



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

February 29, 2024

Via electronic mail

[REDACTED]

RE: OMA Request for Review: 2024 PAC 80267

Dear [REDACTED]:

On February 22, 2024, this office received your Request for Review in which you alleged that the Oswego Public Library District Board of Trustees (Board) violated the requirements of the Open Meetings Act (OMA)¹ during its January 24, 2024, meeting. For the reasons discussed below, this office has determined that no further action is warranted in this matter.

Your Request for Review alleges that the Board violated OMA during its January 24, 2024, meeting by allowing "three members of the public to exceed the three minute time limit with comments that were in agreement with the Board. The Board also permitted total public comments to exceed the 30 minute limit, to allow time for sympathetic speakers."² You also alleged that "[a]t other meetings, when speakers expressed views that opposed the opinion of the Board President, the President attempted to stop, restrict, or eliminate their speech. The Board is selectively applying their policy and disregarding the First Amendment by favoring or restricting speech based upon content."³ With your Request for Review, you included a copy of the Board's rules for public comment, which indicate that the public participation period would last for a maximum of 30 minutes, with each person permitted to speak for three minutes. The rules also indicate that individuals are encouraged to sign in if they wish to address the Board.

¹5 ILCS 120/1 *et seq.* (West 2022).

²E-mail from [REDACTED] to [Public Access] (February 22, 2024).

³E-mail from [REDACTED] to [Public Access] (February 22, 2024).

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Section 2.06(g) of OMA⁴ provides that "[a]ny person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body." A public body violates section 2.06(g) of OMA when it: (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. Ill. Att'y Gen. Pub. Acc. Op. No. 14-009, issued September 4, 2014, at 5-7. This office has previously determined that to warrant further action by this office, a Request for Review concerning public comment must set forth facts indicating that a member of the public attempted to address public officials during an open meeting but was improperly restricted by the public body from doing so. *See, for example*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 42017, issued June 1, 2016, at 1-2 (determining that a Request for Review alleging that a board's public comment rules violated section 2.06(g) of OMA did not warrant further inquiry because the Request for Review did not allege that anyone who attempted to address the board during an open meeting was improperly denied an opportunity to speak).

This office has reviewed the recording of the public comment portion of the January 24, 2024, meeting. Fifteen members of the public addressed the Board, four members of the public spoke for longer than three minutes, and the Board permitted the period for public comment to last approximately 37 minutes. Three of the members who spoke for longer than three minutes appeared to speak favorably of the Board;⁵ one member appeared to oppose the position of the Board.⁶ One of the individuals who spoke favorably of the Board was interrupted and reminded of the three minute limitation.⁷ This office also observed that the Board permitted a member of the public to address it even though that individual had not signed in and the public comment period was already over 30 minutes. That individual's viewpoint appeared to oppose the position of the Board.⁸

You do not allege that anyone was prohibited from addressing the Board for at least three minutes during the January 24, 2024, meeting, rather you allege that the Board

⁴5 ILCS 120/2.06(g) (West 2022).

⁵Oswego Public Library District Board of Trustees, Meeting (January 24, 2024), at approximately 34:30 - 37:52; 40:35 - 44:06; 44:15 - 49:09.

⁶Oswego Public Library District Board of Trustees, Meeting (January 24, 2024), at approximately 49:20 - 52:46.

⁷Oswego Public Library District Board of Trustees, Meeting (January 24, 2024), at approximately 49:00.

⁸Oswego Public Library District Board of Trustees, Meeting (January 24, 2024), at approximately 1:09:40.

February 29, 2024

Page 3

violated OMA by permitting certain individuals to speak for more than three minutes. This office has confirmed that no one's comments were restricted to less than three minutes.

"The 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. No. 14-012, issued September 30, 2014, at 6. Unlike, for example, a public body cutting off a comment before it reached the time limit listed in its rules, allowing a person to deliver a comment longer than the time limit generally would not violate section 2.06(g) of OMA. Although a public body must abide by its established and recorded rules when restricting public comment, a public body does not violate OMA when it allows comments to be given or read. *See* Ill. Att'y Gen. PAC Req. Rev. Ltr. 64514, issued September 1, 2020, at 2 (concluding that a public body did not violate OMA when it read a public comment that was longer than permitted by the public body's rules). Based on this office's review of the recording of the January 24, 2024, meeting, there is no indication that the Board selectively permitted certain speakers to exceed the three-minute time period in order to deprive other members of the public of an opportunity to participate in public comment or limit their ability to speak against the Board's position. Therefore, the Board did not violate OMA by permitting some speakers to address it for longer than three minutes. Because your Request for Review did not allege facts supporting the allegation that the Board violated section 2.06(g) of OMA, this office will take no further action in this matter.⁹

This file is closed. If you have any questions, please contact me at laura.harter@ilag.gov.

Very truly yours,

LAURA S. HARTER
Deputy Bureau Chief
Public Access Bureau

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cc: *Via electronic mail*
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⁹5 ILCS 120/3.5(a) (West 2022) ("[a] person who believes that a violation of this Act by a public body has occurred may file a request for review with the Public Access Counselor[.]" and that the submission "must include a summary of the facts supporting the allegation.").