



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

Lisa Madigan  
ATTORNEY GENERAL

April 12, 2018

*Via electronic mail*

The Honorable Jeanette Ward  
Board Member  
School District U46 Board of Education  
jeanetteward@u-46.org

*Via electronic mail*

Mr. Brian Crowley  
Franczek Radelet P.C.  
300 South Wacker Drive, Suite 3400  
Chicago, Illinois 60606  
bpc@franczek.com

Re: OMA Request for Review – 2018 PAC 51767

Dear Ms. Ward and Mr. Crowley:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(e) (West 2016)). For the reasons discussed below, this office concludes that the School District U46 Board of Education (Board) did not violate OMA when holding a closed session during a February 3, 2018, special meeting to discuss self-evaluation of Board procedures.

On February 16, 2018, Ms. Jeanette Ward, who serves on the Board, submitted a Request for Review to this office alleging that the Board violated OMA at its February 3, 2018, special meeting by engaging in improper closed session discussion. Specifically, the Board entered closed session pursuant to the "self-evaluation" exception in section 2(c)(16) of OMA (5 ILCS 120/2(c)(16) (West 2016), as amended by Public Acts 100-201, effective August 18, 2017; 100-465, effective August 31, 2017), and discussed ways in which the Board could prevent Ms. Ward from posting on social media. Ms. Ward's Request for Review argues that such a discussion does not fall within the scope of the section 2(c)(16) exemption.

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On February 16, 2018, this office forwarded a copy of the Request for Review to the District and asked it to provide a copy of the verbatim recording of the closed session portion of the February 3, 2018, special meeting for this office's confidential review, along with a written response to the allegations contained within Ms. Ward's Request for Review. On March 6, 2018, an attorney for the District provided those materials. On March 7, 2018, this office forwarded a copy of the District's written response to Ms. Ward; she replied on March 13, 2018.

### DETERMINATION

OMA is intended "to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly." 5 ILCS 120/1 (West 2016). Section 2(a) of OMA (5 ILCS 120/2(a) (West 2016), as amended by Public Acts 100-201, effective August 18, 2017; and 100-465, effective August 31, 2017) 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." Section 2(c)(16) of OMA permits a public body to enter closed session to discuss "[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 its response to this office, the Board asserted that its discussions fell squarely within the self-evaluation exception, stating:

[T]wo representatives from the Illinois Association School Boards (which is a statewide association of which the School District is a member and who are experts in leading school boards through these types of discussions without running afoul of the OMA) were present at the meeting for the specific reason of conducting the Board's self-evaluation.

Ms. Ward's allegations focus on [a] portion of the closed session \* \* \* where the Board at times discusses examples of actions taken by individual Board members that cause the Board concern. \* \* \* [T]he examples the Board members identify of individual Board members \* \* \* all revolve around the central theme of how the Board can improve its interrelationships, so they can better serve the external community. The discussion is directly related to the Board's self-evaluation and its practices and procedures and never strays from that theme. <sup>[1]</sup>

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<sup>1</sup>Letter from Brian P. Crowley, [Attorney for School District U46 Board of Education], to Neil P. Olson, Assistant Attorney General, Public Access Bureau (March 6, 2018).

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Ms. Ward's reply reiterated her argument that portions of the Board's discussion did not fall within the scope of the self-evaluation exception in section 2(c)(16) of OMA. Specifically, Ms. Ward asserted, "[t]he discussion as a whole appears to be about policy, not board self-evaluation. They are attempting to craft a policy to silence an elected official and that is not a proper discussion for closed session."<sup>2</sup>

This office has reviewed the verbatim recording of the closed session for the February 3, 2018, special meeting. As described by the Board, two representatives of the Illinois Association School Boards met with the members of the Board who choose to participate in that special meeting, to discuss Board procedures and how to make improvements to those procedures. As Ms. Ward mentioned, at a certain part of the discussion, the Board members discussed internal interactions between the members of the Board and candidly commented on those interactions. Those comments, however, were made in the context of the Board discussing its practices and procedures and how to improve certain practices. That discussion was consistent with the scope of section 2(c)(16) of OMA. Further, the entirety of the Board's discussion was facilitated by a representative of a statewide association to which the Board belongs. Accordingly, this office concludes that the Board did not violate OMA while conducting its self-evaluation during the closed session of its February 3, 2018, 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, you may contact me by phone at (312) 550-4480 or by e-mail at [sbarnaby@atg.state.il.us](mailto:sbarnaby@atg.state.il.us).

Very truly yours,



SHANNON BARNABY  
Assistant Attorney General  
Public Access Bureau

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<sup>2</sup>E-mail from Jeanette Ward, U-46 Board of Education member, to AG PAC (March 13, 2018).