

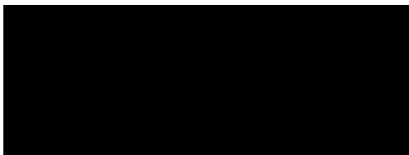


OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

September 11, 2023

Via electronic mail



RE: OMA Request for Review – 2023 PAC 77875

Dear [REDACTED]:

This determination is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(b) (West 2022)). For the reasons explained below, this office has determined that no further action is warranted in this matter.

On August 24, 2023, you submitted a Request for Review to the Public Access Bureau asking this office to review whether the Cook County Board of Review's (Board) rules for virtual attendance and public comment complied with OMA. Your Request for Review states that your complaint "concerns the August 24, 2023, meeting."¹ You assert that the Board's virtual attendance policy requires members of the public to register in order to attend a Board meeting remotely, which you appear to allege violates OMA. Additionally, you allege that the Board requires individuals to submit a public comment form two business days before the Board's meeting at which the person wishes to speak, and requests that speakers indicate an agenda item that they wish to address at the meeting.

Section 3.5(a) of OMA² 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).

¹E-mail from [REDACTED] to PAC Bartelt (August 24, 2023).

²5 ILCS 120/3.5(a) (West 2022).

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As an initial matter, the Public Access Bureau previously addressed your concerns regarding the Board's public comment rules in Request for Review 2023 PAC 75707,³ and therefore, this office has determined that no further action is warranted with respect to those allegations.

Further, you have not alleged a specific instance in which you, or any other member of the public, wished to attend a meeting virtually but was unable to do so because of the Board's rules. This office has consistently determined that it will not undertake a review of a public body's rules without an allegation that those rules were applied in a manner that violated OMA. *See, for example*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 50917, issued January 3, 2018, at 2 (allegation concerning the reasonableness of a county board's rules governing the right of the public to record open meetings did not warrant further action because there was no indication that anyone was prohibited from exercising their right to record a meeting); Ill. Att'y Gen. PAC Req. Rev. Ltr. 75707, issued April 3, 2023, at 2 (allegation that public comment rules violated OMA insufficient to merit further action absent facts indicating that any member of the public was improperly restricted from addressing public officials).

Even if you had alleged a specific instance in which the Board enforced its procedures to prevent a member of the public from attending a meeting virtually, it would not support an allegation that the Board violated OMA. The provision of OMA that requires a public body to provide the public with contemporaneous audio or video access⁴ applies when a public body meets without a quorum of their members physically present. Section 7(e) of OMA⁵ permits a public body to conduct meetings remotely without the physical presence of a quorum only when the Governor or the Director of the Illinois Department of Public Health has issued a disaster declaration related to public health concerns. No such disaster declaration was in place at the time of the August 24, 2023, meeting. According to the posted meeting notice, the Board's August 24, 2023, meeting appears to have been conducted in-person with the physical presence of a quorum of Board members, and members of the public had the option of attending in-person.⁶ Therefore, the Board was not required to allow members of the public to attend the meeting remotely, but providing a remote attendance option enhanced the accessibility and openness of the meeting.

³For ease of reference, this office has attached a copy of that determination.

⁴5 ILCS 120/7(e)(4) (West 2022), as amended by Public Act 103-311, effective July 28, 2023.

⁵5 ILCS 120/7(e)(1) (West 2022), as amended by Public Act 103-311, effective July 28, 2023.

⁶Cook County Board of Review, Notice of Meeting (August 24, 2023).

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Because OMA does not require the Board to permit members of the public to attend its meetings remotely, its virtual attendance procedures are not governed by OMA. Therefore, this office has determined that no further action is warranted in this matter. This file is closed. If you have any questions, my e-mail is 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*
Ms. Cristin Duffy
General Counsel and Chief Ethics Officer
Cook County Board of Review
69 West Washington Street, Suite 1110
Chicago, Illinois 60602
Cristin.Duffy@cookcountyil.gov

Via electronic mail
Ms. Liliana Escarpita
Secretary of the Board
Cook County Board of Review
118 North Clark Street, Suite 608
Chicago, Illinois 60602
Liliana.Escarpita@cookcountyil.gov