



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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January 2, 2026

Via electronic mail



Via electronic mail

Mr. Steven I. Berlin
Executive Director
City of Chicago Board of Ethics
740 North Sedgwick, Suite 500
Chicago, Illinois 60654
steve.berlin@cityofchicago.org

RE: OMA Request for Review – 2024 PAC 84086

Dear [REDACTED] and Mr. Berlin:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2024)).

BACKGROUND

On November 27, 2024, [REDACTED] submitted a Request for Review to the Public Access Bureau alleging that the City of Chicago (City) Board of Ethics (Board) violated OMA at its September 30, 2024, meeting by improperly discussing in closed session a query report related to Case 24019.Q. He asserted that discussion of this report did not fall within sections 2(c)(1) and 2(c)(4) of OMA,¹ the exceptions cited as the basis for closing the meeting.

On December 9, 2024, this office forwarded a copy of the Request for Review to the Board and asked it to provide this office with copies of its September 30, 2024, meeting

¹5 ILCS 120/2(c)(1), (c)(4) (West 2023 Supp.).

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agenda, open and closed session minutes, and closed session verbatim recording for this office's confidential review, together with a written response to ██████████ OMA allegations. On December 19, 2024, this office received the requested materials. In its written response, the Board asserted it properly discussed the employment or performance of specific City employees in closed session. This office construed that assertion as citing section 2(c)(1) as the basis for its closed session discussion of Case 24019.Q. On December 20, 2024, this office forwarded a copy of the Board's response to ██████████

DETERMINATION

It is "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." 5 ILCS 120/1 (West 2024). "The Open Meetings Act provides that public agencies exist to aid in the conduct of the people's business and that the intent of the Act is to assure that agency actions be taken openly and that their deliberations be conducted openly." *Gosnell v. Hogan*, 179 Ill. App. 3d 161, 171 (1989).

In his Request for Review, ██████████ stated that Case 24019.Q concerned a request from a lobbyist for an advisory opinion on whether the lobbyist's client could invite several City officials and employees on a boat tour of a potential development site, and that a redacted version of the requested opinion has been posted on the City's website. ██████████ argued that any discussion concerning this topic or the query report did not fall within section 2(c)(1) of OMA because lobbyists are not City employees or contractors.

Section 2(c)(1) of OMA permits a public body to hold closed session to discuss, in pertinent part:

The appointment, employment, compensation, discipline, performance, or dismissal of specific employees, specific individuals who serve as independent contractors in a park, recreational, or educational setting, or specific volunteers of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee, a specific individual who serves as an independent contractor in a park, recreational, or educational setting, or a volunteer of the public body or against legal counsel for the public body to determine its validity.

The Attorney General has concluded that "the General Assembly did not intend to permit public bodies to hold general discussions concerning categories of employees in closed session pursuant to section 2(c)(1)." Ill. Att'y Gen. Pub. Acc. Op. No. 16-013, issued December

23, 2016, at 4. Rather, "section 2(c)(1) of OMA 'is intended to permit public bodies to candidly discuss the relative merits of individual employees, or the conduct of individual employees.'" Ill. Att'y Gen. Pub. Acc. Op. No. 16-013, at 5 (quoting Ill. Att'y Gen. Pub. Acc. Op. No. 12-011, issued July 11, 2012, at 3); *see also* Ill. Att'y Gen. PAC Req. Rev. Ltr. 12658, issued July 7, 2011, at 4 (concluding that "[t]he use of the term 'specific employees' in section 2(c)(1) significantly limits the scope of the exception" to "the hiring merits, performance, conduct or terms of employment of individual employees.").

In its response to this office, the Board stated that "queries" and "advisory opinions" both refer to formal written opinions signed by the Board's Executive Director. The Board acknowledged that it had discussed in closed session the advisory opinion that was issued in Case 24019.Q. This advisory opinion addressed two questions: Whether a lobbyist's client could, in accordance with the City's Governmental Ethics Ordinance, "offer gifts and a business-related boat tour of a potential real estate development site to several City of Chicago employees and officials" and, "if so, how should these lobbyists report this on their appropriate lobbyist quarterly activity report."² The Board argued that discussion of these questions pertained to the employment or performance of specific City employees "who had already been invited on this boat tour, as you can tell by the letter sent to me on August 22, 2024[.]"³ Additionally, the Board argued that "[t]he fact that the request for this opinion came to the Board from the lobbyist is irrelevant: these lobbyists were clearly concerned that their client's actions not cause any City employee or official to violate the Ordinance."⁴

Having reviewed the September 30, 2024, meeting materials, including the closed session recording, the Board did not discuss the employment of specific City employees in connection with Case 24019.Q. The questions presented in the advisory opinion asked whether any City employees could accept a boat tour invitation or gifts and, if so, what would be the lobbyist's requirements. The opinion was requested on August 22, 2024, and issued on August 26, 2024. The Board's response to this office argued that the closed session discussion concerned the performance of the invited City employees, emphasizing these employees could have been disciplined if they had been accused of and found to have accepted improper gifts. But the advisory opinion did not address such conduct—it was requested for the purpose of determining whether it would be permissible for City employees to accept the invitations and token gifts before they did so.

²Letter from Steven I. Berlin, Executive Director, City of Chicago Board of Ethics, to Teresa Lim, Supervising Attorney, Public Access Bureau, Office of the Attorney General (December 20, 2024), at [1].

³Letter from Steven I. Berlin, Executive Director, City of Chicago Board of Ethics, to Teresa Lim, Supervising Attorney, Public Access Bureau, Office of the Attorney General (December 20, 2024), at [1].

⁴Letter from Steven I. Berlin, Executive Director, City of Chicago Board of Ethics, to Teresa Lim, Supervising Attorney, Public Access Bureau, Office of the Attorney General (December 20, 2024), at [1].

Although some City employees had already accepted invitations and attended the tour by the time of the September 30, 2024, meeting and the Board briefly addressed who attended by vaguely-worded position titles, the Board did not discuss the actual employment, performance, compensation, or discipline of those individuals. Rather, this office's review found that the Board's discussion focused on the advisory opinion, which considered only the hypothetical situation of whether it would be a violation of the ethics ordinance for any City employee or official to accept a boat tour invite. While section 2(c)(1) could apply to a discussion about whether any specific employees potentially violated their ethical obligations by accepting an invite and attending a boat tour, the discussion that occurred on September 30, 2024, did not concern how any of the invited employees actually performed their public duties or whether those employees should be disciplined for their conduct. Accordingly, section 2(c)(1) of OMA did not authorize the Board to hold the discussion in closed session.

The Board's response to this office also argued that its actions were consistent with how ethics commissions and ethics officers nationwide conduct public business, adding that a State law excludes meetings of the Illinois Executive Ethics Commission from the requirements of OMA. The Board argued that "to require this Board (and by extension, others like it) to discuss advisory opinions in public session * * * would be impractical if not impossible" and discourage people from seeking guidance and chill the Board from issuing advisory opinions.⁵

Although the State's Executive Commission is "exempt from the provisions of the Open Meetings Act[.]" (5 ILCS 430/20-95(c) (West 2024)), there is no similar statutory provision exempting local government ethics boards from the requirements of OMA. OMA expressly provides that "[a]ll meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." Because neither section 2(c)(1) nor any other exception in section 2(c) generally authorizes the Board to discuss advisory opinions in closed session, we cannot construe OMA to contain such a provision. *Hayashi v. Illinois Department of Financial & Professional Regulation*, 2014 IL 116023, ¶ 16 (a reviewing body "may not depart from the plain language by reading into the statute exceptions, limitations, or conditions that the legislature did not express."). Accordingly, this office concludes that the Board violated OMA by discussing an advisory opinion during the closed session portion of its September 30, 2024, meeting. To remedy this violation, this office requests the Board disclose the portions of the minutes and verbatim recording of its September 30, 2024, closed session that pertained to Case 24019.Q.

⁵Letter from Steven I. Berlin, Executive Director, City of Chicago Board of Ethics, to Teresa Lim, Supervising Attorney, Public Access Bureau, Office of the Attorney General (December 20, 2024), at [2].

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The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter closes this matter. If you have any questions, please contact me at the Chicago address listed on the first page of this letter.

Very truly yours

[REDACTED]
TERESA LIM
Deputy Bureau Chief
Public Access Bureau

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