



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

February 4, 2022

Via electronic mail



RE: OMA Request for Review – 2022 PAC 69366

Dear 

This determination is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(b) (West 2020)). For the reasons that follow, the Public Access Bureau has determined that no further action is warranted in this matter.

On January 11, 2022, you submitted a Request for Review alleging that during the Western Illinois University (WIU) Board of Trustees (Board) meeting on December 2, 2021, Trustee Polly Radosh may have violated OMA by interrupting and pivoting away from the topics of concern of several Black Student Association (BSA) members. You included hyperlinks to the WIU audio recording of the December 2, 2021, Board meeting,¹ a petition filed by the BSA to remove Trustee Radosh,² and an online news article published by *Tri States Public Radio*.³

Section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2020)) provides that "[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 established in the Office of the Attorney General[.] * * * The request for review * * * must include a summary of the **facts supporting the allegation.**" (Emphasis added.)

¹WIU Board of Trustees Meeting: 12/2/2021, YouTube (streamed live on Dec 2, 2021), <https://www.youtube.com/watch?v=pR119Rh8I38>.

²Petition to Remove Board of Trustee Member Polly Radosh, *available at* <https://www.change.org/p/western-illinois-university-remove-board-of-trustee-member-polly-radosh>.

³Rich Egger, *Black students say WIU not supporting them; administration responds*, Tri States Public Radio (Dec. 7, 2021, 9:59 a.m.), <https://www.tspr.org/tspr-local/2021-12-07/black-students-say-wiu-not-supporting-them-administration-responds>

As a threshold matter, the requirements of OMA apply to each "public body" as a whole. 5 ILCS 120/1 (West 2020). Your allegation that Trustee Radosh interrupted the public comments of several BSA members during the meeting does not allege that the Board itself violated OMA. Moreover, no provision of OMA restricts a public official from responding to a public comment. Rather, section 2.06(g) of OMA (5 ILCS 120/2.06(g) (West 2020)) simply 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) when it improperly restricts the right to public comment. *See* Ill. Att'y Gen. Pub. Acc. Op. No. 14-009, issued September 4, 2014, at 5-7. 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 improper restriction on public comment. *See, for example*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 61123, issued January 13, 2020, at 3.

This office's review of the audio recording of the December 2, 2021, Board meeting found that the public comment period began with at least four members of the BSA addressing the Board for approximately three to six minutes, each sharply criticizing how WIU has handled Black students' concerns. The Board did not interrupt the public comments of any BSA member in a manner that would violate OMA. The Board interrupted three of the BSA members to note that their allocated time had concluded; however, the Board allowed each member to continue speaking. Regarding the fourth BSA member, two of the trustees spoke during her time because this individual asked them several questions about specific Board policy changes.⁴ Once the trustees gave their answers, this individual continued to speak for an additional minute.⁵

The audio recording also shows that Trustee Radosh addressed the audience during the public comment period.⁶ After confirming that there was enough time for the last speaker, she spoke for approximately three minutes and addressed the comments made by the BSA members. As she spoke, one of the BSA members who had just addressed the Board interjected from the audience, and Trustee Radosh engaged in a dialogue with her before finally asking the student not to interrupt her. The Board was not obligated to allow the student to continue the back-and-forth exchange given that the student's public comment had concluded. Once Trustee Radosh stopped speaking, the last speaker addressed the Board without

⁴WIU Board of Trustees Meeting: 12/2/2021, YouTube, at 20:05 (streamed live on Dec 2, 2021), <https://www.youtube.com/watch?v=pR119Rh8138>.

⁵WIU Board of Trustees Meeting: 12/2/2021, YouTube, at 23:30 (streamed live on Dec 2, 2021), <https://www.youtube.com/watch?v=pR119Rh8138>.

⁶WIU Board of Trustees Meeting: 12/2/2021, YouTube, at 27:23-31:33 (streamed live on Dec 2, 2021), <https://www.youtube.com/watch?v=pR119Rh8138>.

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interruption. OMA does not prohibit a member of a public body from addressing the audience during the public comment period.

Under these circumstances, the Board did not infringe upon any person's right to public comment. Therefore, this office has determined that no further action is warranted in this matter.

This file is closed. Please contact me at the Chicago address listed on the first page of this letter or by e-mail at c.lucentemccullough@ilag.gov if you have questions.

Very truly yours,

[REDACTED]
CHRISTINA M. LUCENTE-MCCULLOUGH
Assistant Attorney General
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cc: *Via electronic mail*
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