



December 14, 2020

The Honorable Bill Ferguson
President of the Senate
State House
100 State Circle
Annapolis, MD 21401

The Honorable Adrienne A. Jones
Speaker of the House of Delegates
State House
100 State Circle
Annapolis, MD 21401

Dear Senate President Ferguson and Speaker Jones,

We understand the complexity and changing landscape as legislative leaders prepare for the upcoming legislative session during the ongoing COVID-19 pandemic. The safety of everyone involved is critical, and we appreciate the steps that were taken to incorporate feedback presented by reporters, advocates and members of the public. However, given the plans for session operations, we continue to be concerned about government transparency and public oversight. Maryland must strike a balance between giving the General Assembly the flexibility needed to execute its constitutional responsibilities during a crisis and the public's right to participate so the legislative process is fully transparent and accountable.

The Marylanders for Open Government (MDOG) coalition and partner organizations have identified areas of concern based on the operational plans released by leadership. Recognizing that further adjustments to the plan are likely, we want to ensure advocates and the public have a full understanding of session operation plans. We have also included recommendations that we urge you to consider as you make adjustments to these plans. We look forward to your written response, and also invite you to meet with representatives of our coalition to discuss a path forward.

Ensuring Transparency and Public Engagement - Procedures in Need of Clarification

Transparency and accountability in the legislative process is critical to the public trust. As we reviewed the operating plans, we identified areas that need clarification. Please clarify if our understanding of the proposed procedures is correct. If our understanding is correct, we believe these areas need further discussion and operational shifts to ensure transparency and accountability. Below are questions that we request a response to:

Senate - Procedures in Need of Clarification

Testimony and Witness Limitations

Limitations on witnesses (four favorable witnesses, two favorable with amendment witnesses, and four unfavorable witnesses) raises considerable concern for our coalition. Without clarification, this could result in the perception that committee chairs are silencing certain individuals or groups by not choosing

to allow testimony - potentially excluding individuals who are directly impacted by the legislators or others that raise key arguments on the bill.

- o How will witnesses be selected for a hearing? How will that be communicated to the witnesses?
- o Will individual witnesses and representatives of nonprofit organizations have the same opportunities to testify as Executive Branch lobbyists?
- o Who will determine which bills will have an extended hearing? What are the testimony requirements for an extended hearing?
- o During an extended hearing, how many witnesses will be selected by the bill sponsor?
- o What window will be provided for testimony submission? Will it differ for written/oral testimony?
- o In addition to video testimony, will there be an option to call-in via phone?
- o Will recorded video testimony be accepted?

Committee Hearing Process and Access to Legislators/Staff

The released plan does not include several items regarding the logistics regarding the hearing process. We are concerned that without further clarity, certain individuals and stakeholders may not be adequately informed or prepared to successfully provide input on proposed legislation - leading to changes in critical policies without robust public input.

- o Will committees post the bill order for hearings? If so, when will that information be available?
- o What is the projected timeline for each stage, acknowledging these dates may change due to the pandemic. What is the plan for quickly communicating to the public changes in stages?
- o Can you provide clarity on the meaning of “as much public notice as is feasible” on voting sessions? Will the voting schedule and the voting list be public? How much notice will be provided to the public?
- o Will a public list be available for Senators’ office hours?

House of Delegates - Procedures in Need of Clarification

Access to Legislators/Staff

Considering the strict limitations, more clarity is necessary to ensure that our respective communities have access to legislators and their staff. We fear that without more specific guidance, access to legislators will be limited to those with preexisting relationships; and those without preexisting relationships may find it difficult or impossible to access legislators and their staff.

- o With Delegates not required to be in the building for proceedings like committee hearings, will calls to their offices be forwarded to their home/remote work location?
- o We appreciate the Speaker urging Delegates to provide office hours. Will there be a list of Delegate office hours made available to the public?

Committee Hearing Process

- o The standing committee chair continues to have full discretion over the length of the hearing, but the plan also states that testimony is limited to 50 witnesses. If the witness limit is reached, will all who wish to testify be guaranteed an opportunity to do so?
- o Why are files for bills that do not pass out of committee only being made available on the website after the legislative session?
- o Which house bills will have sponsor only hearings? Does this vary by committee?

Recommendations

- OIS has designed a system to allow the public to upload written testimony. Written testimony should be made available to the public in real-time instead of only after hearings conclude.
- In addition to written testimony, recorded audio or video testimony should be accepted for those who would like to verbally testify but were not selected.
- Advance notification of subcommittee meetings and voting sessions should be provided to the public. Schedules for these meetings should be posted online, along with the voting list.
- A clear schedule should be provided, at least for the first third of session, on days each chamber will convene.
- For Senate hearings, rather than a cap on the number of witnesses, a time cap would be preferable (for example, two hours per bill).
- For Senate hearings, witness sign-up should be available online at least 48 hours before the bill hearing. ample time to sign up to testify.
- The floor session should be streamed on multiple platforms, instead of being limited to the MGA website (utilizing YouTube, Facebook and other platforms which are less likely to have technical challenges than the website).
- Require all members of a public body participating in a meeting or proceeding to be clearly audible and visible at all times, including to the public.
- Establish a public process for reporting access issues to OIS (For example, videostream being down).
- Establish a clear policy that if the videostream goes down, discussion must be suspended until audio/video is restored.
- Provide all written guidance about new changes in Spanish and other requested languages.
- Provide verbal translators for witnesses, as requested.
- Allow witnesses to submit written testimony in their native language by providing in-house written translation, as needed.
- Ensure adequate closed captioning/subtitling for all meetings/events that are streamed.

Thank you for all you are doing to protect the health and safety of Marylanders, and for all the work the General Assembly will be devoting to considering hundreds of bills this upcoming session. We hope that you will take our additional recommendations into consideration and look forward to your response.

Thank you,

Common Cause Maryland
MDDC Press Association
ACLU of Maryland
CASA
League of Women Voters of
Maryland
Public Justice Center
Our Maryland
Maryland PIRG
Out For Justice
Reverend Kobi Little

NARAL Pro-Choice Maryland
Waterkeepers Chesapeake
Food & Water Watch
MD Center on Economic Policy
Jews United for Justice
Black By Nature
Ji'Aire's Workgroup
Hold The Line - Maryland
Clean Slate Maryland LLC
Crayons & Culture
Represent Maryland

Baltimore Women United
H.O.P.E. Baltimore
Elaina McWilliams
Family Support Network
Maryland NORML
Marian House
Maryland Justice Project
MD Aging People in Prison
Human Rights Campaign
Maryland Rise

Marylanders for Open Government a network of diverse organizations connected by an interest in demanding fair and open access to government-funded data and information. Members of the network include environmental and public health groups, good government groups, consumer advocates and social justice organizations.

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