



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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May 8, 2026

Via electronic mail

Mr. John Kraft
john@illinoisleaks.com

Via electronic mail

Mr. Scott E. Rice
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c/o Ms. Andrea Schneider
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RE: OMA Request for Review – 2025 PAC 87466

Dear Mr. Kraft and Mr. Rice:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2024)). For the reasons explained below, the Public Access Bureau concludes that the University of Illinois Board of Trustees (Board) violated Section 2.06(g) of OMA (5 ILCS 120/2.06(g) (West 2024)) in connection with its May 22, 2025, meeting.

BACKGROUND

On June 15, 2025, this office received a Request for Review from Mr. John Kraft alleging that the Board's public comment rule, which requires persons who wish to address the

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Board request permission to do so in writing three business days before the meeting, violates OMA. Specifically, Mr. Kraft stated:

I am alleging the University of Illinois violated the Open Meetings Act, Section 2.06, Right to Speak.

See attached pdf, which is the original request to speak, their reply, and my response which went unanswered.

-On May 20, 2025, at 8:35 a.m., I emailed a request to speak at the May 22 board meeting

-On May 20, 2025, at 12:58 p.m., the university denied my request stating it was received after the 3-working day posted deadline

-On May 20, 2025, at 1:17 p.m., I responded, providing a link to AG Binding Opinion 14-012, and asked them to reconsider – no response was returned

-The board denied my right to speak at its May 22, 2025 meeting

The PAC has previously determined, in Binding Opinion 14-012, that requiring advanced notice to speak prior to the mandated 48-hour meeting notice requirements in the OMA violates the Open Meetings Act.^[1] (Emphasis in original.)

In support of his allegation, Mr. Kraft submitted a copy of his May 20, 2025, e-mail to the Office of the Secretary for the Board, requesting to provide public comment about the Board's public comment policy at the May 22, 2025, meeting. He also provided a copy of Ms. Marla Todd's, the Board's Assistant Secretary, May 20, 2025, e-mail response denying his request. Ms. Todd responded: "I am writing regarding your request to speak at the Board of Trustees meeting on Thursday, May 22, 2025, in Champaign. Because your request was received after the posted deadline of 8:00am on Monday, May 19, Secretary Stein is unable to approve your request."² Mr. Kraft responded on May 20, 2025, requesting that the Board reconsider that denial, citing Ill. Att'y Gen. Pub. Acc. Op. No. 14-012, issued September 30, 2014. Mr. Kraft asserts that the Board did not respond to his request to reconsider.

On June 26, 2025, this office sent a copy of the Request for Review to the Board and requested that the Board or its representative provide a written response to the allegations in

¹ E-mail from John Kraft, Edgar County Watchdogs, Inc., to AG PAC (June 15, 2025).

²E-mail from Marla Todd, Assistant Secretary, Office of the Secretary of the Board of Trustees and of the University, University of Illinois System, to John Kraft (May 20, 2025).

the Request for Review. We also asked the Board to provide copies of all requests that were submitted to participate in the public comment portion of the Board's May 22, 2025, meeting as well as copies of the Board's responses to those requests.

On July 8, 2025, the Board submitted a response letter and the requested materials, asserting that the Board's policy complies with OMA, as the Board was following its properly established and recorded rules concerning public comment. On July 21, 2025, Mr. Kraft replied to the Board as follows:

The board admits it requires signing up for public comment three business days prior to a meeting. * * * The board states they allow a total of thirty minutes per meeting for public comment. The board admits that, for the meeting in question, there were five people signed up in advance (which would have taken fifteen of the thirty minutes allotted for public comment). Even if all five advanced sign-ups actual spoke at the meeting, this left enough time for an additional five speakers to speak for three minutes each. The rules established by this board are unreasonable and serve to restrict public comment.^[3]

DETERMINATION

Section 2.06(g) of OMA provides that "[a]ny person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body."

The Board's rules governing public comment provide, in pertinent part:

1. Requests to address the Board: Requests to appear before the Board to make comments to or ask questions of the Board must be received by the Secretary in writing no later than three business days before the Board meeting at which the individual wishes to speak. The Secretary will review this request and notify the person making the request whether he/she may give public comment at the next meeting. The request should set out clearly the nature of the subject matter to be presented and must relate to matters within the jurisdiction of the Board of Trustees. In making a request to appear before the Board, individuals must give their

³E-mail from John Kraft to Steven Silverman (July 21, 2025).

names and any relevant title or affiliation. Substitute speakers will not be permitted.^[4]

In its response to this office, the Board acknowledged that it denied Mr. Kraft's request to address the Board because he did not submit his request at least three business days before the meeting. The Board asserted that the plain language of section 2.06(g) gives public bodies unfettered discretion to restrict public comment as long as they do so in accordance with their established and recorded rules: "Had the drafters of the OMA intended for there to be constraints on the rules public bodies could enact regarding public comment, the text of Section 2.06(g) would reflect those limitations."⁵ In support of this assertion, the Board cites the following comment by Representative Kosel on May 26, 2010, during the House Debate on House Bill 5483 (which as Public Act 96-1473, effective August 23, 2010, enacted section 2.06(g) of OMA): "Senate Amendment #2 clarifies that local governing bodies are able to create whatever rules they would like to create for open meeting comment." That amendment to the wording of section 2.06(g) provided that members of the public would be permitted to address "public officials under the" rules of the public body. 96th Ill. Gen. Assembly, House Bill 5483, Senate Amendment No. 2, 2010 Sess.

The primary objective when construing the meaning of a statute is to ascertain and give effect to the intent of the General Assembly. *DeLuna v. Burciaga*, 223 Ill. 2d 49, 59 (2006). A reviewing body "has a duty to avoid a construction of the statute that would defeat the statute's purpose or yield an absurd or unjust result." *People v. Latona*, 184 Ill. 2d 260, 269 (1998). Statutes must be construed "so that each word, clause, and sentence, if possible, is given a reasonable meaning and not rendered superfluous [citation], avoiding an interpretation which would render any portion of the statute meaningless or void."

"Section 2.06(g) of OMA cannot reasonably be construed as granting members of the public a statutory right to address public officials on the one hand while permitting public bodies to unconditionally abridge that right." Ill. Att'y Gen. PAC Req. Rev. Ltr. 45349, issued March 16, 2017, at 3. The right to address public officials would be rendered meaningless if section 2.06(g) authorized public bodies to impose any limit on public comment—no matter how restrictive—simply by establishing and recording a rule. Such an interpretation would, for example, permit public bodies to categorically prohibit members of the public from addressing public officials at certain meetings altogether, or limit each speaker's opportunity to provide comment to just a few seconds. The amendment to House Bill 5483 and one-sentence comment

⁴University of Illinois Board of Trustees, Procedures Governing Appearances Before the Board of Trustees (revised July 11, 2024).

⁵Letter from Scott E. Rice, University Counsel, to Steve Silverman, Bureau Chief, Public Access Bureau, Office of the Attorney General (July 8, 2025), at 3.

by Representative Kosel do not demonstrate that the General Assembly intended such a result. The language of the amendment, which created a right to address public officials that did not previously exist, also must be given effect. *People v. Woodward*, 175 Ill. 2d 435, 444 (1997) (a reviewing body "must consider the language of an amended statute in light of the need for amendment and the purpose it serves."). If public bodies had unlimited discretion to impose restrictive rules under section 2.06(g) of OMA, the right to address public officials articulated by that provision would be no right at all.

The Attorney General has issued a binding opinion which concluded that "public bodies may generally promulgate reasonable 'time, place and manner' regulations that are necessary to further a significant governmental interest. * * * [T]he primary purpose of adopting rules governing public comment pursuant to section 2.06(g) of OMA is to accommodate the speaker's statutory right to address the public body, while ensuring that the public body can maintain order and decorum at public meetings." Ill. Att'y Gen. Pub. Acc. Op. 14-012, at 5-6. Because section 2.06(g) is intended to ensure that members of the public have an opportunity to address public officials at open meetings, rules adopted under 2.06(g) are invalid when they do not reasonably "accommodate a speaker's statutory right to address the public body, while ensuring that the public body can maintain order and decorum at public meetings." Ill. Att'y Gen. Pub. Acc. Op. 14-012, at 6. Accordingly, our determination in this matter hinges on whether the Board's requirement that speakers sign up for public comment at least three business days before its meetings is a reasonable rule.

The Board asserts that its rules ensure that the Board hears public comment on a diversity of relevant issues and that the Board is able to carry out efficient and effective meetings, adding that "[t]he requirement to submit requests for public comment three days before the Board meeting allows the Secretary to review the requests, determine which requests to grant pursuant to the [rules], and prepare for the meeting."⁶ In support of the advance sign up requirement, the Board stated that decisions must be made after the deadline expires so the requests may be reviewed to determine "which have been submitted in accordance with the [rules] and, **if the Secretary receives requests in excess of the allotted thirty minutes**, how to prioritize the requests to maximize the diversity and number of public comments the Board is able to hear."⁷ (Emphasis added.) Notably, the Board's response to this office stated that at the May 22, 2025, meeting where Mr. Kraft was prohibited from addressing the Board, three speakers provided public comment for a total of nine minutes and that two additional speakers who signed up for public comment cancelled.

⁶Letter from Scott E. Rice, University Counsel, to Steve Silverman, Bureau Chief, Public Access Bureau, Office of the Attorney General (July 8, 2025), at 4.

⁷Letter from Scott E. Rice, University Counsel, to Steve Silverman, Bureau Chief, Public Access Bureau, Office of the Attorney General (July 8, 2025), at 4.

A rule that promotes order by requiring members of the public to sign up in advance to address a public body does not violate the First Amendment to the United States Constitution if it is reasonable in time and scope. *Timmon v. Jeffries*, No. 1:08-CV-645, 2009 WL 270043, at *3 (W.D. Mich. Jan. 30, 2009) (collection of sign-up forms immediately before public comment portion of meeting was a permissible narrowly tailored restriction); *see also Bach v. School Board of City of Virginia Beach*, 139 F. Supp. 2d 738, 741 (E.D. Va. 2001) (requiring speakers to sign up in advance of meeting is a reasonable content neutral regulation). However, an advance sign-up rule that is enforced to prevent a member of the public from addressing a public body violates OMA if it is not reasonably necessary to promote a significant governmental interest. *Compare* Ill. Att'y Gen. Pub. Acc. Op. No. 14-012, at 6 (rule requiring members of the public to sign up to comment five days in advance of meetings, before the board was required to post its agenda, imposed an unreasonable restriction on public comment); *with* Ill. Att'y Gen. PAC Req. Rev. Ltr. 39640, issued June 22, 2016, at 3 (rule requiring prospective commenters to sign up by start of meeting did not unreasonably restrict the right to public comment).

The Board rule cited above, pursuant to which Mr. Kraft's request to address that Board was denied, contains five requirements. A request must be made: (1) to the Secretary; (2) in writing; (3) no later than three business days before the next scheduled Board meeting; (4) with the subject matter stated; and (5) with the subject matter relating to the matters within the jurisdiction of the Board. Requiring written notice "three business days before" a meeting means that it is possible that a request to address the Board is required before the Board is legally required to post a notice or agenda for such meeting. Because section 2.02(a) of OMA (5 ILCS 120/2.02(a) (West 2024)) only requires the Board to post an agenda at least 48 hours in advance of the meeting, a person must request permission to speak and provide the topic of his or her comments *before* the Board is required to post its meeting agenda.

The Board's response to this office emphasized that although not required by law, its "meeting agenda is purposefully posted several days before the public comment deadline specifically to allow the public time to review the agenda and determine if they would like to request to speak."⁸ The Board added that "members of the public are permitted to make a request to address the Board at any time prior to the deadline under the [rules], meaning they do not need to wait for the agenda to be posted to submit their request."⁹ The Board argued that Mr. Kraft "could have easily" signed up for public comment at least three business days before the May 22, 2025, meeting because the topic he wished to address—the Board's public comment

⁸Letter from Scott E. Rice, University Counsel, to Steve Silverman, Bureau Chief, Public Access Bureau, Office of the Attorney General (July 8, 2025), at 5.

⁹Letter from Scott E. Rice, University Counsel, to Steve Silverman, Bureau Chief, Public Access Bureau, Office of the Attorney General (July 8, 2025), at 5.

rules—was not an agenda item.¹⁰ That presumes Mr. Kraft determined that he wished to comment on the Board's public comment rules several days before the May 22, 2025, and before the deadline for signing up expired.

As noted above, public comment at the Board's May 22, 2025, meeting consisted of three speakers addressing the Board for a total of nine minutes. Even if the two other speakers who signed up but cancelled had addressed the Board, 15 minutes of the allotted public time would still have been available under the Board's rules. Although there may be meetings where the number of requests to address the Board exceed the 30-minute limit, rigidly enforcing a three-business day advance sign-up requirement regardless of the number of speakers who have submitted requests is not a reasonable restriction on public comment.

Further, the Public Access Bureau has previously determined that the same rule at issue in this Request for Review—the Board's requirement that an individual wishing to speak at a Board meeting must sign up no later than three business days before the meeting—violates section 2.06(g) of OMA. Ill. Att'y Gen. PAC Req. Rev. Ltr. 50470, issued April 18, 2018, at 5. This office determined that "[a] sign up sheet set out just prior to the meeting asking for the names of individuals who wish to address the Board could accomplish the same goal of running a timely and orderly meeting, but in a much less restrictive manner."¹¹ That determination involved a small village board, and this office does not discount the possibility that some larger public bodies with higher attendance and interest in public comment may require some additional time to make arrangements. But it is unreasonable to prohibit speakers from addressing the Board unless they submit a request to do so at least three business days prior to a meeting and before OMA requires the meeting agenda to be posted, regardless of the Board's historical practice of posting the agenda well in advance of the statutory 48-hour deadline. While there is a governmental interest in making plans for an efficient meeting and maintaining order and decorum, the Board has not shown that the three business-day advance sign-up requirement is reasonably necessary to protect a significant governmental interest, particularly when the Board could legally hold a meeting with merely 48 hours of advance notice. Given that the May 22, 2025, Board meeting only had five requests to address the Board, leaving half of the allotted 30 minutes of public comment available, it is apparent that the application of this rule did not accommodate public comment, but instead unreasonably restricted members of the public from exercising their statutory right to address the Board.

In this instance, Mr. Kraft submitted his request to address the Board in writing to the Board Secretary nearly 48 hours before the May 22, 2025, meeting. The Board has not asserted that it was unable to accommodate his request without disrupting its ability to hold an

¹⁰Letter from Scott E. Rice, University Counsel, to Steve Silverman, Bureau Chief, Public Access Bureau, Office of the Attorney General (July 8, 2025), at 5.

¹¹ Ill. Att'y Gen. PAC Req. Rev. Ltr. 50470, issued April 18, 2018, at 5.

Mr. John Kraft
Mr. Scott E. Rice
May 8, 2026
Page 8

efficient meeting, that doing so would have made it more difficult for the Board to maintain order or decorum at the meeting, or that denying the request was reasonably necessary to further another significant public interest. Nevertheless, the Board declined to permit Mr. Kraft to address the Board because he failed to submit a written request at least three business days before the meeting as required by the Board rule. The Board's response to this Request for Review provides no reason for this office to depart from its prior determination that a three-business-day advance sign-up requirement unreasonably restricts public comment. Accordingly, this office concludes that the Board violated section 2.06(g) of OMA by denying Mr. Kraft's request to address the Board.

In accordance with the conclusions expressed above, this office requests that the Board revise its rule that currently requires prospective speakers to submit requests to participate in public comment at least three business days before Board meetings. If the Board chooses to require speakers to submit requests to speak before its meetings commence, it should prioritize the public's statutory right to address the Board over administrative convenience and refrain from imposing a deadline that exceeds the minimum amount of time necessary to make arrangements for an efficient meeting. This office also recommends that the Board's rule acknowledge the possibility of allowing the public to sign up after the deadline until enough speakers have been selected to fill the full 30-minute period that the Board allots for public comment, and to apply the rule to permit additional speakers who sign up after the deadline, when time during the meeting permits.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. If you have any questions, please contact me at Michael.Malik@ilag.gov. This file is closed.

Very truly yours,



MICHAEL G. MALIK
Assistant Attorney General
Public Access Bureau

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