

SIAAB Fall Conference
FOIA and OMA:
Better
Understanding and
Compliance

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The Freedom of Information Act
(5 ILCS 140/1 *et seq.*)

The Freedom of Information Act (FOIA) originally became effective on July 1, 1984. On January 1, 2010, significant revisions to FOIA were enacted. Major changes include:

- Presumption of Openness
- Response time shortened from 7 to 5 days
- Copying charge limits
- FOIA Officers and training required

FOIA OFFICERS

- Each public body must designate one or more;
- Must develop list of documents or categories of records for immediate disclosure;
5 ILCS 140/3.5(a)
- All FOIA Officers must successfully complete the Public Access electronic training curriculum annually. Newly appointed FOIA officers have 30 days to complete the training.
5 ILCS 140/3.5(b)

FOIA Officers

- Upon receipt of a FOIA request, must note date received, compute and note response date on written request;
- Maintain electronic or paper copy of request, including all documents submitted with request, until response or denial complete;
- Create file for retention of original request, copy of response, and all communications.
5 ILCS 140/3.5(a)

Public Body Posting Requirements

Each public must display, make available for inspection and copying, and mail if requested:

- Description of itself, including purpose, organization, budget, offices, employees, and identification of advisory or governing body members;
- FOIA Request Information.

If a public body maintains a website, this information must also be posted there!

5 ILCS 140/4(a), (b)

Public Access Counselor

The primary function of the Public Access Counselor within the Attorney General's Office is to resolve disputes involving potential violations of the Open Meetings Act or the Freedom of Information Act in response to requests for review by an aggrieved party, by mediation or otherwise informally resolving the dispute, or by issuing a binding opinion.

Public Access Counselor

Statutory Powers
Attorney General Act, 15 ILCS 205/7(c)

Duties include:

**FREE TRAINING and
EDUCATIONAL MATERIALS;
REQUESTS FOR REVIEW;
ADVISORY OPINIONS;
INFORMAL INQUIRIES;
RESEARCH and RECOMMENDATIONS
ON COMPLIANCE ISSUES,
ESTABLISH ELECTRONIC
FOIA and OMA TRAINING**

PAC Statistics

Total New Matters: 2010 : 5,229
2011 : 5,164
2012 : 3,418
2013: 3,426
2014: 3,312(10/24/14)
20,549

Total Open RFRs: 3,523

9 Assistant Attorneys General, 4 Support Staff

Average Number of Requests for Review Filed Per Month

2010: **162**
2011: **237**
2012: **285**
2013: **285**
2014: **331** (as of Sept.)

The PURPOSE of FOIA

“The General Assembly hereby declares that it is the public policy of the State of Illinois that access by all persons to public records promotes and accountability of public bodies at all levels of government. It is a **fundamental obligation of government** to operate openly and provide public records as expediently and efficiently as possible in compliance with this Act.” (Emphasis added.)

5 ILCS 140/1

PUBLIC RECORDS

The definition of “public records” includes:
“[A]ll * * * documentary materials **pertaining to the transaction of public business**, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, possessed or under the control of any public body.”

5 ILCS 140/2(c).

Hypothetical

During a long and contentious city council meeting debating the closing of the city health department, two council members begin texting each other on their personal cell phones. Several texts detailed the members’ ideas concerning the closing. One council member then sent this text to another member:

“I’m starving! Where shall we eat after the meeting?”

Several more text messages involving post-meeting dining plans ensued.

The local newspaper sends a FOIA request for the text messages.

How should the council respond?

Choose your answer:

- a) Release all the texts because all communications made during a public meeting are public records regardless of the content and the public should know which business the council members frequent.
- b) Withhold all the texts because the communications were sent on the private devices of the council members.
- c) Release only the texts that relate to the department closing.

What is a Public Record?

If a public official sent or received communications on a personal electronic device during a public meeting, and those communications pertain to the transaction of public business, then those communications are “public records” subject to the requirements of FOIA.

Ill. Att’y Gen. Pub. Acc. Op. No. 11-006, issued November 15, 2011.
City of Champaign v. Madigan, 2013 IL App (4th)120662, 992N.E.2d 629 (2013)

Records of Funds

“All records relating to the obligation, receipt, and use of public funds of the State, units of local government, and school districts are public records subject to inspection and copying by the public.”
5 ILCS 140/2.5



Records of Public Funds

- Paystubs, payment of severance, or overtime payments for public employees.
- Invoices for outside counsel or other legal services.
- Vendor information and payments for rent-related expenses for public housing.
- Wire Transfers made or received by a municipality.
- Money received or spent from public grants.
- Studies created for a municipality's economic development plan.
- Adjustment letters associated with public pension investment performance.

Records of Public Funds, cont.

- Public funds paid in conjunction with an employee's medical issue.
- Cell phone records for devices paid with public funds.
- Lists of residents with delinquent municipal sewer accounts.
- Expenses related to installing security cameras on CTA train platforms.
- Weapons purchased by the State from a Department of Defense surplus program.
- Settlement Agreements (specifically noted in section 2.20 of FOIA).

Payrolls

Certified payrolls submitted to a public body by contractors and subcontractors doing public work under Section (5a)(2) of the Prevailing Wage Act are public records; except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted by the public body prior to disclosure.

5 ILCS 140/2.10

Arrest Reports and Criminal History Records

Section 2.15 (a)-(d): Provides that certain information contained in arrest reports must be furnished as soon as practical but no later than 72 hours after an arrest.

Defines criminal history records that are public records, with certain limitations.

Settlement Agreements

“All settlement agreements entered into by or on behalf of a public body are public records subject to inspection and copying by the public, provided that information exempt from disclosure under Section 7 of this Act may be redacted.”

5 ILCS 140/2.20

Record Held by Agent

A public record that is not in the possession of a public body but is in the possession of a party with whom the agency **has contracted to perform a governmental function** on behalf of the public body, and that *directly relates to the governmental function* and is *not otherwise exempt* under this Act, shall be considered a public record of the public body, for purposes of this Act.

5 ILCS 140/7(2) (West 2010).

Presumption of Openness

Under FOIA, there is a presumption that public records are open to inspection or copying:

“Presumption. All records in the custody or possession of a public body are presumed to be open to inspection or copying. Any public body that asserts that a record is exempt from disclosure has the burden of proving by **clear and convincing evidence** that it is exempt.”

5 ILCS 140/1.2

What is Clear and Convincing?

Generally, under FOIA, "clear and convincing" evidence requires the public body to "provide a *detailed* justification for its claim of exemption, addressing the requested documents specifically and in a manner allowing for adequate adversary testing." (Emphasis in original.)

Illinois Educ. Ass'n v. Illinois State Bd. of Educ., 204 Ill. 2d 456, 464 (2003).

FOIA REQUESTS

- In writing, directed to the Public Body.
- Oral requests *may* be honored.
- Standard form *may not* be required.
- Public Body *may not require* requester to specify a purpose, *except* to determine whether the request is for a commercial purpose.
- **Forward immediately to FOIA officer.**
See 5 ILCS 140/3(c).

Responding to a Request -Time

A public body must generally respond to a FOIA request within **5** business days after receipt of a written request. The time for response may be extended for an additional 5 business days for one of seven reasons specified in the Act.

See 5 ILCS140/3 (d),(e)

Reasons for 5 Business Day Extension

- (i) Records stored at other locations;
- (ii) Collection of substantial number of records;
- (iii) Extensive search required;
- (iv) Can't locate records after routine search so additional efforts are being made;
- (v) Records require review to determine whether section 7 exemptions apply;
- (vi) Unduly burdensome/interfering in shorter time;
- (vii) Need to consult with another public body/area.

Commercial Purpose Requests

“Commercial purpose’ means the use of any part of a public record or records, or information derived from public records, in any form for sale, resale, or solicitation or advertisement for sales or services.”

5 ILCS 140/2(c-10)

Must respond within **21** working days after receipt.

FOIA RESPONSE

A FOIA request may be granted, denied, or granted in part and denied in part. **If denying** a request for public records the public body shall notify the requester in writing of:

1. The decision to deny the request,
2. The reasons for the denial, including a detailed factual basis for the application of any exemption claimed, and
3. The names and titles or positions of each person responsible for the denial.

FOIA Response, cont.

In addition, each notice of denial by a public body shall:

1. Inform the requester of his or her right to seek review by the Public Access Counselor,
 2. Provide the address and phone number of the Public Access Counselor,
 3. Inform the requester of his right to judicial review under section 11 of FOIA.
- 5 ILCS 140/9(a)

Failure to Respond

- Failure to respond to a request within the time permitted is considered a denial of the request.
 - A public body that fails to timely respond to a request, but then provides copies of the requested public records **may not impose a fee** for those copies.
 - A public body that fails to respond to a request received *may not treat the request as unduly burdensome* under section 3(g).
- 5 ILCS140/3(d)

Responsive Records

FOIA does not require a public body to create records in order to respond to a FOIA request; rather a public body is required to make records within its possession or control available for inspection and copying. *Workmann v. Illinois State Bd. of Educ.*, 229 Ill. App. 3d 459, 464 (2nd Dist. 1992).

No Duty to Create Records

March 6, 2014: FOIA request for the number of initial claims received against certain licensed physicians. IDPR would have to review files and tally the number of initial claims, requiring it to create records it did not maintain nor was required by law to maintain. Court ruled in favor of public body.

Chicago Tribune Company v. The Department of Financial and Professional Regulation, 2014 IL App. (4th) 13027.

Duty to Extract Data

On the other hand, compiling data or information that a public body maintains in the course of business is NOT creating a new record. Further, school districts can be required to provide information, such as test scores, in a masked and scrambled format.

Ill. Att'y Gen. Pub. Acc. Op. No.12-014, issued December 11, 2012.

Meaning of Public Records

FOIA is not intended to compel public bodies to interpret or advise requesters as to the meaning or significance of the public records.

5 ILCS 140/3.3

Unduly Burdensome Requests

- Before invoking this section, public bodies must extend to requester an opportunity to reduce the request to manageable proportions.
 - The burden of compliance on public body must outweigh public interest in the information.
 - Repeated requests by same person for same records identical to records *previously provided* or *properly denied* are unduly burdensome.
- 5 ILCS 140/3(g)

Unduly Burdensome - Examples

- ... manually locating and compiling large amounts of records from 93 separate facilities or systems over a 23-year time span.
- ... compiling all records, including financial records, school policies, and correspondence for a 12-year period.
- ... only two employees to gather, review, and redact thousands of records from several sources over a six-year span.
- ... creation of new reports to assemble vendor information and payments for rent-related expenses for public housing.

Copying Fees

- A public body is required to furnish copies of public records to a requestor.
- The fee for black and white, letter or legal sized copies may not exceed **15 cents per page**.
- No fees may be charged for the first 50 pages of black and white, letter or legal sized copies.
- If a public body provides copies in color or in a size other than letter or legal, the public body may charge its actual cost for reproducing the records.

5 ILCS 140/6(a)

Fees for Electronic Copies

A public body may only charge the requester for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium.

Statutory fees applicable to copies of public records when furnished in a paper format shall not be applicable to those records when furnished in an electronic format, unless the General Assembly otherwise provides.

5 ILCS 140/6(a)

Fees for Commercial Requests

- "Commercial purpose" means use of any part of public records or information for sale, resale, or solicitation of advertisement for sales or services.
- A public body may charge up to \$10 for each hour spent by personnel in searching for and retrieving a requested record, after the first 8 hours.
- A public body may charge the actual cost of retrieving and transporting public records from a third-party off-site storage facility.
- Public body must provide an accounting of all fees, costs, and personnel hours

5 ILCS 120/6(f).

EXEMPTIONS

To enable public bodies to maintain certain types of sensitive public records confidentially, FOIA provides a number of exceptions to the requirement that public records be made available for public inspection. The exemptions do not, however, prohibit the dissemination of information; rather, they merely authorize the withholding of information. *Roehrborn v. Lambert*, 277 Ill. App. 3d 181, 186 (1st Dist. 1995), *appeal denied*, 166 Ill. 2d 554.

Exemptions, cont.

When public records contain information that is exempt from disclosure under section 7, but also contains information that is not exempt from disclosure, the public body **may elect** to redact exempt information; remaining information shall be made available for inspection and copying.

5 ILCS 140/7(1)

Exceptions to Discretionary Redactions within FOIA

Section 2.10: Certified payroll records, **must redact** certain information;

Section 7(1.5): "Any information exempt from disclosure under the Judicial Privacy Act **shall be redacted** from public records prior to disclosure under this Act."

Information Exempt Under Other Laws

Section 7(1)(a) of FOIA exempts from disclosure:

“Information specifically prohibited from disclosure by federal or State law or rules and regulations implementing federal or State law.”

5 ILCS 140/7(1)(a)

Information Exempt Under Other Laws

Section 7(1)(a) applies only when a law or rule implementing a law *specifically* prohibits the public body from releasing the information in question. *Better Government Ass’n v. Blagojevich*, 899 N.E.2d 382, 389 (4th Dist. 2008).

Examples of 7(1)(a)

Example 1: The Juvenile Court Act mandates that reports in which a minor was arrested and charged **must** be withheld in full. Records are exempt under Section 7(1)(a) and the Juvenile Court Act (705 ILCS 405/1) (West 2012).

Example 2: Section 7 of the Illinois Criminal Identification Act (ICIA) (20 ILCS 2630/7 (West 2012)) specifically prohibits disclosure of information in the Law Enforcement Agencies Data System (LEADS), including vehicle registration information.

7(1)(a) Not Properly Asserted

Example 1: Illinois Supreme Court Rule 415 regulates discovery in criminal cases, but does not preclude defendant from obtaining materials through FOIA that are ordinarily subject to discovery.

See Ill. Att'y. Gen. PAC Req. Rev. Ltr. 11715, issued January 21, 2011, at 2.

Information Exempt Under Other Laws

Section 7.5 of FOIA also exempts information that is exempt under other laws. Section 7.5, however, specifically references statutory exemptions.

Sections 7.5(a) through 7.5(z) list specific statutes.

Examples:

7.5(q) The Personnel Record Review Act.
(Exempts evaluations of employees)

7.5(r) -The Illinois School Student Records Act
(Exempts individually identifiable student records, parent/teacher communications)

Private Information

“Private information” is exempt from disclosure unless disclosure is required by another provision of the Freedom of Information Act, a State or federal law or a court order.

5 ILCS 140/7(1)(b)

Private Information

Unique identifiers, including:

- Social Security Numbers
 - Driver's License Number s
 - Employee Identification Number s
 - Biometric Identifiers,
 - Personal Financial Information
 - Passwords or Other Access Codes
 - Medical Records
 - Home or Personal Telephone Numbers
 - Personal Email Addresses
- 5 ILCS 140/2(c-5)

Personal Information

Section 7(1)(c) of FOIA exempts
"Personal information contained within
public records, the disclosure of which
would constitute a clearly unwarranted
invasion of personal privacy, unless the
disclosure is consented to in writing by the
individual subjects of the information[.]"
5 ILCS 140/7(1)(c)

Personal Information, cont.

"Unwarranted invasion of personal privacy"
means the disclosure of information that is

- Highly personal or objectionable to a reasonable person, and in which the
- Subject's right to privacy outweighs any legitimate public interest in obtaining the information.

Deliberative Process/Preliminary Documents

Also exempted from disclosure under FOIA are:

“Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated, except that a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body.”

5 ILCS 140/7(1)(f)

Deliberative Process/Preliminary Documents

The purpose of the deliberative process privilege is to allow agencies to “explore possibilities, engage in internal debates, or play devil’s advocate without fear of public scrutiny.”

Assembly of the State of California v. United States Department of Commerce, 797 F.Supp.1554, 1556 E.D. Cal. 1992), *aff’d*, 968 F.2d 916 (9th Cir. 1992).

Deliberative Process/Preliminary Documents

- Portions of police reports setting forth factual data are not within the deliberative process exemption. See *Matter of Gould v. New York City Police Dep’t*, 89 N.Y.2d 267, 277; 675 N.E.2d 808, 813 (1996)
- Statistical Data is not exempt from disclosure under section 7(1)(f). See Ill. Att’y Gen. Pub. Acc. Op. No. 13-015, issued September 24, 2013

Privileged Information

Section 7(1)(m) of FOIA exempts from inspection and copying:

Communications between a public body and an attorney **or auditor** representing the public body that would not be subject to discovery in litigation, and materials prepared or compiled by or for a public body in anticipation of a criminal, civil or administrative proceeding upon the request of an attorney advising the public body, **and materials prepared or compiled with respect to internal audits of public bodies.**

(Emphasis added)

Attorney/Client Communication

Section 7(1)(m) does not exempt from disclosure generic descriptions of tasks an attorney performed contained in invoices, such as "read e-mail," "telephone conference," and "court appearance." A public body may redact only information that could reveal legal advice provided or a substantive communication between an attorney and a representative of the public body.

Ill. Att'y Gen. Pub. Acc. Op. No. 12-005, issued March 12, 2012.

RECURRENT REQUESTER

A person who, in the 12 months immediately preceding the request, has submitted to the same public body:

- (i) a minimum of 50 requests for records,
- (ii) a minimum of 15 requests for records within a 30-day period,
- (iii) a minimum of 7 requests for records within a 7-day period. 5 ILCS 140/2(g)

News media and non-profit, scientific, or academic organizations are generally excluded.

Request

A request means a written document (or oral request, if the public body chooses to honor oral requests) that is submitted to a public body via personal delivery, mail, telefax, electronic mail, or other means available to the public body and that identifies the particular public record the requester seeks. One request may identify multiple records to be inspected or copied.
5 ILCS 140/2(g).

Notification

Within **5** business days after receiving a request from a recurrent requester, a public body must notify the requester:

1. That the request is being treated as a recurrent request,
2. Of the reasons why the request is being treated as a recurrent request, and
3. That the public body will send an initial response within 21 business days after receipt, in accordance with subsection 3.2(a) of FOIA.

Notification, cont.

The public body shall also notify the requester of the proposed responses that can be asserted to a recurrent requester.
5 ILCS 120/3.2(b).

Response

A public body must respond to a recurrent requester within **21** working days by:

1. Providing the records;
2. Advising when the records will be furnished and the cost;
3. Denying the request if the records are exempted from disclosure; or
4. Advising that the request is unduly burdensome and must be narrowed.

Recurrent Requester, cont.

Unless the records are exempt from disclosure, a public body shall comply with a request from a recurrent requester within a *reasonable period* considering the size and complexity of the request.

5 ILCS 140/3.2(c).

Open Meetings Act

OMA Public Policy

"The General Assembly * * * declares it to be the public policy of this State that its citizens shall be given **advance notice of and the right to attend** all meetings at which any business of a public body is discussed or acted upon in any way."

"[T]he people have a right to be informed as to the conduct of their business."

5 ILCS 120/1.

OMA Training Requirement

P.A. 97-0504 **Effective January 1, 2012**

Each elected or appointed member of a public body subject OMA must complete the electronic training curriculum developed and administered by the Public Access Counselor, available at

http://foia.ilattorneygeneral.net/electronic_foia_training.aspx

and file a copy of the certificate of completion with the public body.

5 ILCS 140/1.05.

OMA Training cont.

Any person who was an elected or appointed member of a public body subject to the Act on January 1, 2012, should have completed the electronic training between January 1, 2012, and January 1, 2013.

The requirement is ongoing; if for any reason a public body member failed to take the training in 2012, he or she must still do so.

- One-time training requirement for members, OMA designees must complete each year.

The Meeting

OMA defines a meeting as “[a]ny ***gathering*** of a ***majority of a quorum*** for the purpose of ***discussing public business.***”

5 ILCS 120/1.02

➤ Requirements of OMA apply.

Gathering

May be in person OR electronically – people may “gather” from remote locations through the use of telephones, audio- and video-conferencing, and the Internet, or other means of “contemporaneous interactive communication.”

5 ILCS 120/1.02

Meeting Attendance

- Before allowing a member to attend electronically, a public body must adopt a rule or regulation permitting electronic attendance. 5 ILCS 120/7(c).
- Generally, a quorum must be *physically present* at the meeting in order for the member to attend electronically. 5 ILCS 120/7(a)..

Attendance by Other Means

If a public body has adopted rules allowing for electronic attendance, a member may attend a meeting electronically if the absence is because of:

- Personal illness or disability;
- Employment purpose or business of the public body; or
- Family or other emergency.

5 ILCS 120/7(a).

▪

Majority of a Quorum

Board Number	Quorum	Majority of Quorum
13	7	4
11	6	4
9	5	3*
7	4	3
5	3	3**
3	2	2

*A quorum cannot include half-a-person.

**Special rule for 5-member public body.

Hypothetical

While serving as a member of your seven-member public body, you have become friends with several other board members who share your interests. You and three other board members routinely meet for yoga sessions at a local health club. On the morning of an anticipated controversial meeting, the three of you get together during a yoga class and discuss how the issues could be resolved.

Have you violated OMA?

Choose your Answer:

- a) No, because a quorum of the board was not present at the yoga session.
- b) No, because you are supposed to focus on breathing so you can't really talk.
- c) Yes, because there was a gathering of a majority of a quorum of the board at which business of the board was discussed, and the public had no notice or opportunity to attend.

Notice

- Regular meetings = 48 hours notice.
- Special meetings = 48 hours.
- Emergency meetings = as soon as possible.

5 ILCS 120/2.02 (a).

Notice

- Public notice of the meeting must be posted at the principal office of the body holding the meeting.
- If no such office exists, notice must be posted where the meeting is held.
- Notice must be placed on the website if the public body has a full-time staff that maintains the website.

5 ILCS 120/2.02(b).

Posting

On a Friday, the City Administrator forgets to post the agenda for the Monday meeting. The Village President calls him that night and reminds him. "Don't worry," says the City Administrator, "I'll just post it on Facebook. That way, it will be online 48 hours prior to the meeting."

Would this satisfy the requirements of OMA?

The Agenda

- Notice as to the issues.
- Must be specific as to any final action.
- A public body may discuss matters not on the agenda. In re *Foxfield Subdivision*, 396 Ill.App.3d 989, 995 (2nd Dist. 2009).

Agenda Requirements

1. Any required agenda must set forth the **general subject matter** of any resolution or ordinance that will be the subject of **final action** at the meeting.
2. Notice and agenda for meeting must be continuously available for public review during entire 48-hour period preceding the meeting – website posting satisfies this continuous posting requirement.
5 ILCS 120/2.02(c)

Amending Agenda

A posted meeting agenda may be revised or corrected at any time prior to a public meeting; provided, however, that no new items on which final action is to be taken may be added less than 48 hours prior to a meeting.

Ill. Att'y Gen. Pub. Acc. Op. No. 14-003, issued May 5, 2014.

Meeting Minutes

Public Bodies must keep written minutes of all meetings, whether open or closed, and a verbatim recording of all closed sessions in the form of audio or video recording.

Meeting Minutes

- Session minutes must include:
 - Date, time and place;
 - Summary of discussion of all matters proposed, deliberated or decided;
 - Names of all members present and absent; and
 - A record of any votes taken.

Closed Session

Section 2(c) of OMA authorizes 30 exceptions for a public body to close an open session.

Exceptions authorize but do not require the holding of a closed session.

5 ILCS 120/2(c).

Entering Closed Session

- Start in open session
- Vote to close
- Cite to the specific statutory exception
- Exclude the public and enter the closed session.

Closed Session

- Verbatim recording (must tape it).
- Must generate session minutes.
- NO FINAL ACTION!!!

OMA – Right to Speak

“Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body.”

5 ILCS 120/2.06(g)

Public Comment

Public body should establish rules governing that right. These would include:

- The amount of time a citizen may speak.
- Other matters relating to decorum and procedure.

Hypothetical

Eager to comply with OMA, the County Board adopts the following rule for public comment:

Any person seeking to address the Board must send a written request to the clerk three business days before the meeting including his or her name, address, and telephone number, and identifying the nature of the proposed comments.

Does this rule comply with section 2.06(g) of OMA?

Rules Governing Public Comment

"[A]ny person shall be permitted an opportunity to address public officials[,] therefore a person's right to comment at an open meeting is not contingent upon where he or she resides. * * * Requiring a member of the public to provide his or her home address prior to speaking may have a chilling effect on individuals who wish to speak at public meetings. Therefore, we conclude that requiring speakers to state their home addresses prior to addressing public bodies violates section 2.06(g) of OMA, even if such a rule is established and recorded in a municipal ordinance."

Ill. Att'y Gen. Pub. Acc. Op. No. 14-009, issued September 4, 2014, at 7.

Rules Governing Public Comment

- The Attorney General concluded that rule requiring five days advance written notice to address county board violated section 2.06(g) of OMA.

"The Board has not provided any explanation of why five working days' advance notice is reasonably necessary to protect a significant governmental interest. Rather than accommodating public comment, this rule appears to unreasonably restrict members of the public from exercising their statutory right to address the Board."

Ill. Att'y Gen. Pub. Acc. Op. No.14-012, issued September 30, 2014, at 6.

New Legislation 2014

- Public Act 98-695, effective July 3, 2014, amends FOIA exemption 7(1)(hh) by changing the School Code section cited to 2-3.160.
- Public Act 98-756, effective July 16, 2014, is a General Revisory Act intended to make technical corrections and revisions. The OMA Concealed Carry Licensing Board exception was re-numbered to 2(c)(31), and the spelling of a word was corrected in section 3.2(a) of FOIA.

New Legislation, cont.

- Public Act 98-806, effective January 15, 2015, will exclude "a regional youth advisory board or the Statewide Youth Advisory Board established under the Department of Children and Family Services Statewide Youth Advisory Board Act" from the definition of a public body under both OMA and FOIA.
- Public Act 98-900, effective August 15, 2014, provides that "an elected or appointed member of a public body of a park district, forest preserve district, or conservation district" may satisfy the OMA online training requirements by alternative means.

New Legislation, cont.

- Public Act 98-992, effective August 18, 2014, amends OMA to add "a local workforce investment area with jurisdiction over a specific geographic area of more than 4,500 square miles" to the list of public bodies that need not have a quorum physically present at one location for a meeting, and exempts these public bodies from the usual remote attendance requirements.
- Public Act 98-1027, effective January 15, 2015, adds a closed session exception to section 2 of OMA (2(c)(32)) for certain discussions of the Regional Transportation Authority Board.

New Legislation, cont.

- Public Act 98-1039, effective August 25, 2014, makes minor changes to the language of OMA open meeting exception 2(c)(30) and two FOIA statutory exemptions, sections 7.5(y) and 7.5(z), including removing the term "at-risk adult."

Contact Information

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