



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

October 4, 2023

*Via electronic mail*



RE: OMA Request for Review – 2023 PAC 77831

Dear 

This determination is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(b) (West 2022)). For the reasons that follow, the Public Access Bureau has determined that this Request for Review is unfounded.

On August 22, 2023, you submitted a Request for Review alleging that the Coles County Board (Board) violated OMA during its August 8, 2023, meeting, when the Board Chairman did not allow a named member of the public a full three minutes of public speaking time despite not having established and recorded public comment rules. You also alleged that the Board then improperly had the member of the public removed from the meeting. You included a link to a video recording of the August 8, 2023, Board meeting.

Section 2.06(g) of OMA (5 ILCS 120/2.06(g) (West 2022)) provides: "Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body." The plain language of section 2.06(g) requires a public body to permit an opportunity for public comment, subject only to the rules it has established and recorded. A public body violates section 2.06(g) of OMA when it either (1) prohibits a member of the public from addressing its members in a manner inconsistent with its established and recorded rules, or (2) prohibits a member of the public from providing public comment pursuant to its established and recorded rules, but those rules unreasonably restrict that person's right to address public officials. *See* Ill. Att'y Gen. Pub. Acc. Op. No. 14-009, issued September 4, 2014, at 5-7. Pursuant to its established and recorded rules, "a public body may legitimately prescribe reasonable time limits for public comment." Ill. Att'y Gen. Pub. Acc. Op. No. 14-012, issued September 30, 2014, at 5-6. This office has previously determined that a brief interruption that does not preclude a speaker from completing his or her public comment does not constitute an

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improper restriction on public comment. *See, for example*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 37496, issued December 11, 2015, at 3.

On September 11, 2023, an Assistant Attorney General (AAG) in the Public Access Bureau contacted the Board to clarify whether the Board had adopted rules regarding public comment. On September 15, 2023, the Board provided this office with copies of two resolutions governing public comment,<sup>1</sup> and confirmed that the two resolutions were the complete set of the Board's rules governing public comment. The resolutions each provide that "[a] public comment for any person is restricted to 3 minutes[,]" though the chairman or a majority of the Board may elect to grant additional time.

This office has reviewed the video recording you provided of the Board's August 8, 2023, meeting. The recording demonstrates that during the speaker's public comment time, he made comments interspersed with questions posed to Chairman Darrell Cox and the Board.<sup>2</sup> The video depicts the Chairman responding to questions posed by the speaker.<sup>3</sup> The video also demonstrates that the speaker was provided three full minutes for public comment in accordance with the Board's established and recorded rules. Because the Chairman did not interrupt the speaker but instead engaged with the speaker's questions, and because the speaker was allowed to participate in public comment for the amount of time permitted by Board rules, this office concludes that the allegation the Board improperly restricted the person's public comment is unfounded.

As to your allegation that the member of the public was improperly removed from the meeting, the Public Access Bureau has previously determined that a public body is not required to allow a member of the public to cede time to another member of the public who has already addressed the public body for the full time allotted, absent a public comment rule adopted by the public body that requires time to be ceded upon request. *See, for example*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 63099, issued June 16, 2020, at 3. The Board does not have an established and recorded rule that would require the Board to allow a member to cede public comment time to another member. The video recording of the meeting demonstrates that the Chairman did not allow a member of the public to cede his public comment time to the previous speaker, who was subsequently removed when he refused to acknowledge the Chairman and

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<sup>1</sup>Coles County Board, Resolution Regulating the Right of the Public to Speak at Open Meetings (March 14, 2017); Coles County Board, Amendment to the Resolution Regulating the Right of the Public to Speak at Open Meetings (February 13, 2019).

<sup>2</sup>Edgar County Watchdogs, *Coles County - 8.8.2023*, Facebook, video recording at 17:15 (August 8, 2023), <https://www.facebook.com/100063665378559/videos/1842655446189511/>

<sup>3</sup>Edgar County Watchdogs, *Coles County - 8.8.2023*, Facebook, video recording at 17:26 (August 8, 2023), <https://www.facebook.com/100063665378559/videos/1842655446189511/>.

  
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continued to speak to the Board.<sup>4</sup> It is evident from the video you provided that the named speaker's refusal to adhere to the Chairman's valid direction to cease providing a second public comment disrupted the meeting. When a member of the public continues to engage in disruptive conduct at an open meeting, a public body may remove the person to restore order and maintain decorum. For instance, in *Eichenlaub v. Township of Indiana*, 385 F.3d 274, 281 (8th Cir. 2004), the appellate court explained that a township board did not improperly remove a member of the public for disrupting a meeting because:

Restricting such behavior is the sort of time, place, and manner regulation that passes muster under the most stringent scrutiny for a public forum. Indeed, for the presiding officer of a public meeting to allow a speaker to try to hijack the proceedings, or to filibuster them, would impinge on the First Amendment rights of other would-be participants.

Under these circumstances, the allegation that the Board improperly removed a member of the public for causing a disruption of Board business during the August 8, 2023, meeting is unfounded.

This file is closed. If you have any questions, please contact me at 773-590-6840, [matthew.goodman@ilag.gov](mailto:matthew.goodman@ilag.gov), or at the Chicago address listed on the bottom of the first page of this letter.

Very truly yours,



MATT GOODMAN  
Assistant Attorney General  
Public Access Bureau

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<sup>4</sup>Edgar County Watchdogs, *Coles County - 8.8.2023*, Facebook, video recording at 21:50-23:00 (August 8, 2023), <https://www.facebook.com/100063665378559/videos/1842655446189511/>.



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cc: *Via electronic mail*  
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Coles County Board  
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