



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

Lisa Madigan
ATTORNEY GENERAL

November 18, 2015

Via electronic mail

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Mr. Steven M. Richart
Hodges Loizzi Eisenhammer Rodick & Kohn LLP
3030 Salt Creek Lane, Suite 202
Arlington Heights, Illinois 60005
srichart@hlerk.com

RE: OMA Request for Review – 2015 PAC 37299

Dear [REDACTED] and Mr. Richart:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2014), as amended by Public Act 99-402, effective August 19, 2015). For the reasons that follow, the Public Access Bureau concludes that the Board of Education for Hinsdale High School District 86 (Board) did not violate OMA when holding a closed session during a July 10, 2015, special meeting to discuss self-evaluation of Board procedures.

On September 3, 2015, [REDACTED] submitted a Request for Review alleging that the Board violated OMA during the closed session on July 10, 2015, by discussing matters outside the scope of the exception provided in section 2(c)(16) of OMA (5 ILCS 120/2(c)(16) (West 2014)), which provides that part of a meeting may be closed for the purpose of "[s]elf evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which the public body is a member." In particular, [REDACTED] who is a member of the Board, alleged that the Board "abused the OMA exception by engaging in an unseemly session of suppression of the political minority position as well as utilizing this vehicle to engage in a mud-slinging session."¹

¹Letter from [REDACTED] to Sarah Pratt, Public Access Counselor (September 4, 2015), at 1.

██████████
Mr. Steven M. Richart
November 18, 2015
Page 2

On September 15, 2015, we forwarded a copy of the Request for Review to the Board and requested that it respond to the allegations and provide our office with records relating to the July 10, 2015, special meeting, including copies of the minutes and verbatim record for the closed session. On September 24, 2015, the Board responded and provided the requested records. With respect to the discussions during that closed session, the Board asserted that:

[T]he discussions squarely fell within the self evaluation exception as intended (i.e., encouraging the members of a public body to improve their performance through open and frank discussions regarding interpersonal concerns and difficulties that they would not be able to address in open session). The fact that emotions can run high, and statements may be made during a self-evaluation discussion that a member of a public body finds offensive, does not remove the closed session from the statutory exception. Rather, opening these types of comments to the public would frustrate legislative intent and serve as a disincentive for public bodies to engage in self evaluation.

* * *


The topics indicated in the Hinsdale #86 Board's agenda for its July 10th closed session clearly relate to the desire for improved functioning of the Board and its members. A member of the IASB [Illinois Association of School Boards], a statewide organization, was present to facilitate the self-evaluation, and the Board conducted no substantive business during its closed session.²

We forwarded a redacted response to ██████████ on September 30, 2015.³ She replied on October 4, 2015, that the Board discussion "was not about how to be a productive Board. Rather, it was a discussion about the need to stifle the political minority."⁴

²Letter from Steven M. Richart, Hodges, Loizzi, Eisenhammer, Rodick & Kohn LLP, to Neil P. Olson, Assistant Attorney General, Public Access Bureau (September 24, 2015), at 2-3.

³As indicated in ██████████ reply, the Board independently provided her with an un-redacted copy of the response as she is a member of the Board.

⁴Letter from ██████████ to Neil P. Olson, Assistant Attorney General, Public Access Bureau (October 4, 2015).


Mr. Steven M. Richart
November 18, 2015
Page 3

DETERMINATION

Section 2(a) of OMA (5 ILCS 120/2(a) (West 2014)) provides that "all meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." As described above, part of the July 10, 2015, special meeting was closed pursuant to section 2(c)(16) of OMA.

We have reviewed and considered the verbatim record of the closed session for the July 10, 2015, special meeting, as well as the other materials provided by the Board. As described by the Board, a representative of the Illinois Association of School Boards met with five members of the Board to discuss Board procedures and how to improve them. Board members discussed the internal interactions between the members of the Board and candidly commented on those interactions. However, the context of those comments was the discussion of the Board's procedures and consistent with the scope of section 2(c)(16) of OMA. Furthermore, the Board's discussion was facilitated by a representative of a statewide association of which it is a part, and the discussion did not involve substantive issues. Accordingly, we conclude that the Board did not violate OMA when conducting the closed session at the July 10, 2015, special meeting.

The Public Access Counselor has determined that resolution of this matter does not require the issuance of a binding opinion. This letter serves to close this matter. If you have any questions, please contact me at nolson@atg.state.il.us or (217) 782-9078.

Very truly yours,



NEIL P. OLSON
Assistant Attorney General
Public Access Bureau

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