

8 Official Opinions of the Compliance Board 120 (2012)

- ◆ **Exceptions Permitting Closed Sessions –**
 - ◇ *Personnel, §10-508(a)(1)* discussion of candidates for appointments to board

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

October 9, 2012

Board of Commissioners of Charles County (Lee Platt)

We have considered the complaint of Lee Platt (“Complainant”) that the Board of Commissioners of Charles County (“Commissioners”) has violated, and continues to violate, the Open Meetings Act (“the Act”) by meeting behind closed doors to fill volunteer positions on various County boards and commissions. Complainant asserts that the “personnel matters” exception to the Act’s open meeting requirement, *see* State Government Article (“SG”) § 10-508 (a)(1), does not extend to the appointment of volunteers because they are not County employees. The Commissioners respond that the personnel matters exception, by its plain language, applies to “appointees” as well as to “employees.”

We conclude that the Commissioners did not violate the Act by claiming SG § 10-508(a)(1) as a basis for excluding the public from discussions about the appointment of specific individuals to volunteer boards and commissions. SG § 10-508(a)(1) permits a public body to meet in closed session to “discuss . . . the appointment, employment, assignment, promotion . . . or performance evaluation of appointees, employees, or officials over whom it has jurisdiction . . .” By its terms, then, the exception applies to the Commissioners’ discussion of appointments to various boards. We have interpreted the exception to extend only to discussions that involve specific individuals. *See, e.g., 3 OMCB Opinions* 67, 69 (2000) (explaining that the exception does not extend to policy issues such as the method of making the appointment).

Under certain circumstances, the discussion of appointments is an exercise of an administrative function not subject to the Act. *See, e.g., 3 OMCB Opinions* 182, 186, n. 7 (2002), available at <http://www.oag.state.md.us/Opinions/Open2002/om02-3.pdf> (explaining the administrative function exclusion in the context of appointments made by a public body). As the Commissioners have not claimed that these discussions fell outside the Act, we do not reach that question.

Open Meetings Compliance Board

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