

# Public Access Counselor Annual Report

An Overview  
of 2024

March 2025





A Message from  
ILLINOIS ATTORNEY GENERAL  
**Kwame Raoul**

The Office of the Attorney General observes Sunshine Week by releasing an annual report describing the work of the Office of the Public Access Counselor (PAC). The PAC serves the vital function of promoting transparency and openness in government through enforcement of Illinois’ sunshine laws, which are the Freedom of Information Act (FOIA) and the Open Meetings Act (OMA). The PAC provides educational resources to public bodies seeking guidance on complying with FOIA and OMA. Each year PAC responds to thousands of people and organizations who raise concerns about how public bodies have responded to FOIA requests or conducted meetings. The 2024 PAC Annual Report details the important work of the Public Access Counselor, assistant attorneys general and support staff who comprise that office.

In 2024, the PAC received over 4,200 requests for assistance seeking access to records or the PAC’s review of incidents that occurred at public meetings, which averages to over 350 requests each month. The majority of these matters were resolved informally or through determination letters issued by the PAC. However, the PAC also issued 16 binding opinions last year: 12 opinions addressing FOIA requests and four opinions interpreting provisions of OMA. The PAC’s binding opinions are critical to reinforcing the law in frequently misinterpreted areas, including the bases for withholding and redacting law enforcement records, whether video recordings are public records, the requirement to disclose settlement agreements, and the obligation to ensure meetings are convenient and open to the public. The 2024 issued opinions also clarified provisions of FOIA and OMA that concern the requirements for remote participation in public meetings, notice and publication of a change in meeting dates, and the definition of “security measures” under FOIA. Finally, several of the PAC’s binding opinions involved cases where public bodies had failed to respond to FOIA requests after the PAC’s intervention.

In 2024, the PAC also received daily phone calls seeking advice and information and approximately 750 informal written inquiries related to public meetings and FOIA requests. Additionally, the PAC increased the number of educational webinars it hosted for public bodies and accepted more invitations to present information on FOIA and OMA at conferences and meetings. As more law enforcement agencies deployed body-worn cameras, the PAC’s educational webinars, presentations and detailed determination letters concerning law enforcement records assisted those agencies and the public in ensuring compliance with FOIA in this critical area.

Since 2010, the PAC has handled more than 59,000 matters, issued more than 200 binding opinions and provided hundreds of educational webinars and presentations. Through this work, the PAC continues to enhance openness and transparency of government operations throughout our state.

Kwame Raoul  
Attorney General

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# Complaint Statistics

In 2024, the Office of the Public Access Counselor (PAC) received 4,234 formal requests for review pursuant to the Illinois Freedom of Information Act (FOIA), ([5 ILCS 140/1 et seq. \(West 2022\)](#)), and the Illinois Open Meetings Act (OMA), ([5 ILCS 120/1 et seq. \(West 2022\)](#)), for an average of 352 requests each month. In addition, PAC attorneys fielded an estimated eight to 12 questions per day through the PAC's FOIA/OMA hotline and received approximately 750 written inquiries through the Public Access email address.

Of the formal requests received by the PAC from Jan. 1, 2024, to Dec. 31, 2024, 3,816 were related to FOIA, and 420 alleged violations of OMA. The requests came from every area of the state and involved all types of public bodies, from the smallest villages, libraries, and school districts, to the largest cities and state agencies

## Total New Matters Before the Public Access Counselor in 2024: 4,236

Breakdown of the 3,816 Freedom of Information Act requests for review received by the PAC:

- 3,010 from members of the public
- 767 from media outlets, unions, or other organizations
- 39 from public bodies or their members

Breakdown of the 420 Open Meetings Act requests for review received by the PAC:

- 355 from members of the public
- 46 from media outlets, unions, or other organizations
- 19 from public bodies or their members

# Training Seminars

The Office of the PAC provides electronic training on FOIA for FOIA officers, and on OMA for elected and appointed members of public bodies and individuals designated by their public bodies to receive annual training on OMA. Those electronic trainings are hosted on the Office of the Attorney General's [website](#) and are updated annually to reflect new statutory amendments, court opinions and PAC binding opinions. The PAC also hosted 16 webinars in 2024 to expand on the information provided in those trainings and to give public employees and officials the opportunity to ask PAC attorneys questions about FOIA and OMA. These webinars are designed to address the most common FOIA and OMA questions and to apply the provisions of those laws to actual FOIA requests and meetings presented to the PAC in requests for review. More than 3,500 individuals participated in those events last year. All participants received a copy of a handout on the FOIA or OMA provisions discussed during the webinar they attended. A selection of the handouts are posted to PAC's website [here](#) and [here](#).

Additionally, PAC attorneys were invited to deliver educational presentations at conferences held by regional and statewide organizations representing public bodies, including the Northwest Illinois Alliance of Fire Protection Districts, the Illinois Municipal League, the Municipal Clerks of Illinois, regional municipal clerks' groups in Cook and DuPage counties, the Illinois Association of Park Districts, the Illinois Township Attorneys Association, the Illinois Association of School Boards Administrative Professionals' Program, and the Illinois Association of Wastewater Agencies. This year, PAC attorneys also provided webinars on FOIA and OMA as part of the University of Illinois Extension Local Government Education program series, and discussed the complex FOIA issues applying to law enforcement records. Finally, PAC attorneys presented training for FOIA officers in the cities of Evanston and Aurora, and provided information on OMA to more than 200 attorneys and administrative staff for public bodies with statewide authority and state advisory boards.

The PAC will continue to evaluate ways to create and expand programs tailored for specific units of government and public bodies that are interested in promoting transparency and openness in government. Any group or entity interested in attending or hosting a training conducted by a representative of the Attorney General's office should contact Theresa Geary at [special.events@ilag.gov](mailto:special.events@ilag.gov) for more information.

## 5,325 Individuals Participated in 2024 PAC FOIA and OMA Training Events

Breakdown of 41 PAC FOIA and OMA training events:

- 16 webinars hosted by the PAC for 3,725 attendees
- 25 conferences, meetings and educational presentations by invitation; attended by approximately 1,600 government officials, attorneys, and journalists

# Success Stories: Binding Opinions Non-Binding Determinations & Informal Resolutions

There are three main ways by which the PAC can respond to a request for review:

1. **Review the issues in the FOIA or OMA dispute and determine that no further action is necessary.**
2. **Work informally with the public body or issue a determination letter to resolve the dispute.**
3. **Issue a binding opinion to resolve the dispute.**

In 2024, the Attorney General issued 16 binding opinions resolving disputes submitted to the PAC. Twelve of those opinions addressed FOIA issues and the other four addressed OMA issues. The authority to issue binding administrative decisions has allowed the Attorney General and the PAC to clarify disputed provisions of FOIA and OMA and increase transparency. More specifically, the binding opinions issued in 2024 interpreted various exemptions to disclosure under FOIA, emphasized the duty to respond to FOIA requests in a timely manner, clarified the obligations under OMA to provide and publish meeting notices, and permit members to attend meetings remotely, and take action openly.

The PAC has also successfully resolved hundreds of disputes over the release of records and issues related to open meetings through negotiations with requesters and public bodies, and through the issuance of non-binding determination letters. When PAC attorneys can facilitate the informal resolution of a dispute or prompt a public body to respond to a FOIA request that it has overlooked, a requester may receive records in a relatively short period of time. Finally, through the issuance of determination letters and letters explaining the legal basis for the PAC's determination that no further action is necessary in a dispute, the PAC educates FOIA requesters, meeting attendees, and public bodies on the requirements of FOIA and OMA.

This section of the report summarizes notable PAC binding opinions issued in 2024 and describes a few of the matters that PAC attorneys resolved through determination letters and informal resolutions. These examples highlight the PAC's work to increase the public's access to government and clarify provisions of FOIA and OMA to provide guidance to public bodies.

## Binding Opinions

***Ill. Att'y Gen. Pub. Acc. Op. No. 24-001, issued Jan. 24, 2024:*** Homer Township (township) denied a FOIA request seeking a copy of a settlement agreement. Although section 2.20 of FOIA expressly provides that settlement agreements entered into by or on behalf of public bodies are public records that must be disclosed to the public, the township asserted that it was unable to disclose the settlement agreement because doing so would violate a provision in the agreement that prohibited the parties from disparaging each other. This opinion explains that even if disclosure of the settlement agreement could have violated the non-disparagement clause, the settlement agreement was subject to disclosure because FOIA does not permit public bodies to enter into enforceable agreements to withhold public records that are required to be disclosed by FOIA. After the PAC issued the binding opinion, the township furnished a copy of the settlement agreement to the requester.

***Ill. Att'y Gen. Pub. Acc. Op. No. 24-003, issued Mar. 1, 2024:*** In the closed session portion of a meeting, the city manager of the city of Evanston (city) sought and received the city council's approval of an exclusive representation agreement with a real estate broker. The agreement provided that the broker would seek a lease

## *Success Stories continued*

for the city free of charge to the city. But if the broker secured a sale of the city's civic center, the city would pay the broker a percentage of the sale price. The city council reached a consensus in closed session and executed the agreement without holding a public discussion or vote. Section 2(e) of OMA requires public bodies to take final actions openly. Although a public body is not prohibited from polling its members or reaching a tentative consensus in closed session about whether to authorize an official action, the public body must follow up with a final vote in open session. The opinion explained that the city council's closed session decision was not preliminary or tentative even though the city was not required to pay the broker unless a sale occurred. Instead, the city council violated section 2(e) of OMA when it improperly took final action in closed session by consenting to binding the city to an agreement with a particular firm that required, among other things, a potential expenditure of hundreds of thousands of dollars of public funds if the civic center was sold. After the issuance of the opinion, the city council held a public vote to approve a new agreement with the broker, and the city thereafter executed that agreement.

***Ill. Att'y Gen. Pub. Acc. Op. No. 24-005, issued Mar. 15, 2024:*** The Macon County Sheriff's Office (sheriff's office) withheld from a member of the public copies of video footage from the Macon County Animal Control facility. The sheriff's office appeared to assert that the responsive footage was not a "public record" under the definition of that term in section 2(c) of FOIA. It also argued that the footage was exempt from disclosure under section 7(1)(n) of FOIA, which applies to records related to adjudications of employee grievances and disciplinary cases. The PAC's opinion explains that because the footage pertained to the transaction of public business by the sheriff's office and was received and used by the sheriff's office during an investigation, the recordings were public records subject to FOIA. Additionally, the footage was not exempt from disclosure under section 7(1)(n) because it was obtained during an investigation that predated and existed independently of any adjudication that may have ultimately occurred. The opinion reinforced long-standing legal authority that section 7(1)(n) applies only to records generated during adjudications of disciplinary cases – not the underlying investigations. The sheriff's office subsequently disclosed the footage to the requester.

***Ill. Att'y Gen. Pub. Acc. Op. No. 24-007, issued June 21, 2024:*** A member of the public alleged that the village of Princeville (village) Board of Trustees (board) violated OMA by permitting the board president, whose job often required him to travel for work and spend nights at hotels away from the village, to attend three meetings remotely by audio conference even though it might have been feasible to commute to the meeting location. If a quorum of the members of the body is physically present at a meeting, section 7 of OMA authorizes a public body to allow a member of that body to attend the meeting remotely if the member is prevented from physically attending because of certain reasons, including "employment purposes[.]" This opinion concludes that the plain and ordinary meaning of "employment purposes" in section 7(a)(ii) of OMA includes actions in the course of executing a person's job responsibilities, and that OMA does not limit the number of times a member may attend meetings remotely because of conflicting job obligations. The opinion also emphasized that OMA gives public bodies the authority to adopt their own rules that further limit the ability of members to attend meetings remotely, or to deny a member's request to attend an individual meeting remotely.

***Ill. Att'y Gen. Pub. Acc. Op. No. 24-008, issued June 21, 2024:*** In response to a FOIA request from a not-for-profit organization, the Chicago Housing Authority (CHA) redacted all but the second digit in the street addresses of vacant public housing units. The CHA asserted the redacted information was a security measure

## *Success Stories continued*

that is exempt from disclosure under section 7(1)(v), which applies to vulnerability assessments, security measures, and response policies or plans that are designed for certain purposes related to public safety, but only to the extent that disclosure could reasonably be expected to expose vulnerabilities, jeopardize the effectiveness of the measures, policies, or plans, or endanger the safety of the personnel who implement them or the public. To fall within the scope of section 7(1)(v), a record (or information therein) must first consist of or depict a vulnerability assessment, a security measure, a response policy, or a response plan. The opinion explained that CHA misconstrued section 7(1)(v) as authorizing redactions of records as a security measure in and of itself. The street addresses of vacant public housing units are simply pieces of data in a spreadsheet which do not consist of or depict security measures and cannot be withheld under that exemption. After the issuance of the opinion, the CHA issued a supplemental response disclosing the complete addresses to the organization.

***Ill. Att’y Gen. Pub. Acc. Op. No 24-010, issued Sept. 3, 2024:*** Several members of the public submitted requests for review raising concerns about the accessibility and openness of the June 3, 2024, and July 1, 2024, meetings of the Village of Dolton Board of Trustees (board). The complainants alleged the board impeded access to meetings at the village hall by taking measures such as blocking off surrounding streets and parking spaces, providing inadequate space in the meeting room, and having an excessive police presence, and by failing to take measures to accommodate the sizeable crowds that were expected at each meeting due to conflicts and controversies surrounding the board. Section 2.01 of OMA requires a public body to make its meetings convenient and open to the public, which the Illinois Appellate Court has interpreted to require “reasonable accessibility.” The opinion concluded the Board failed to meet this standard because, despite the meeting space being inadequate to accommodate the public at board meetings in the two previous months, the board did not take measures to enhance accessibility, such as moving the meeting to a larger meeting space. Instead, the board added impediments to the convenience and openness of the meetings without demonstrating that security concerns justified such heightened restrictions. Since the issuance of this opinion, the board has moved its meetings to a building with a larger gathering space.

***Ill. Att’y Gen. Pub. Acc. Op. No. 24-011, issued Sept. 20, 2024:*** A member of the public submitted a FOIA request to the Elk Grove Village Police Department (department) seeking copies of a specific police report and related records. The department denied the request pursuant to section 7(1)(d)(i) of FOIA, which exempts records in the possession of a law enforcement agency for law enforcement purposes, but only to the extent that disclosure would interfere with pending or actual and reasonably contemplated law enforcement proceedings. Although the department asserted it was participating in an ongoing multi-agency investigation concerning other similar incidents, it failed to provide facts to support its claim that disclosure of the report would obstruct any joint investigation. Since the department did not prove by clear and convincing evidence that disclosure of the records would interfere with a law enforcement proceeding, its denial of the request violated FOIA. The department subsequently disclosed a redacted version of the report to the individual who submitted the request.

***Ill. Att’y Gen. Pub. Acc. Op. No. 24-012, issued Oct. 2, 2024:*** A law firm requested from the Central Illinois Regional Dispatch Center (dispatch center) copies of 911 call recordings and other records related to a traffic crash; the dispatch center provided the recordings but redacted the names and phone numbers of the callers. The law firm submitted a request for review to PAC contesting the redactions and, after a PAC attorney forwarded the request for review to the dispatch center, it furnished the law firm new recordings without redacting the

## *Success Stories continued*

witnesses' names. The law firm continued to object to the withholding of the witnesses' personal telephone numbers, arguing that section 7(1)(d)(iv) of FOIA bars public bodies from redacting the personal contact information of witnesses to traffic crashes. This opinion interprets the scope of the provision in section 7(1)(d)(iv) of FOIA that generally requires local government agencies to disclose "the identities of witnesses to traffic crashes, traffic crash reports, and rescue reports" and discusses the interplay between that provision and section 7(1)(b) of FOIA, which allows the withholding of home or personal telephone numbers in public records. The opinion concludes the dispatch center did not improperly redact the witnesses' phone numbers and provides vital guidance to law enforcement agencies responding to FOIA requests for reports related to traffic crashes.

***Ill. Att'y Gen. Pub. Acc. Op. No. 24-013, issued Oct. 25, 2024:*** OMA requires each public body to post an annual schedule of its regular meetings; if a public body makes a change in regular meeting dates, section 2.03 of OMA requires that body to provide a 10-day notice to the public of the change by publication in a newspaper. The Board of Trustees of the Village of Marissa (board) had been holding its meetings on the third Monday of the month until June 2024, when it approved a motion to move those meetings to the third Wednesday of the month "until further notice." The board did not publish notice of this change in a local newspaper but held its July and August meetings on the third Wednesdays of those months. At the August meeting, the board approved a motion to formally amend a village ordinance to reflect the change in meeting dates. A member of the public submitted a request for review alleging the board violated OMA by failing to provide the required notice by publication prior to its July meeting. The opinion concludes the board's obligation to provide the 10-day notice accrued prior to the July meeting because the board announced in June the change applied "until further notice." Additionally, the opinion clarifies that notice "by publication in a newspaper" requires a public body to submit a legal notice to a local newspaper for publication, rather than relying on a newspaper article reporting a change of a public body's regular meeting dates. Because the board subsequently published notice of the change of meeting dates, the opinion did not require the board to take additional remedial action. However, the opinion provides important direction to public bodies concerning compliance with section 2.03 of OMA.

***Ill. Att'y Gen. Pub. Acc. Op. No. 24-016, issued Dec. 27, 2024:*** A labor union (union) submitted a request for review alleging that the City of Chicago Community Commission for Public Safety and Accountability (commission) improperly denied its request for a copy of a letter it received from current and former Civilian Office of Police Accountability (COPA) employees concerning COPA's chief administrator. The commission denied the request pursuant to three FOIA exemptions, and when the PAC forwarded the union's request for review to the commission, it asserted that three additional FOIA exemptions applied to the letter. This opinion concludes that none of the six cited FOIA exemptions permit the denial of the request. The letter is not exempt from disclosure under section 7(1)(f) of FOIA because the commission did not demonstrate that the letter writers were involved in any joint decision-making process with the commission. The letter is not exempt under section 7(1)(m) of FOIA because it was not prepared or compiled with respect to an internal audit of COPA. Since the letter was created before and existed independently of any "adjudication" of the COPA's chief administrator, it did not fall within the scope of section 7(1)(n) of FOIA. Given the subject matter of the letter and the lack of any indication that signatories intended to submit the letter confidentially, the commission did not demonstrate it was authorized to withhold the letter pursuant to section 7(1)(c) because disclosure would cause a clearly unwarranted invasion of personal privacy for the signatories. Finally, the commission did not meet its burden of demonstrating that the letter was exempt under the two cited law enforcement exemptions.

## *Success Stories continued*

After the issuance of the opinion, the commission furnished the content of the letter to the union, but filed for administrative review on the question of whether the names of the signatories are exempt from disclosure.

### *Determination Letters*

**Ill. Att’y Gen. PAC Req. Rev. Ltr. 76498, issued Jan. 23, 2024:** A member of the public submitted a FOIA request for review challenging the Village of Bartlett Police Department’s (department) partial denial of his request seeking records pertaining to a named individual. The department made numerous redactions to the responsive incident reports, pursuant to several FOIA exemptions. PAC determined some of the redactions were appropriate, but the department should have disclosed information concerning the named individual’s detention in one incident because it amounted to an arrest. PAC also determined that the department should disclose information in the report documenting the activities of its officers. As requested by the PAC’s determination letter, the department subsequently provided the requester with a copy of the records with fewer redactions.

**Ill. Att’y Gen. PAC Req. Rev Ltr. 76612, issued May 6, 2024:** A member of the public requested from the Illinois State Police (ISP) a copy of the video and audio recordings of his traffic stop. ISP acknowledged its possession of the requested recordings, but levied a fee of \$200 for the two CDs/DVDs containing the recordings. PAC determined that section 3(f) of FOIA barred ISP from assessing a fee for copies of the records responsive to this request because it had not responded to the request in a timely manner. Additionally, the determination letter explained that \$100 per disk was an excessive fee for records, as section 6(a) of FOIA limits public bodies to charging requesters “the actual cost of purchasing the recording medium[.]” After the issuance of this determination letter, ISP furnished the requester with the recordings for free.

**Ill. Att’y Gen. PAC Req. Rev. Ltr. 77144, issued Feb. 6, 2024:** In response to a FOIA request, Niles Township High Schools District 219 (district) furnished a member of the public (requester) copies of redacted communications referencing her name. The records pertained to a complaint that was filed against the requester. The requester submitted a request for review disputing the redactions. PAC determined the district properly withheld the names and other identifying information of the complainants, but improperly redacted information related to the nature of the complaint, as that information would neither identify the complainants nor cause a clearly unwarranted invasion of personal privacy. As requested by the PAC’s determination letter, the district subsequently provided the requester a copy of the communications disclosing the portions that discussed the nature of the complaint.

**Ill. Att’y Gen. PAC Req. Rev. Ltr. 78117 77904, issued Feb. 21, 2024:** Two individuals submitted requests for review to PAC alleging the Burr Ridge Park District Board (board) violated OMA by improperly discussing potential improvements to a park and a proposed property development during a closed session meeting, rather than openly. Although OMA permits public bodies to discuss certain matters pertaining to real estate matters in closed session, PAC determined the board’s discussion did not fall within the scope of the exception in section 2(c)(5) of OMA because the issues discussed did not relate to the purchase or lease of real property. The board subsequently voted to release the portion of the closed session verbatim recording that did not fall within a closed-session exception.

## *Success Stories continued*

**Ill. Att’y Gen. PAC Req. Rev. Ltr. 79583, issued Mar. 5, 2024:** The City of Bloomington (city) denied a FOIA request seeking copies of every notice of summary suspension form filed with its police department in the year 2021. The city asserted the request was unduly burdensome because it would require the city to review records from 236 files in order to respond. PAC determined there is a significant public interest in disclosure of these forms, which shed light on the manner in which police perform public duties related to DUI arrests, and that the city had not demonstrated the burden of complying with the request. PAC requested the city provide the requester copies of the responsive forms, with appropriate redactions, and the city did so.

**Ill. Att’y Gen. PAC Req. Rev. Ltr. 80655, issued July 22, 2024:** A member of the public submitted a FOIA request for review challenging the City of Kankakee’s (city) denial of his request seeking surveillance video recordings of a shooting. The city denied the request pursuant to section 7(1)(d)(i) of FOIA, which permits the withholding of law enforcement records only to the extent they would interfere with law enforcement proceedings. The city also denied the request under section 7(1)(d)(iii) of FOIA, which permits the withholding of law enforcement records only to the extent they would deprive a person of a fair trial. PAC determined the city did not prove by clear and convincing evidence that release of the video recordings of the incident, which had occurred nearly a year before the request, would interfere with law enforcement proceedings or deprive an individual of a fair trial. As requested by PAC’s determination letter, the city subsequently released the recordings to the requester.

**Ill. Att’y Gen. PAC Req. Rev. Ltr. 82136, issued Aug. 21, 2024:** A parent submitted a FOIA request for review challenging the redactions made by the Hawthorn Woods Police Department (department) to a copy of a police report concerning the driving under the influence arrest of a person who was transporting his daughter. The department maintained properly redacted information pertaining to the arrest under numerous exemptions. PAC determined that although certain discrete portions of the report were exempt from disclosure, FOIA required disclosure of information concerning the arrestee. In compliance with the determination letter, the department released a copy of the police report to the requester without redacting the arrestee information.

**Ill. Att’y Gen. PAC Req. Rev. Ltr. 82465, issued Sept. 24, 2024:** A member of the public submitted a FOIA request for review contesting the Chicago Park District’s (park district) redactions of certain police logs. After the PAC forwarded the request for review to the park district, the park district provided a supplemental response to the requester with fewer redactions. The park district maintained, however, that entries logging whether personnel conducted premises checks were exempt under 7(1)(v) of FOIA. PAC determined the park district did not meet its burden of proving the redacted information, which consisted of columns documenting dates, times, and general reasons that particular employees conducted surveillance, revealed “details of any security measures that could be exploited to jeopardize their effectiveness or the safety of personnel or members of the public.” The park district subsequently released unredacted copies of the logs to the requester.

**Ill. Att’y Gen. PAC Req. Rev. Ltr. 82984, issued December 19, 2024:** A Freeburg Community Consolidated School District (district) No. 70 Board of Education (Board) member alleged the board improperly discussed removing him from office during a closed session meeting. Although section 2(c)(1) of OMA allows a public body to discuss issues relating to specific employees in closed session, individuals who hold an elected public office are not “employees” of a public body. The board argued its discussion of the board member was proper

## *Success Stories continued*

because it was collateral to an issue involving specific employees. However, PAC's review of the closed session verbatim recording found a sizeable portion of the board's discussion directly and extensively focused on the board member rather than whether to discipline district employees. Because that discussion was not permitted to be held in closed session, PAC requested the board disclose those portions of the recording. The board member subsequently confirmed he reviewed the recording.

***Ill. Att'y Gen. PAC Req. Rev. Ltr. 83108, issued November 19, 2024:*** A member of the public submitted a request for review alleging the Will County Division of Transportation (division) improperly redacted one e-mail responsive to her request for all correspondence between the division and a third-party contractor concerning road work near her property. The division redacted the e-mail pursuant to section 7(1)(f) of FOIA, which applies to inter- or intra-agency communications, or to an agency's communications with its consultants. Upon review, PAC determined the e-mail was not exempt from disclosure because the e-mail constituted correspondence in which the division and a third party were attempting to come to a mutual agreement while each protecting their own specific interests. Upon receiving the PAC's determination, the division provided the requester with the unredacted e-mail.

### ***Informal Resolutions***

**2023 PAC 79284:** The Illinois Department of Corrections (IDOC) denied as unduly burdensome a request by a member of the public for unusual incident reports from a county jail over a two-year period. After a PAC attorney conferred with both parties, the requester narrowed the scope of the request to reports from certain months and IDOC furnished the requester the reports from those time periods.

**2024 PAC 79387:** The Calumet City Police Department (department) responded to a FOIA request by asserting it did not have body camera footage relating to a traffic crash. However, a police report related to the incident included a statement from a police officer, which indicated his body camera had recorded the encounter. After a PAC attorney spoke with the department's FOIA officer, the department conducted an additional search, found the recording and provided it to the requester.

**2024 PAC 79610, 2024 PAC 79611:** A journalist submitted FOIA requests to the Chicago Police Department (CPD) for records of verified incidents in which ShotSpotter, a gunshot detection technology, failed to detect gunshots. CPD denied the requests as unduly burdensome under section 3(g) of FOIA. CPD also asserted the information was a trade secret or similar commercial or financial information that could be withheld under section 7(1)(g) of FOIA. After a PAC attorney forwarded a copy of the request for review to CPD, the PAC attorney secured a resolution in which CPD provided the requester with metadata that satisfied his requests.

**2024 PAC 80052:** A not-for-profit organization submitted a request for review to the PAC alleging the Illinois Department of Natural Resources (department) provided an incomplete response to its FOIA request for documentation submitted by a corporation in connection with its endangered and threatened species consultation and environmental review process. Upon receiving the request for review, a PAC attorney contacted the department to discuss its search process. The department conducted additional searches, identified more information responsive to the FOIA request, and disclosed copies of those records to the requester.

## *Success Stories continued*

**2024 PAC 80065:** On behalf of its client, a law firm requested certified copies of records from the Illinois Workers Compensation Commission (commission). The commission provided records but did not provide the requested certification. Section 3(b) of FOIA states a public body shall certify copies of records if requested. The law firm submitted a request for review to PAC alleging the commission improperly failed to certify the copies it provided. A PAC attorney called the commission to discuss the request for review, after which the commission provided the law firm with a notarized affidavit of certification.

**2024 PAC 80335:** The City of Evanston (city) provided records responsive to a FOIA request for certain records pertaining to its use of drones, but the requester alleged that the response was incomplete. After a PAC attorney forwarded the request for review to the city, the city provided the requester a supplemental response with additional drone records.

**2024 PAC 80398:** A journalist alleged to PAC that the City of Chicago (city) improperly treated his request for a copy of a log of e-mails sent to or received by the mayor's chief of staff as unduly burdensome. After a PAC attorney forwarded the request for review to the city and inquired as to the legal and factual bases for its response, the city provided the e-mail log to the requester.

**2024 PAC 80618:** A member of the public submitted a request for review alleging that Clinton County (county) failed to provide a copy of a requested search warrant that should have been in its possession. The county's FOIA officer explained that before responding to the request, she had consulted with the Sheriff's Department, which the FOIA officer believed to be the office most likely to maintain responsive records. Following intervention by the PAC, the FOIA officer conducted a supplemental search, obtained a copy of the requested search warrant from the state's attorney's office and provided the warrant to the requester.

**2024 PAC 80720:** The Cook County Clerk's Office (clerk's office) denied a journalist's FOIA request for copies of subpoenas it received from federal investigative authorities. After a PAC attorney forwarded the request for review to the clerk's office and then forwarded a copy of a prior PAC determination letter addressing the withholding of subpoenas, the clerk's office reconsidered its partial denial and provided a supplemental response to the journalist with redacted copies of the requested subpoenas.

**2024 PAC 81108:** A journalist submitted a FOIA request for review contesting the Chicago Transit Authority's (CTA) response to her FOIA request for copies of two personnel files of CTA employees. CTA's response to the journalist indicated it withheld certain information pursuant to several FOIA exemptions. The journalist also contended additional records existed and disciplinary records less than four-years old should have been provided. A PAC attorney sent a letter to the CTA, requesting unredacted copies of any withheld disciplinary records and a legal explanation for any records CTA withheld. After further discussion with the PAC attorney, the CTA disclosed additional personnel records and more thoroughly explained the search it performed for responsive records. The journalist confirmed the supplemental response and additional explanation resolved her request for review.

**2024 PAC 81240:** A journalist submitted a request for review alleging that Jefferson County (county) Animal Control violated FOIA by failing to provide photographs responsive to her request for records concerning

## *Success Stories continued*

a specified investigation. After a PAC attorney forwarded the journalist's request for review to the county, it released copies of the photographs in its possession.

**2024 PAC 81806:** The Chicago Mayor's Office (mayor's office) partially denied a request for communications related to a contract negotiation pursuant to section 7(1)(m) of FOIA, which permits the withholding of attorney-client privileged communications. PAC determined that further inquiry was warranted and sent a copy of the request for review to the mayor's office, along with a letter requesting a detailed factual and legal basis for the partial denial. The mayor's office provided a detailed response describing the nature of the withheld information and the applicability of the exemption. The PAC attorney forwarded that response to the requester, who reviewed the explanation provided by the mayor's office, and notified the PAC attorney the mayor's office's explanation resolved the matter.

**2024 PAC 82308:** An attorney submitted a FOIA request to the Village of Buffalo Grove (village) seeking copies of the business license application and business license for a specified business. The village only provided the license, not the license application, and did not respond to the attorney's correspondence pointing out the application was missing from the response. The attorney then submitted a request for review to PAC arguing the Village had improperly withheld the license application. After a PAC attorney contacted the village, the village provided the requester with a copy of the application.

**2024 PAC 82477:** A member of the public challenged the completeness of the response of the Chicago Mayor's Office (mayor's office) to his request for copies of all FOIA denial letters that asserted a specific exemption. After a PAC attorney forwarded the request for review to the mayor's office, it performed a supplemental search of its records and located additional responsive letters, which were provided to the requester.

**2024 PAC 82611:** A member of the public submitted a request for review to the PAC alleging the Mt. Zion Community Unit School District No. 3 Board of Education (board) violated OMA by improperly discussing facility naming rights in a closed session. After a PAC attorney forwarded the request for review to the board and obtained the closed session verbatim recording, the PAC attorney mediated a resolution in which the board disclosed the portions of the closed session that focused on the facility naming rights issue while maintaining as confidential the portions concerning the performance of a specific employee which the board was permitted to discuss in closed session under the section 2(c)(1) exception.

**2024 PAC 83457:** An attorney challenged the completeness of the response of the City of Chicago (city) Department of Buildings (department) to his request for copies of inspection and complaint records relating to a specified building. A PAC attorney contacted the city, and the department agreed to conduct a second search for responsive records. The department located additional records and provided them to the requester, resolving the matter.

**2024 PAC 83693:** A member of the public alleged that the Aurora Public Library District Board of Trustees (board) violated OMA by failing to post the 2024 compensation package information to the library's website, as required by section 7.3 of OMA. After a PAC attorney forwarded the request for review to the board, it promptly posted the 2024 and 2025 compensation package information to the library's website.

## *Success Stories continued*

**2024 PAC 83915:** A representative of a state agency submitted a FOIA request to the Department of Central Management Services (CMS) seeking copies of specific recorded service calls made to the MyBenefits Service Center. CMS denied the request in its entirety pursuant to section 7(1)(s) of FOIA, and the requester submitted a request for review to the PAC. A PAC attorney forwarded the request for review to CMS, along with two PAC binding opinions interpreting the scope of section 7(1)(s). In response to this office's letter, CMS withdrew its denial and provided the requester with copies of the responsive records, with limited redactions. The requester confirmed the redacted records satisfied her request.

**2024 PAC 84024:** Illinois State University (university) denied in its entirety a FOIA request from a journalist seeking a copy of a specified police report. The journalist argued to PAC the report should have been disclosed with redactions. A PAC attorney conferred with the journalist and with the university's FOIA officer and the university agreed to release a redacted version of the police report. The journalist confirmed the university's supplemental response resolved his request for review.

**2024 PAC 84209:** A member of the League of Women Voters of Proviso Township submitted a FOIA request for review alleging that the Village of Broadview (village) improperly responded to her FOIA request seeking information about candidates for the upcoming municipal election. A PAC attorney spoke with the village clerk to clarify the FOIA request and the village thereafter provided a supplemental response to the requester.

# The Freedom of Information Act

## GENERAL INFORMATION

### What is the Freedom of Information Act?

The Freedom of Information Act (FOIA) is a state statute that provides the public with the right to access government documents and records. The premise behind FOIA is that the public has a right to know what its government is doing. The law provides that a person can request a copy of a specific record, or a public body's records on a specific subject, and the public body must provide those records, unless there is an exemption in the statute that protects those records from disclosure.

### Who is subject to FOIA?

Illinois public bodies, including among others, the executive and legislative branches of state government, counties, cities, villages, towns, townships, public educational institutions and libraries are subject to FOIA. The judicial branch is not subject to FOIA, but court records and proceedings generally are open to the public under other Illinois laws.

### What is considered a "public record?"

"Public records" are defined in FOIA as "all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications, recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by or for, or having been or being used by, received by, in the possession of, or under the control of any public body." Given this broad definition, FOIA is intended to cover any document, regardless of form, that pertains to the transaction of government business.

### Who can submit a FOIA request?

Anyone. Any person, group, association, corporation, firm, partnership or organization has the right to submit a FOIA request to any state or local public body.

### What is the PAC's role under FOIA?

The Attorney General's office helped to pass legislation that reformed and strengthened FOIA to improve public access to government records. The law's provisions codified the PAC position within the Attorney General's Office and explicitly authorized the PAC to review and determine whether a government body has violated FOIA. The law gives the PAC authority to issue binding opinions to resolve disputes, to mediate disputes, or resolve them by other means, including the issuance of non-binding determination letters.

The law also requires the PAC to prepare a training program for public body FOIA officers, who are required to successfully complete that FOIA training program annually.

# FOIA Frequently Asked Questions

## HOW TO SUBMIT A FOIA REQUEST

### **I need information from a public body but I am not sure where to start or what to request. What can I do?**

Start by writing a list of the information you are seeking and then prepare a letter, email or access that public body's online portal for submitting a request. If you are not sure who to address the letter to, contact the public body's main office and request the contact information for the FOIA officer. It is helpful if your correspondence includes your contact information so the public body can contact you with questions.

Be sure to describe the information you are seeking with sufficient detail so the public body can find the requested records. Providing as much information as possible on the subject matter may expedite the public body's search process. You do not need to describe the document specifically and accurately by the same name the public body uses. As long as the public body understands what you are requesting and a FOIA exemption does not apply, the public body must release the information.

Public bodies cannot require the public submit FOIA requests on a specific form or in a specific format. However, public bodies can require FOIA requests in writing. Public bodies must accept requests by mail, personal delivery, fax, email, or other means available to the public body. Public bodies may accept oral FOIA requests but are not required to do so.

Each public body must develop, and make available upon request, a list of documents to immediately provide to a requester. Each public body must maintain a reasonably current list of all types or categories of records under its control and the list should be reasonably detailed to aid people in obtaining access to public records. This list must be available for inspection and copying.

### **What should I include in my FOIA request?**

Your written request should include the date and your contact information so the public body can contact you with any questions. Provide as much information as possible on the subject matter to help expedite the search process.

### **Can a public body require that a FOIA request be submitted on a certain form or in a certain format?**

No. While public bodies may offer a form or website portal for FOIA requests, they cannot reject your request if you do not use a specific method. Public bodies may accept oral FOIA requests but are not required to do so. Public bodies can require FOIA requests be submitted in writing, but they must accept requests by mail, personal delivery, fax, email or other means available to the public bodies.

### **To whom do I submit a FOIA request?**

FOIA requests should be submitted to the public body's designated FOIA officer. Every public body must ensure the name(s) of its FOIA officer(s) are prominently displayed at its office or on its website. The public body must

## FOIA Frequently Asked Questions continued

also display and make available:

- Information on how to submit a FOIA request.
- A brief description of the office, including its purpose, budget and number of employees.

Any public body that has a website must also post this information on its website.

### **Is electronic information considered to be a public record?**

Yes. FOIA defines public records to include electronic documents, records and communications. When a person requests a record maintained in an electronic format, the public body must provide it in the electronic format specified by the request, if possible. If it is not, the public body must present the information in the format that it is maintained or in a paper format at the option of the requester. The public body may charge a fee for the actual cost of purchasing the recording medium, such as a CD or flash drive, but it cannot charge a fee for its search or review of the information, except in rare circumstances only applicable to commercial requests.

### **What if I don't use the same name for a document that the public body uses? Can the public body deny my request for that reason?**

No. You do not need to describe the document specifically and accurately by the same name the public body uses. As long as the public body understands what you are requesting, it must release that information unless an exemption in FOIA is applicable.

### **Can the public body ask me why I want the information?**

No, except to determine if the request is for commercial reasons or if the requester seeks a fee waiver. See below for more details on commercial requests and fee waivers.

### **How many days does the public body have to respond to my FOIA request?**

A public body must respond to a FOIA request within *five business days* after the public body receives the request.

### **When does the five-business-day time period start?**

On the first business day *after* the public body receives the request, not the day that the request was received.

### **What is a "business day" or "working day?"**

A "business day" or "working day" is a regular day of the week (Monday through Friday). Saturdays, Sundays and state holidays are not business days and cannot be counted in the five-business-day time period.

## *FOIA Frequently Asked Questions continued*

### **Can the public body extend the time for responding to my FOIA request?**

Yes. The public body may, without the requester's consent, extend the time period for an additional five business days from the original due date if:

- The requested information is stored at a different location.
- The request requires the collection of a substantial number of documents.
- The request requires an extensive search.
- The requested records have not been located and require additional effort to find.
- The requested records need to be reviewed by staff who can determine whether they are exempt from FOIA.
- The requested records cannot be produced without unduly burdening the public body or interfering with its operations.
- The request requires the public body to consult with another public body that has a substantial interest in the subject matter of the request.

If this additional time is needed, the public body must notify the requester in writing within five business days after the receipt of the request explaining the statutory reasons for the extension and when the requested information will be furnished.

### **Can I enter into an agreement with the public body to further extend the deadline to respond?**

Yes.

It is sometimes beneficial to do so because the extra time may reduce the likelihood of the public body denying the request as unduly burdensome. The agreement to extend the deadline must be in writing.

### **What is the incentive for a public body to respond to my request within five business days (or 10 business days if extended)?**

Aside from the potential outcome that a court ultimately could impose a civil penalty of between \$2,500 and \$5,000 per violation, public bodies have an additional incentive to respond within the time limits set forth in the statute. In the event a public body fails to respond within five business days, it cannot charge for reproduction costs when it does disclose the document or treat the request as unduly burdensome.

## **FEES**

### **Can the public body charge for copies?**

Yes, but the fees are limited. For black-and-white letter or legal-sized paper copies (8 1/2 x 11 or 8 1/2 x 14), the first 50 pages are free, and any additional pages can cost no more than 15 cents per page. For color copies or abnormally-sized copies, the public body can charge the actual cost of copying.

## *FOIA Frequently Asked Questions continued*

### **Can a public body charge for electronic copies?**

A public body may not charge a requester for electronic records that it sends in an e-mail or uploads to a portal, unless the request is a voluminous request. If the records cannot be e-mailed or uploaded, the public body may charge the actual cost of the recording medium. For example, if information is provided on a flash drive, the public body may only charge the requester the actual cost incurred to purchase the flash drive. If a public body treats a FOIA request as voluminous, then it may charge certain fees based on megabytes of data provided, as detailed in the law.

### **Is it possible for a public body to waive the copying fees?**

Yes. Public bodies may choose to waive or reduce copying fees if disclosure is in the public interest. A public body may, but is not required to, grant a request for a waiver or reduction if:

- The information concerns the health, safety and welfare or the legal rights of the general public.
- The requester intends to disseminate the information.
- No personal or commercial benefit will be received from document disclosure.

## **INFORMATION IN ELECTRONIC FORMAT**

### **Can I request the documents in electronic form?**

Yes, and the public body must provide those electronic documents in the requested format, if it is feasible for the public body. If that format is not available, it must provide the records in the electronic format in which they are kept, or on paper, at the option of the requester. A public body is not required to convert records maintained in paper format into an electronic format.

### **If the public body has a database and the information I am seeking requires that the public body do a search of that database, does the public body have to conduct that search?**

Yes, and the public body cannot charge you for that search except in certain circumstances that are applicable only to commercial requests.

### **Are emails subject to FOIA?**

Yes. All electronic communications that pertain to the transaction of public business (as long as they do not fall within an exemption) are subject to FOIA.

## **FOIA OFFICERS**

### **What is a “FOIA officer?”**

A FOIA officer is a person appointed by the public body to ensure the public body complies with FOIA. The

## *FOIA Frequently Asked Questions continued*

FOIA officer's responsibility is to receive FOIA requests from the public and to send responses in compliance with FOIA. FOIA requires each public body appoint at least one FOIA officer and that the FOIA officer(s) complete an electronic training program developed by the Attorney General's PAC. The training program must be completed annually.

### **Is every public body required to have a designated FOIA officer?**

Yes. Additionally, every public body must prominently display a brief description of the methods available to the public to submit a FOIA request, a directory designating the FOIA officer(s), the address where FOIA requests should be directed and any fees applicable to FOIA requests at its office and on its website.

### **If the public body does not display the FOIA officer's information, what should I do?**

You can address the FOIA request to "FOIA Officer" using a general mailing or email address for the public body. A public body is responsible for forwarding all FOIA requests to its FOIA officer. However, the public body is required to post information explaining how to submit a FOIA request at the office of the public body as well as on any websites maintained by the public body. You can call the public body to report that you were unable to locate the required information.

## **WHAT TO DO IF THE PUBLIC BODY DOES NOT RESPOND OR IF YOUR FOIA REQUEST IS DENIED**

### **What can I do if the public body doesn't respond to my FOIA request?**

If the public body does not respond to your request, or does not properly extend the time for responding, within five business days after receiving it, then its inaction is considered a denial of your request. If that occurs, you can either file a request for review with the PAC or file a lawsuit in court.

### **What information must the public body include in a denial?**

If a public body denies or partially denies your FOIA request, the denial must be in writing and must reference a specific legal reason under FOIA to justify withholding the record. The denial must also inform the requester of the right to seek review of the issue by the PAC in the Attorney General's office, including the PAC's contact information and the right to seek judicial review by filing a lawsuit.

### **What can I do if the public body denies my request for information?**

First, it is important to know that FOIA includes provisions that allow public bodies to withhold some records and information from public disclosure, such as unique personal or private information, certain law enforcement records, preliminary drafts, business trade secrets, and privileged attorney-client communications. Additionally, a public body may deny a request that is unduly burdensome. If a public body has denied, in part or in full, your request for information, you can either file a request for review with the PAC or file a lawsuit in court.

## FOIA Frequently Asked Questions continued

### EXEMPTIONS – RECORDS THAT A PUBLIC BODY MAY WITHHOLD FROM DISCLOSURE

#### What kind of information can a public body decline to provide to me in response to a FOIA request?

FOIA has a presumption that all information is public, unless the public body proves otherwise. There are several exceptions to public disclosure that include, but are not limited to:

- Private information is exempt from disclosure under FOIA. FOIA defines “private information” as “unique identifiers, including a person’s social security number, driver’s license number, employee identification number, biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal email addresses.” Under FOIA, “private information also includes home addresses and personal license plate numbers, except as otherwise provided by law or when compiled without possibility of attribution to any person.”
- Personal information that, if disclosed, would constitute a clearly unwarranted invasion of personal privacy, unless the disclosure is consented to in writing by the person who is the subject of the information. Under FOIA, the “unwarranted invasion of personal privacy” means the “disclosure of information that is highly personal or objectionable to a reasonable person and in which the subject’s right to privacy outweighs any legitimate public interest in obtaining the information.” Disclosing information that bears on the public duties of public employees is not considered an invasion of personal privacy.
- Law enforcement records that, if disclosed, would interfere with a pending or reasonably contemplated proceeding, obstruct an open investigation, or reveal the identity of a person who filed a complaint with or provided information to a law enforcement agency.
- Information that, if disclosed, might endanger anyone’s life or physical safety.
- Preliminary drafts or notes in which opinions are expressed or policies are formulated, unless the record is publicly cited and identified by the head of the public body.
- Privileged communications between a public body and its attorney or auditor.
- Business trade secrets or commercial or financial information that is proprietary, privileged or confidential and that, if disclosed, would cause competitive harm to the person or business.
- Proposals and bids for any contract, until a final selection is made.
- Records or information that is prohibited from disclosure by another state or federal law, or a state or federal rule or regulation. Examples include records that identify a juvenile as a suspect or arrestee, certain body-worn camera recordings, school student records, and employee performance evaluations.
- Requests that are “unduly burdensome.” (See next question).

#### What does “unduly burdensome” mean?

This exemption exists if there is no way to narrow the request, and the burden on the public body to respond to the request outweighs the public interest in the information. However, before relying on this exemption, the public body must first give the requester an opportunity to reduce the request to a manageable size and confer with the requester when appropriate. If it is still unduly burdensome, the public body must explain in writing the reasons why the request is unduly burdensome and the extent to which compliance will burden the operations of the public body. Such a response is considered a denial.

## FOIA Frequently Asked Questions continued

### REDACTIONS

#### **Can a public body remove or black out information from documents it provides?**

Yes. If a record contains information that is exempt from disclosure under FOIA, a public body can remove or black out that exempt information from the public records. This is called “redaction.” The public body must, however, provide the remaining non-exempt information, and must reference a specific legal reason under FOIA for redacting the documents

### OTHER FOIA QUESTIONS

#### **Can a public body allow you to inspect but not copy public documents?**

No. Public bodies generally must allow you to inspect and obtain copies of public documents, as you prefer. In the rare circumstance where the public body is prohibited from copying documents for which it does not hold the copyright, the public body must allow you to inspect records.

#### **IF YOU BELIEVE THAT A PUBLIC BODY HAS VIOLATED FOIA, YOU CAN TAKE ACTION. HERE IS WHAT YOU NEED TO KNOW.**

#### **What can I do if I think a public body has violated FOIA?**

*Within 60 calendar days* from the public body’s denial of your request, you can file a request for review with the Attorney General’s PAC or you can bring a civil action in circuit court against the public body.

#### **What is a “request for review?”**

A request for review is correspondence a requester may submit to the PAC if their request to inspect or copy a public record that has been denied or if the public body has failed to respond. This letter or email is a formal way of asking the PAC to examine the request and the public body’s response (or lack thereof) and determine if a FOIA violation has occurred.

#### **How do I submit a FOIA Request for Review to the PAC?**

A FOIA request for review must be in writing, be signed by the requester, and include (1) a copy of the FOIA request and (2) any responses, including denial letters, from the public body. If the public body did not respond to the request, the requester must explain that in their request for review. The request for review does not need to follow any particular format. If you would like to use a sample request form, however, please visit our [website](#).

## FOIA Frequently Asked Questions continued

### Is there a deadline for submitting a request for review?

Yes. The requester must submit a request for review to the PAC within 60 calendar days after the date of the final denial from the public body (or the date upon which a response from the body was due). Note this time limit is counted in calendar days (i.e., including Saturdays, Sundays and holidays), not business days.

### How do I contact the PAC in the Attorney General's Office?

The PAC is a part of the Attorney General's office and may be contacted at:

Leah Bartelt  
Public Access Counselor  
Office of the Attorney General  
500 S. 2nd Street  
Springfield, Illinois 62701  
Email: [public.access@ilag.gov](mailto:public.access@ilag.gov)  
FOIA Hotline: 1-877-299-FOIA (1-877-299-3642)

### What does the PAC do with my Request for Review?

The PAC will review your request and do one of the following:

- Review the issues in your FOIA dispute and determine that no further action is necessary. If the PAC decides the alleged violations are unfounded, the PAC will inform you and the public body of that decision in writing. The PAC may informally obtain information from a public body as part of its consideration of whether a request for review is unfounded.
- Work to resolve your FOIA dispute with the public body. The PAC may choose to work informally to resolve the matter by means other than the issuance of a binding opinion. For example, the PAC may issue a non-binding determination letter or a PAC attorney may attempt to mediate disputes by facilitating communication between the requester and the public body and providing information about the scope of FOIA exemptions. A PAC attorney may contact you informally with questions or information. The PAC's decision to decline to issue a binding opinion is not reviewable.
- Issue a binding opinion to resolve the FOIA dispute. The PAC will review any information needed to analyze the FOIA dispute with the public body and any additional information that you and the public body choose to provide. If the PAC decides to issue a binding opinion, it must do so within 60 calendar days after receiving the request for review, unless the PAC extends the time by no more than 30 business days. If the PAC's opinion directs the public body to disclose records, the public body may appeal the opinion to the circuit court. If the public body does not appeal the opinion and fails to disclose the records as ordered by the opinion, the Attorney General's office may sue the public body to enforce the opinion. If the opinion concludes the records fall within a FOIA exemption and need not be disclosed, the requester may appeal the opinion to the circuit court.

## *FOIA Frequently Asked Questions continued*

### **Do I have to file a request for review with the PAC before I file a FOIA lawsuit in court?**

No. You can file a FOIA lawsuit in court after a denial from the public body or after the PAC concludes a review of the matter. If the PAC decides to issue a binding opinion and you disagree with the opinion, it can be appealed to the circuit court. You should be aware that if you ask the PAC to review a matter and then decide, before the PAC completes the review, to file a lawsuit without waiting for the PAC's decision, the law requires the PAC to immediately stop working on your request for review to allow your lawsuit to move forward.

### **What's the difference between my two appeal options: filing a request for review with the PAC or filing a suit in court?**

If you decide not to seek assistance from the PAC and instead go straight to court, the public body has the burden to show its denial was correct through clear and convincing evidence. If you submit a request for review to the PAC, the public body similarly has the burden to show the PAC its denial was correct through clear and convincing evidence. If the PAC issues a binding opinion deciding your case, then that opinion carries significant weight. If the losing party decides to appeal the PAC's opinion to the court, the court must give deference to the PAC's opinion and can only overturn it if it is clearly erroneous.

### **What are the penalties that a public body may incur if a court finds that it violated FOIA?**

In a civil lawsuit for a violation of FOIA, a court may order the production of any public records improperly withheld from the person seeking access. If it determines the public body willfully and intentionally failed to comply with FOIA, it shall impose a civil penalty of not less than \$2,500 nor more than \$5,000 for each occurrence. The court shall also require the public body to pay the reasonable attorney's fees and costs of the person who filed the civil lawsuit alleging the FOIA violation.

# The Open Meetings Act

## GENERAL INFORMATION

### What is the Open Meetings Act?

The Open Meetings Act (OMA) is a State law that requires that meetings of public bodies be open to the public except in certain specific, limited situations (discussed in more detail below) where the law authorizes the public body to close a meeting. OMA also provides that the public must be given advance notice of the time, place, and subject matter of meetings of public bodies.

### What is the difference between FOIA and OMA?

FOIA applies when a member of the public is seeking access to public records. OMA is intended to ensure that the actions of public bodies are conducted in the open, through public meetings, and that the public is able to observe those meetings.

### What is subject to OMA?

OMA applies to all “public bodies,” which includes all legislative, executive, administrative, or advisory bodies of:

- The state,
- Counties,
- Townships, cities, villages or incorporated towns,
- School districts,
- Municipal corporations.

Public bodies also include all committees, subcommittees, and other subsidiary bodies of public bodies. Examples of public bodies include everything from park district boards to city councils. Public bodies include, but are not limited to, any entity that is supported in whole or in part by tax revenue or which expends tax revenue.

### What is the PAC’s role under OMA?

The Attorney General’s Office helped pass legislation that reformed and strengthened OMA to improve public access to government deliberations. The law’s provisions codified the PAC position within the Attorney General’s Office and explicitly authorized the PAC to review and determine whether a governmental body has violated OMA. The law gives the PAC authority to issue binding opinions to resolve disputes, to mediate disputes, or resolve disputes by other means, including the issuance of non-binding determination letters.

The law also requires the PAC to prepare a training program for elected and appointed members of public bodies, and others designated by their public bodies to receive annual training on OMA.

# OMA Frequently Asked Questions

## **PUBLIC MEETING**

**What is a “meeting?” How many members of the public body have to be present before OMA requirements apply?**

A “meeting” under OMA is any gathering of a majority of a quorum of the members of a public body for the purpose of discussing public business. For example, for a seven-member board with a quorum of four, a majority of the quorum would be three. Therefore, a gathering of three members of a seven-member board held for the purpose of discussing public business satisfies the OMA’s definition of “meeting.”

There is an exception in the definition that requires at least a quorum, or three members, of a five-member public body, to participate in a gathering to trigger the requirements of OMA. In addition, the affirmative vote of three members is necessary for a public body with five members to adopt any motion, resolution, or ordinance, unless a greater number is otherwise required.

## **PUBLIC NOTICE OF A MEETING**

**What is public notice?**

Giving public notice of a meeting means that the public body must provide the date, time, and location of a meeting.

**When and how does a notice of a regular meeting have to be provided by a public body?**

At the beginning of each calendar or fiscal year, every public body must create and make available to the public the schedule of regular meetings that year, including the dates, times, and locations of the meetings. Notice shall be given by posting a copy of the notice at the principal office of the body holding the meeting or, if no such office exists, at the building in which the meeting is to be held. If the public body has a website maintained by its own full-time staff, then notice of all meetings of its governing body must also be posted on that website.

If the public body changes the regular meeting schedule, it must give 10 calendar days’ notice of the change by publicizing the change in the newspaper and by posting information concerning the schedule change at the principal office of the public body. Newspaper publication is not required for rescheduling a single meeting.

The public body must post an agenda (see below) for each particular meeting at the principal office of the public body, and at the location of the meeting 48 hours prior to the start of that meeting. If a public body has a website maintained by its own full-time staff, it also must post on the website the agenda for each meeting of its governing body at least 48 hours in advance of the meeting. The agenda must be continuously available for the full 48-hour period prior to the meeting; however, if it is not available due to actions outside of the control of the public body, then the lack of availability does not invalidate any meeting or action taken at a meeting.

## *OMA Frequently Asked Questions continued*

### **MEETING AGENDA**

#### **What is an agenda?**

An agenda is a list of the items to be discussed or acted upon during a meeting.

#### **Can the agenda be changed?**

Although a public body may remove an agenda item that it determines will not be addressed or add a new topic for discussion at a regular meeting solely to increase transparency, a public body cannot add an item to the agenda less than 48 hours before the meeting if it intends to take action on that item.

#### **Can the public body take action on items not on the agenda?**

No. While the public body can discuss items not on the agenda of a regular meeting, the public body cannot take action or make any decision with regard to items or topics not on the agenda of a regular meeting. However, if the public body is holding a special or emergency meeting, it may neither act on nor discuss items that did not appear on the agenda for the special or emergency meeting.

#### **When and where must an open public meeting be held?**

A public body must hold a meeting at a specific time and place that is convenient and open to the public. A public body cannot hold a meeting on a public holiday, unless the regularly scheduled meeting falls on that holiday.

### **MEETING MINUTES**

#### **Is the public body required to take minutes of its open meetings?**

Yes. The minutes must include:

- The date, time, and place of the meeting.
- A list of the members present and absent from the meeting, and whether they attended in person, by phone, or by video.
- A summary of the discussion of all matters proposed, deliberated, or decided.
- A record of any votes taken.

A public body must make minutes of the meeting available for public inspection within 10 calendar days after the minutes are approved by the public body. A public body also must post minutes of meetings of its governing body on the public body's website (if it has a website maintained by full-time staff). Typically, the minutes are approved at the next meeting.

## *OMA Frequently Asked Questions continued*

### **ATTENDING A MEETING BY PHONE OR VIDEO CONFERENCE**

#### **Can a member of a public body attend a meeting by telephone or video conference and not in person?**

A member of a public body may attend a meeting by telephone or video conference only in accordance with and to the extent allowed by the rules of the public body. If a quorum of the members of the public body is physically present, then a majority of the public body may allow a member to attend by video or telephone conference if the member is prevented from physically attending because of (1) personal illness or disability, (2) employment purposes or the business of the public body, (3) family or other emergency, or (4) unexpected childcare obligations. If a member wants to attend the meeting by video or telephone conference, they must notify the recording secretary or clerk of the public body before the meeting, unless advance notice is impractical.

The COVID-19 pandemic and limitations on in-person gatherings resulted in the Illinois General Assembly amending the Open Meetings Act, effective June 12, 2020. During a public health emergency, the new section 7(e) of OMA allows a public body to hold an open or closed meeting by audio or video conference without the physical presence of a quorum of the members during a public health emergency, as long as several enumerated conditions are met. Because the last gubernatorial disaster proclamation relating to the COVID-19 pandemic expired in May 2023, public bodies are not currently permitted to hold meetings pursuant to section 7(e) of OMA.

### **PUBLIC PARTICIPATION**

#### **Is a public body required to allow a member of the public to speak at an open meeting?**

Yes. OMA requires public bodies give members of the public an opportunity to address public officials at public meetings. The procedure for public comment is governed by rules established and recorded by the public body. The primary purpose of adopting rules governing public comment is to accommodate the public's statutory right to address the public body while ensuring that the public body can maintain order and decorum at its meetings.

#### **May a member of the public record an open meeting?**

Yes. Any member of the public can record the meeting by tape, film, or other means, subject to some reasonable restrictions.

## *OMA Frequently Asked Questions continued*

### **CLOSED MEETINGS – NOT OPEN TO THE PUBLIC**

#### **When can a meeting be “closed?” Can a public body ever meet in private?**

Section 2(c) of the Open Meetings Act provides that a public body can close a meeting to the public only when the following topics are to be considered:

- 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. However, a meeting to consider an increase in compensation to a specific employee of a public body subject to the Local Government Wage Increase Transparency Act may not be closed and shall be open to the public and posted and held in accordance with this act.
- Collective negotiating matters or deliberations concerning salary schedules for one or more classes of employees.
- Discipline or removal of an occupant of a public office, or appointment of an individual to fill a vacant public office, but only when the public body has the authority under law to remove or appoint an occupant from public office.
- Evidence or testimony received in a hearing, provided that the body is a quasi-adjudicative body and prepares and makes available for public inspection a written decision setting forth its determinative reasoning.
- The purchase or lease of real property by the public body.
- The setting of a price for sale or lease of property owned by the public body.
- The sale or purchase of securities, investments, or investment contracts.
- Security procedures.
- Pending or probable litigation against, affecting, or on behalf of the public body.
- The establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act.
- Ongoing, prior, or future criminal investigations, when discussed by public bodies with criminal investigatory responsibilities.
- Conciliation of complaints of discrimination in the sale or rental of housing.
- Professional ethics or performance when discussed by an advisory body to a licensing or regulatory agency.
- Discussions regarding self-evaluation, practices and procedures or professional ethics with representatives of statewide associations.
- The recruitment, credentialing, discipline, or formal peer review of physicians or other health care professionals for a hospital or other health care center.
- Discussion of the minutes of a meeting that was lawfully closed under OMA.
- The operation by a municipality of a municipal utility or power agency or natural gas agency regarding contracts relating to the purchase, sale, or delivery of electricity or natural gas, or the results or conclusions of lead forecast studies.
- Meetings between internal or external audit committees, finance committees and their equivalents when

## OMA Frequently Asked Questions continued

the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds and fraud interviews conducted in accordance with generally accepted U.S. auditing standards.

- Student disciplinary cases.
- The placement of individual students in special education programs and other matters relating to individual students.
- Evidence or testimony presented to a school board regarding denial of admission to school events or property, provided that the school board prepares and makes available for public inspection a written decision setting forth its determinative reasoning.

Additionally, section 2(c) of OMA permits certain specified public bodies (including but not limited to the Prisoner Review Board, the State Government Suggestion Aware Board, and the Regional Transportation Authority Board and its service boards) to hold closed meetings to deliberate particular matters and permits other public bodies to discuss matters outlined in other state laws. Public bodies may wish to review section 2(c) for the complete list of permitted closed session topics.

*A public body can close a meeting to the public only if its members are discussing a topic that is listed in section 2(c) of the Open Meetings Act. Because these exceptions are contrary to the requirement that all meetings of public bodies shall be open, the exceptions are to be strictly construed, extending only to subjects clearly within their scope.*

### **How can a public body “close” a public meeting?**

If a public body wants to hold a closed meeting or wants to close a portion of an open meeting, the public body must vote to close the meeting by a majority vote of a quorum present in an open meeting. The public body must also recite the specific exemption in OMA that applies and allows the closure of the meeting.

### **Who can attend a “closed” meeting?**

Members of the public body and others who the public body invites to the closed meeting. For example, witnesses giving testimony regarding a complaint against an employee may be invited to attend a meeting that is closed for purposes of discussing discipline of an employee. The public body has discretion to determine who may attend a closed meeting.

### **Can a public body take binding action in a closed session?**

No. A public body may not take any final action in a closed meeting.

### **How must a public body record a closed meeting?**

The verbatim record of a closed meeting must be in the form of an audio or video recording.

## *OMA Frequently Asked Questions continued*

### **Is the public body required to take minutes of its closed meetings?**

Yes, and any approval of closed session minutes must occur in open session. Closed session meeting minutes are confidential and exempt from FOIA (pursuant to section 7(1)(l) of FOIA) until the public body decides otherwise. However, every six months, or as soon thereafter as is reasonably practicable taking into account the nature of the public body and its meeting schedule, the public body must meet to review the minutes of any closed meetings that occurred and determine whether the minutes of those closed meetings need to remain confidential. If they determine it is no longer necessary to have the minutes remain confidential, they must make the minutes available to the public.

### **IF YOU BELIEVE THAT A PUBLIC BODY HAS VIOLATED THE OPEN MEETINGS ACT, YOU CAN TAKE ACTION. HERE IS WHAT YOU NEED TO KNOW.**

#### **What can I do if I think a public body has violated OMA?**

*Within 60 calendar days* after the date of the alleged violation, you can file a request for review with the PAC at the Office of the Attorney General, or you can bring a civil action in circuit court against the public body. If facts concerning an OMA violation are not discovered within the 60-day period but are discovered up to two years after the alleged violation by a person using reasonable diligence, the request for review may be made within 60 days of the discovery of the alleged violation. In addition, if you timely file a request for review and the PAC resolves the matter by means other than a binding opinion, you may file a civil action in circuit court within 60 days of the decision by the PAC.

#### **What is a “request for review?”**

A request for review is correspondence sent to the PAC that lays out the basis for an alleged violation of OMA. The request must be made in writing, must be signed by the requester and must include a summary of the facts supporting the allegation.

#### **How do I submit an OMA Request for Review to the PAC?**

An OMA request for review must be made in writing, be signed by the requester, and include a summary of the facts supporting the allegation. A request for review may be submitted to the PAC by either electronic mail or U.S. Postal Service. The request for review does not need to follow any particular format. If you would like to use a sample request form, however, please visit our [website](#).

#### **Is there a deadline for submitting a request for review?**

Yes. A person seeking review of an issue by the PAC must send the request for review to the PAC within 60 calendar days after the date of the alleged OMA violation. If facts concerning the violation are not discovered within the 60-day period, but are discovered at a later date not exceeding two years after the alleged violation by a person using reasonable diligence, the request for review may be made within 60 days of the discovery of the alleged violation.

## *OMA Frequently Asked Questions continued*

### **How do I contact the PAC?**

The PAC is a part of the Attorney General's office and may be contacted at:

Leah Bartelt  
Public Access Counselor  
Office of the Attorney General  
500 S. 2nd Street  
Springfield, Illinois 62701  
Email: [public.access@ilag.gov](mailto:public.access@ilag.gov).  
FOIA Hotline: 877-299-FOIA (877-299-3642)

### **What does the PAC do with my request for review?**

The PAC will review your request for review and do one of the following:

- Review the issues in your OMA allegation and determine that no further action is necessary. If the PAC decides the alleged violations are unfounded, the PAC will inform you and the public body of that decision in writing. The PAC may obtain information from a public body informally as part of its consideration of whether a request for review is unfounded.
- Work informally to resolve the OMA dispute with the public body. The PAC may choose to work informally to resolve the matter by means other than the issuance of a binding opinion. One of the ways the PAC may do so is by issuing a non-binding determination letter. Additionally, a PAC attorney may attempt to mediate disputes by providing information to the public body about the requirements of OMA. The PAC's decision to decline to issue a binding opinion is not reviewable.
- Issue a binding opinion to resolve the OMA dispute. The PAC will review any information needed to analyze the OMA allegations you raised and any additional information you and the public body choose to provide. If the PAC decides to issue a binding opinion, it must do so within 60 days after receiving the request for review, unless the PAC extends the time by no more than 21 business days by sending a written notice to the requester and the public body. If the public body does not appeal the opinion and fails to take the remedial action ordered by the opinion, the Attorney General's Office may sue the public body to enforce the opinion. If the opinion concludes that the public body did not violate OMA, the complainant may appeal the opinion to the circuit court.

### **Do I have to file a request for review with the PAC before I can file an OMA lawsuit in court?**

No. You may bring your own OMA action in court. You should be aware that if you ask the PAC to review a matter and then decide, before the PAC completes the review, to file a lawsuit without waiting for the PAC's decision, the law requires the PAC to immediately stop working on your request for review in order to allow your lawsuit to move forward.

## *OMA Frequently Asked Questions continued*

### **What's the difference between my two appeal options, filing a request for review with the PAC or filing a suit in court?**

If you decide not to seek assistance from the PAC and instead go straight to court, the court will decide if the public body conducted the meeting at issue in compliance with OMA. If you submit a request for review to the PAC, the PAC will review the facts and law using the same standard as a court. If the PAC issues a binding opinion deciding your case, then that opinion carries significant weight. If the losing party decides to appeal the PAC's opinion to the court, the court must give deference to the PAC's opinion and can only overturn it if it is clearly erroneous.

### **What are the penalties that a public body may incur if a court finds that it violated OMA?**

**Criminal Penalties:** Under the law, a state's attorney may bring a criminal action for certain violations of OMA. A violation of OMA is a Class C misdemeanor.

**Civil Penalties:** In a civil lawsuit for a violation of OMA, a court may take a number of actions, including:

1. Ordering a public body to conduct an open meeting.
2. Granting an injunction against future violations by the public body.
3. Ordering the public body to make available to the public the minutes of a closed meeting.
4. Declaring null and void any final action taken at a closed meeting in violation of OMA.
5. Awarding any other relief that the court deems appropriate.

The court also may require the public body to pay the attorney's fees and costs of the person who filed the civil lawsuit alleging the OMA violation.



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