling its role in a democratic society.”

Md. Code Ann., Gen. Prov. § 3-102

Translation

Open Process → Public Trust

Informed Policymakers → Better Outcomes

Open Meetings Act

When should we be thinking about this?

**BEFORE
THE MEETING**

**DURING
THE MEETING**

**AFTER
THE MEETING**

What is a meeting?

There is a meeting when

- A majority of members gather (a quorum)
- In person, by phone, or other means (including email)
- To discuss a matter that is not an administrative function

The Council serves an “advisory” function that is subject to the Act

Avoid “reply all” emails outside of meetings as these discussions could violate the Act

Before the Meeting: Notice

“Give reasonable advance notice”

Timing

- Standing notice, if accurate
- Last minute, if urgent AND extra efforts

Content

- Date, time, place
- Will any portion be closed? If so, say so

Method

- In writing...in MD Register, news media, website, posting at or near meeting site, “other”

See Md. Code Ann., Gen. Prov. § 3-302

Before the Meeting: Agenda

“Make available to the public an agenda”

Timing

- If determined, same time as notice
- If not, as soon as possible but no later than 24 hours prior

Content

- Known items of business or topics
- Will any portion be closed? If so, say so

Method

- Any of the methods authorized for giving notice
- May be different than method used for notice

See Md. Code Ann., Gen. Prov. § 3-302.1

During the Meeting: Open

Right to observe, not to participate

- If technology fails, may need to pause or postpone meeting
- If inviting public comment, consider adopting rules (time limits, advance registration)

To enter closed session, a public body must

- Hold public vote to close, after notice of open session
- Identify specific exception
- Prepare written closing statement with citation, topic, reason to exclude public
- Have trained member present (or complete compliance checklist)

See Md. Code Ann., Gen. Prov. §§ 3-301, 3-305

After the Meeting: Minutes

“Have minutes of its session prepared”

Timing

- As soon as practicable after the meeting
- Not quantified, but parallel to cycle of meetings (if meet infrequently, share draft)

Content

- Each item considered, action taken, vote recorded
- Include closed-session summary, if applicable

Method

- Written, unless live and archived video or audio
- Post online to the extent practicable

See Md. Code Ann., Gen. Prov. § 3-306

Training Requirement

- Must designate at least one individual who is an employee, officer, or member of the public body to receive training
- Public body may not meet in closed session unless it has designated at least one member to receive training (if that member is not present, must complete [compliance checklist](#))
- Designated member must complete training within 90 days of designation

See Md. Code Ann., Gen. Prov. § 3-213

Online Class

Offered by the Office of the Attorney General and the University of Maryland's Institute for Governmental Service and Research, the online class can be accessed here:

https://www.igsr.umd.edu/VLC/OMA/class_oma_title.php

This class is free and takes about 2.5 hours to complete. It is comprised of 6 lessons with quizzes throughout. Be sure to print and keep *Certificate of Completion* for your records.

(Today's presentation does not satisfy the requirement.)

Resources on OAG Website

The OAG website has an [Open Government](https://www.marylandattorneygeneral.gov/Pages/OpenGov/Openmeetings/default.aspx) page that contains the compliance checklist, model closing forms and summaries, FAQs, and compliance board opinions:

<https://www.marylandattorneygeneral.gov/Pages/OpenGov/Openmeetings/default.aspx>

Also available there is the [*Open Meetings Act Manual*](#) (12th ed. October 2023), which has 7 chapters covering all aspects of the Act and practice notes to assist public bodies with compliance.