To: Chairman Phil Mendelson  
From: Councilmember Charles Allen  
Date: July 27, 2020  
Subject: Notice of Intent to Move Amendment at the July 28, 2020 Legislative Meeting

I intend to move the following amendment when the July 28, 2020 Legislative Meeting resumes today:

- Allen Amendment #1 to B23-0760, the Fiscal Year 2021 Budget Support Act of 2020

This amendment makes changes to the requirements, under the District’s Open Meetings Act, for the board of trustees of a public charter school. The amendment narrows an exception to the Open Meetings Act in the version of the Budget Support Act that was approved at first reading. The amendment clarifies that a public charter school board could go into executive session to discuss information received from outside the public charter school board that also meets the statutory definitions of proprietary or trade secrets. The amendment also retains two proposed new exceptions to the requirements of the Open Meetings Act specific to the boards of public charter schools: when discussing students’ personal information and when meeting with the Public Charter School Board (“PCSB”). However, the amendment clarifies that a public charter school board may close a meeting with the PCSB only when that meeting is for the purpose of making an evaluation of the public charter school.

The draft amendment is attached. If you have any questions regarding these measures, please contact Chris Laskowski, Legislative Director, on 202-531-9912 or claskowski@dccouncil.us.

cc: Members, Council of the District of Columbia  
Office of the Secretary  
Office of the General Counsel  
Office of the Budget Director  
Mayor’s Office of Policy and Legislative Affairs
AN AMENDMENT

# 1

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

DATE: July 28, 2020

OFFERED BY: Councilmember Charles Allen

TO: B23-760, the Fiscal Year 2021 Budget Support Act of 2020

VERSION:  
- ____ Introduced
- ___ Committee Report
- ___ Committee Print
- ___ First Reading
- ___ Engrossed
- ___ Enrolled
- ___ Amendment
- ___ Amendment in Nature of Substitute

Amendment:

Title IV, subtitle F, section 4057(b), page 143, line 2715 is amended as follows:

(a) Paragraphs (2), (3), and (4) are redesignated as paragraphs (3), (4), and (5), respectively.

(b) A new paragraph (2) is added to read as follows:

“(2) Paragraph (11) is amended by striking the phrase “obtained from outside the government” and inserting the phrase “obtained from outside the government or public body” in its place.”.
(c) The newly redesignated paragraph (5) is amended to read as follows:

“(5) New paragraphs (15) and (16) are added to read as follows:

“(15) To discuss matters involving personally identifiable information of students; and

“(16)(A) When the public body is the board of trustees for a public charter school, to meet with the staff of an eligible chartering authority, for the purpose of being evaluated by the eligible chartering authority.

“(B) Subparagraph (A) of this paragraph shall not be construed to permit the board of trustees for a public charter school to close a meeting that would otherwise be open merely because the staff of an eligible chartering authority is participating.”

**Fiscal Impact:**

This amendment has no fiscal impact.

**Rationale:**

This subtitle, as approved at first reading, would subject the boards of trustees of a public charter school to the Open Meetings Act. However, the subtitle also creates an exception that would allow the board of a public charter school to close its meetings when discussing “information related to the operation of a public charter school.” The breadth of that exception swallows the rule. Nearly all discussions at a meeting of the board of a public charter school would involve “information related to the operation of a public charter school,” because the board is tasked with guiding the operations of the public charter school at the broadest level, leaving the two exceptions to this broad exception as the only times a public charter school’s board meeting would have to be open: (1) when discussing matters related to approval of the public charter school’s budget and (2) when discussing matters related to opening or closing a campus or school.

Because public charter schools are funded by taxpayer dollars, it makes sense for discussions of operations to be open to the public. There are currently 14 exceptions to the requirements of the Open Meetings Act that allow a public body to take a meeting into executive session that would also apply to meetings of a public charter school’s board. Accordingly, this amendment also makes a change to one existing exception that allows a public body to go into executive session when discussing information that a third party would consider proprietary if that information was received from outside the government. A typical example might be when a public body is
discussing bids for a contract, and the discussion of the bids may require a discussion of information that would harm the bidders’ competitiveness if the information were public. The amendment clarifies that a public charter school board could go in to executive session to discuss information received from outside the public charter school board that also meets the statutory definitions of proprietary or trade secrets.

The amendment also retains two proposed new exceptions to the requirements of the Open Meetings Act specific to the boards of public charter schools: when discussing students’ personal information and when meeting with the Public Charter School Board (“PCSB”). However, the amendment clarifies that a public charter school board may close a meeting with the PCSB only when that meeting is for the purpose of making an evaluation of the public charter school.