



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

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November 26, 2025

Via electronic mail



Via electronic mail

The Honorable Tina Chan
Commissioner, Board of Commissioners
Oak Brook Park District
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Oak Brook, Illinois 60523
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Via electronic mail

Mr. Steven B. Adams
Robbins Schwartz
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RE: OMA Requests for Review – 2025 PAC 88005; 2025 PAC 88118

Dear [REDACTED] Ms. Chan, and Mr. Adams:

This determination is issued pursuant to section 3.5(e) of the Open Meetings Act (OMA).¹ This office has consolidated two Requests for Review in this determination because they concern similar allegations regarding the same meeting. For the reasons explained below, the Public Access Bureau concludes that the Oak Brook Park District (District) Board of Commissioners (Board) held an improper closed session discussion during its May 19, 2025,

¹5 ILCS 120/3.5(e) (West 2024).

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[REDACTED]
The Honorable Tina Chan
Mr. Steven B. Adams
November 26, 2025
Page 2

meeting. However, because the Board has already publicly disclosed the closed session verbatim recording and closed session minutes for that meeting, no further remedial action is necessary.

BACKGROUND

On July 15, 2025, [REDACTED] submitted a Request for Review² to the Public Access Bureau alleging that the Board held an improper closed session discussion during its May 19, 2025, meeting to "consider declaring a Commissioner's seat vacant or to deliberate disciplinary action in connection with absences."³ On July 22, 2025, this office forwarded a copy of the Request for Review to the Board and asked it to provide copies of the closed session meeting minutes and the closed session verbatim recording of the Board's May 19, 2025, meeting, for this office's confidential review. This office also requested that the Board provide a detailed written answer to the allegation that it improperly discussed the potential removal of a commissioner or the subject of an absenteeism policy for commissioners, during closed session at the May 19, 2025, meeting.

On July 24, 2025, the Board provided this office with the requested materials and its written response. Later that day, this office forwarded a copy of the Board's written response to [REDACTED] and notified him of the opportunity to reply; he replied on July 30, 2025.

On July 16, 2025, Ms. Tina Chan, in her capacity as a Board Commissioner, submitted a Request for Review⁴ to the Public Access Bureau alleging, among other things, that the Board improperly discussed a proposed new ordinance concerning commissioners' absenteeism in closed session during the Board's May 19, 2025, meeting. On August 29, 2025, this office forwarded a copy of the Request for Review to the Board and asked it to provide the same materials referenced above together with a detailed written response to the OMA allegations in Ms. Chan's Request for Review.

Counsel for the Board responded on September 9, 2025, by stating that after receiving this office's August 29, 2025, letter, the Board held a special meeting on September 4, 2025, and voted to release the closed session minutes and verbatim recording for the Board's May 19, 2025, meeting. The Board's answer indicated that the closed session minutes and verbatim recording had been posted to the District's website for public viewing. The Board stated that it "took this action to avoid further disputes concerning the closed meeting and to

²2025 PAC 88005.

³E-mail from [REDACTED] to Public Access [Bureau] (July 15, 2025).

⁴2025 PAC 88118.

[REDACTED]
The Honorable Tina Chan
Mr. Steven B. Adams
November 26, 2025
Page 3

avoid devoting additional staff time and attorneys' fees relating to the matter" and noted that "the release of these items should not be construed as an admission by the District of any wrongdoing."⁵ [REDACTED] and Ms. Chan have since reaffirmed their ongoing interest in obtaining a determination in their respective matters regarding the applicability of section 2(c)(3) of OMA⁶ to the Board's closed session discussion.

DETERMINATION

The intent of OMA is "to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly." 5 ILCS 120/1 (West 2024). Section 2(a) of OMA⁷ 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." The section 2(c) exceptions "are in derogation of the requirement that public bodies meet in the open, and therefore, the exceptions are to be strictly construed, extending only to subjects clearly within their scope." 5 ILCS 120/2(b) (West 2024).

In its July 24, 2025, answer to this office,⁸ the Board asserted that its closed session discussion was proper under section 2(c)(3) of OMA. Section 2(c)(3) of OMA permits a public body to enter closed session to discuss:

The selection of a person to fill a public office, as defined in this Act, including a vacancy in a public office, when the public body is given power to appoint under law or ordinance, or **the discipline, performance or removal of the occupant of a public office, when the public body is given power to remove the occupant under law or ordinance.** (Emphasis added.)

The Public Access Bureau has previously determined that the plain language of this provision limits the exception to discussions about the qualifications, merits, or behavior of a particular person and does not include other incidental procedural matters. *See, for example*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 50734, issued February 21, 2018, at 3 (determining closed session discussion about State statutes and rules related to filling a township supervisor position exceeded the scope

⁵Letter from Steven B. Adams, Robbins Schwartz, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General, and Shannon Barnaby, Senior Assistant Attorney General, Public Access Bureau, Office of the Illinois Attorney General (September 10, 2025), at 1-2.

⁶5 ILCS 120/2(c)(3) (West 2024).

⁷5 ILCS 120/2(a) (West 2024).

⁸2025 PAC 88005.

[REDACTED]
The Honorable Tina Chan
Mr. Steven B. Adams
November 26, 2025
Page 4

of section 2(c)(3) of OMA). This office has also issued a binding opinion concluding that a closed session discussion concerning the behavior or performance of a public official is only proper under section 2(c)(3) of OMA when the public body possesses the authority to **remove** the public official under law or ordinance. *See* Ill. Att'y Gen. Pub. Acc. Op. No. 17-013, issued November 21, 2017, at 4-5 (finding section 2(c)(3) of OMA did not permit a village board to discuss comments made by a board member because the Board did not have the authority to remove the board member from office). Further, the Public Access Bureau has previously determined that a public body's ability to declare a public office vacant based on a public official's behavior or performance is not the same as a public body's ability to **remove** the public official from office. *See* Ill. Att'y Gen. PAC Req. Rev. Ltr. 68219, issued July 13, 2022, at 5-6 ("The narrowly construed section 2(c)(3) exception does not permit the City Council to engage in wide-ranging discussions of an officer's performance or discipline or removal from office simply because a provision of the Municipal Code authorizes the City Council to declare the City Clerk's office vacant under certain conditions.").

In this instance, the Board contended that a combined reading of section 2(c)(3) of OMA together with section 2-25(vii) of the Park District Code (Code)⁹ supports the conclusion that a park district is permitted to "adopt an ordinance that requires its board members to attend meetings of the board or face discipline, including the removal of such board member."¹⁰ The Board stated that it entered closed session during the May 19, 2025, meeting "for the express purpose of discussing whether to adopt an ordinance requiring its members to attend meetings or to face discipline" and that it "did not discuss the removal, potential or otherwise, of a commissioner."¹¹

This office has reviewed the closed session verbatim recording and the closed session meeting minutes from the Board's May 19, 2025, meeting. As the Board stated in its response to this office, the closed session discussion focused on a "specific commissioner's attendance (or lack thereof) at Board meetings and, after discussing issues relating to that specific commissioner, determined that adoption of an ordinance was proper and directed the District's attorney to draft such an ordinance."¹²

⁹70 ILCS 1205/2-25(vii) (West 2024).

¹⁰Letter from David J. Freeman, Robbins Schwartz, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau (July 24, 2025), at 2.

¹¹Letter from David J. Freeman, Robbins Schwartz, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau (July 24, 2025), at 2.

¹²Letter from David J. Freeman, Robbins Schwartz, to Katie Goldsmith, Assistant Attorney General, Public Access Bureau (July 24, 2025), at 2.

[REDACTED]
The Honorable Tina Chan
Mr. Steven B. Adams
November 26, 2025
Page 5

Section 2-25(vii) of the Code provides, in pertinent part, "[w]henver any member of the governing board of any park district * * * (vii) neglects to perform the duties of his or her office or attend meetings of the board for the length of time as the board fixes by ordinance * * * that office may be declared vacant." This provision of the Code gives the Board the authority to create an ordinance to determine that there is a "vacancy" in a public office if a commissioner fails to attend a fixed number of meetings. However, a determination that there is a "vacancy" in an office is not tantamount to a public body having the authority to remove the officeholder. *See* Ill. Att'y Gen. PAC Req. Rev. Ltr. 68219, issued July 13, 2022, at 5. The Board has not argued, and it is not apparent to this office, that there is another provision of the Code that permits the Board to remove a commissioner, who is an elected public official, from office. Therefore, the Board's brief discussion of the specific commissioner's performance of his duties in that role was not authorized by section 2(c)(3) of OMA.

Even assuming that a law or ordinance did grant the Board the authority to remove a commissioner, the closed session discussion primarily focused on the merits of adopting an ordinance that addresses the general subject matter of commissioner absenteeism and not the "discipline, performance or removal" of a specific commissioner. Discussions about general or incidental procedures for appointing or removing a public official do not fall within the scope of section 2(c)(3) of OMA. *See, for example,* Ill. Att'y Gen. PAC Req. Rev. Ltr. 47555, issued August 29, 2017, at 5 (deciding section 2(c)(3) of OMA did not authorize a closed session discussion about the process for appointing a board member).

Accordingly, this office concludes that section 2(c)(3) of OMA did not authorize the Board's May 19, 2025, closed session discussion. Generally, when a public body's closed session discussion exceeds the scope of an exception in section 2(c) of OMA, this office will request that the public body vote to make publicly available the applicable closed session verbatim recording and closed session meeting minutes. As was stated above, the Board has already taken that action, and therefore, there is no further remedial action that this office can direct. Nonetheless, this office cautions the Board to narrowly limit its closed session discussions to the scope of the section 2(c) exceptions that it cites to close portions of its meetings in the future.

[REDACTED]
The Honorable Tina Chan
Mr. Steven B. Adams
November 26, 2025
Page 6

The Public Access Counselor has determined that resolution of these matters does not require the issuance of a binding opinion. These files are closed. If you have OMA questions, you may contact me at shannon.barnaby@ilag.gov.

Very truly yours,

[REDACTED]
SHANNON BARNABY
Senior Assistant Attorney General
Public Access Bureau

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cc: *Via electronic mail*
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