9 *Official Opinions of the Compliance Board* 55 (2013)

- **Scope of Act –** *Act applicable only to "meetings"*
- **Meeting –** *Determined not to be a meeting*
  - Quorum not present

***Topic headings correspond to those in the Opinions Index (2010 edition) at http://www.oag.state.md.us/opengov/openmeetings/appf.pdf**

November 5, 2013

Re: Board of County Commissioners of Frederick County
Kimberly Mellon, Complainant

We dismiss, as beyond our authority, the complaint of Kimberly Mellon ("Complainant") that the Board of County Commissioners of Frederick County ("County Board") violated the Open Meetings Act when four of the five commissioners agreed to send a letter to a newspaper about County business. Complainant alleges that the four commissioners' decision to write the letter "was not discussed or made publicly . . . ." In response, the County Board states that the four members did not meet. Instead, the County Board states, "one Commissioner initially drafted the letter and circulated it to the other Commissioners."

Our authority extends only to alleged violations of the Open Meetings Act (the "Act"). State Government Article ("SG") § 10-502.4.[1] The Act requires that when a public body "meets," the public body must do so in open session unless the Act expressly provides otherwise. SG § 10-505.[2] The Act defines the verb "to meet" as "to convene a quorum of a public body for the consideration or transaction of public business." SG §

[1] The text of the Act appears as an appendix to the Open Meetings Act Manual, which can be found at http://www.oag.state.md.us/Opengov/Openmeetings/index.htm. Our opinions can also be found there.

[2] The Act expressly provides that a public body may perform certain functions and address certain discrete topics in a closed meeting. For example, a public body's performance of quasi-judicial functions, such as our deliberations on complaints, is expressly exempt from the Act. SG §§ 10-503 (a)(1)(iii), 10-502(i).

10-502(g). When, as here, a quorum of the public body has not convened, the Act does not apply.[3]

The Act does not require public bodies to hold meetings. As we explained in another matter that involved a series of sequential communications among county commissioners, other laws might require a public body to conduct public business in a meeting, but the Act does not. *See* 7 *OMCB Opinions* 193 (2011). We do not have the authority to address allegations concerning other laws.

In sum, the Act does not apply to this matter, and we have no authority over it.

Open Meetings Compliance Board

Elizabeth L. Nilson, Esquire
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[3] By way of an implied exception to that rule, the Maryland Court of Appeals found that the Act was violated when a presiding officer who admittedly wanted to ensure the exclusion of the public from a meeting made sure that a quorum of the members was never present in the room at the same time. *See Cmty. & Labor United for Balt. Charter Comm. v. Balt. City Bd. of Elections*, 377 Md. 183, 191-195 (2003). Such facts are not present here.