

# Illinois Open Meetings Act

## Better Understanding and Compliance

Public Access Bureau  
Illinois Attorney General's Office  
April 16, 2025

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## Public Access Counselor

Added to the Attorney General Act in 2010, the Office of the Public Access Counselor within the Attorney General's office is authorized to:

- Provide advice and education with respect to FOIA and OMA
- Resolve complaints concerning compliance with FOIA and OMA without litigation (Requests for Review)

**15 ILCS 205(7)**



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## Public Access Counselor

- In 2024, the Public Access Counselor (PAC) received more than 4,200 complaints concerning FOIA and OMA
  - Many are resolved informally or with just one letter
  - 200+ Binding Opinions Issued
  - Thousands of determination letters issued
- Required online training plus presentations
- Hotline (877-299-3642)

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## OMA Public Policy

“The General Assembly \* \* \* declares it to be the public policy of this State that its citizens shall be given **advance notice of and the right to attend** all meetings at which any business of a public body is discussed or acted upon in any way.”

**5 ILCS 120/1**

**“[T]he people have a right to be informed as to the conduct of their business.”**

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## OMA Training Requirement – Member

- Each elected or appointed member of a public body subject to OMA must complete the electronic training curriculum developed and administered by the Public Access Counselor, available at:

<https://www.illinoisattorneygeneral.gov/open-and-honest-government/pac/pac-training/>

Member must file a copy of the certificate of completion with their public body.

- New members must complete within 90 days.
- The requirement is ongoing; if for any reason a public body member has failed to take the training, he or she must still do so.

➔ **Today's webinar does not satisfy this requirement!!**

**5 ILCS 120/1.05(b)**

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## OMA Training Requirement - Alternatives

- Conducted by specified organizations
- Certain content must be included
- Certificate Required
- Available for:

- School Board Members
- Drainage District Commissioners
- Soil & Water Conservation Districts

- Park, Forest Preserve, Conservation, and Fire Protection District Members
- Municipal Members

**5 ILCS 120/1.05(c) – (h)**

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# OMA Training Requirement - Designee

- Each public body must appoint one person who will complete the training annually.
- Notify PAC of the name of that designee (public.access@ilag.gov)
- Designee must complete training annually; best practice to file a copy of each certificate of completion with the public body.

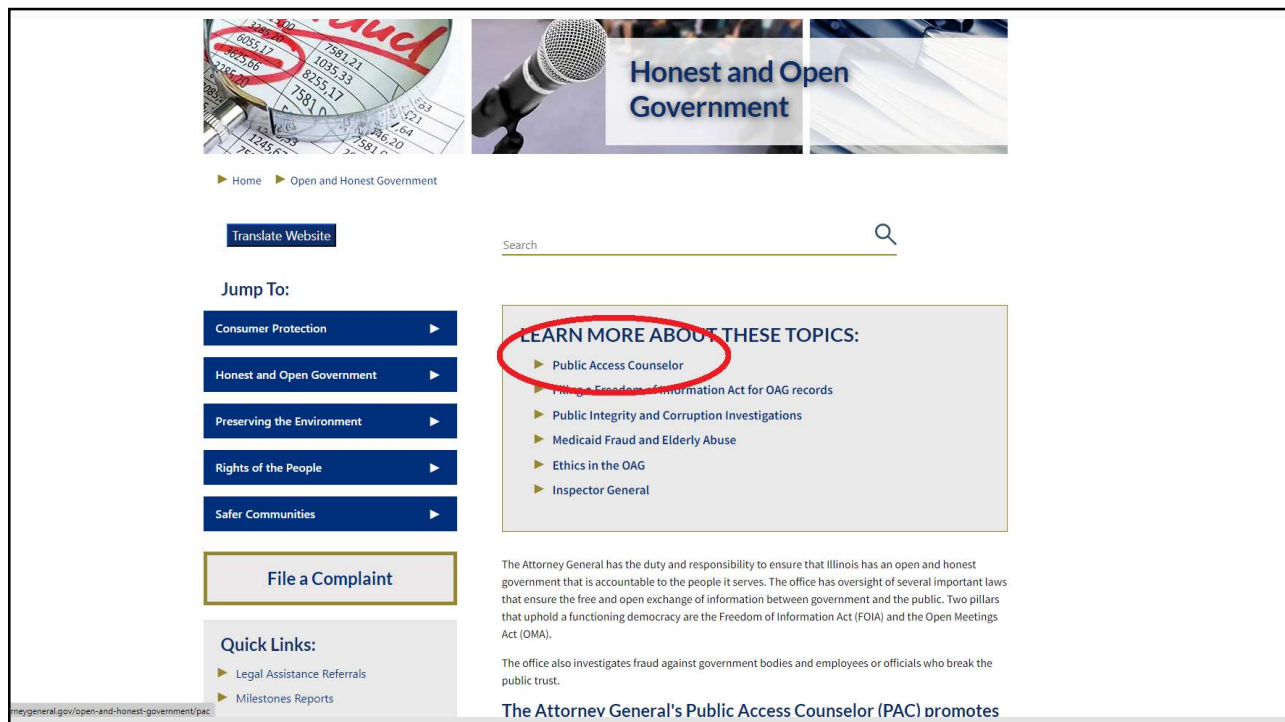
➔ **Today's webinar does not satisfy this requirement!!**

**5 ILCS 120/1.05(a)**

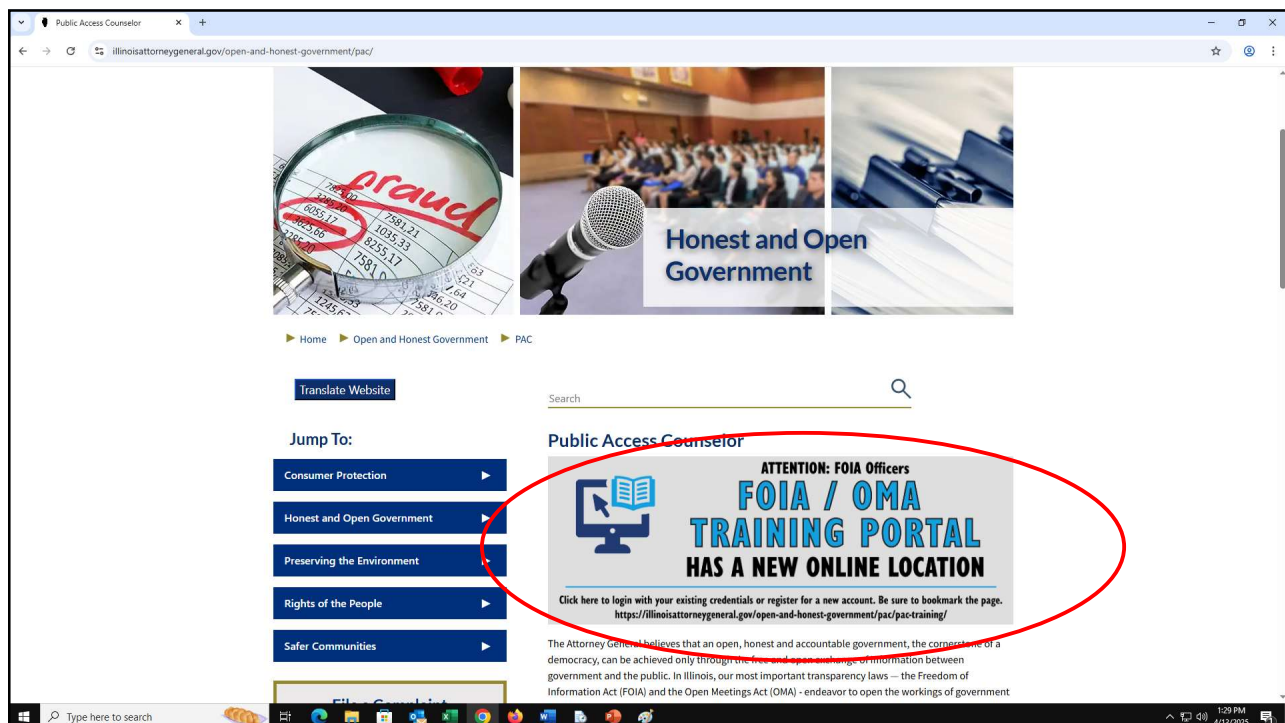
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The screenshot displays the official website of the Office of the Illinois Attorney General. At the top, there is a search bar and the title "Office of the Illinois Attorney General". Below this, five service areas are listed in a grid: "Consumer Protection", "Safer Communities", "Preserving the Environment", "Rights of the People", and "Honest & Open Government". The "Honest & Open Government" box is circled in red. Below the grid, there is a section titled "File a Complaint with our Office" which includes a keyboard image with a "COMPLAINTS" key and a list of complaint types: Consumer Fraud, Civil Rights, Crime Victim Rights, Disability Rights, Hate Crimes, Health Care Fraud, and Workplace Rights. A URL is visible at the bottom left: <https://www.illinoisattorneygeneral.gov/Open-and-Honest-Government>.

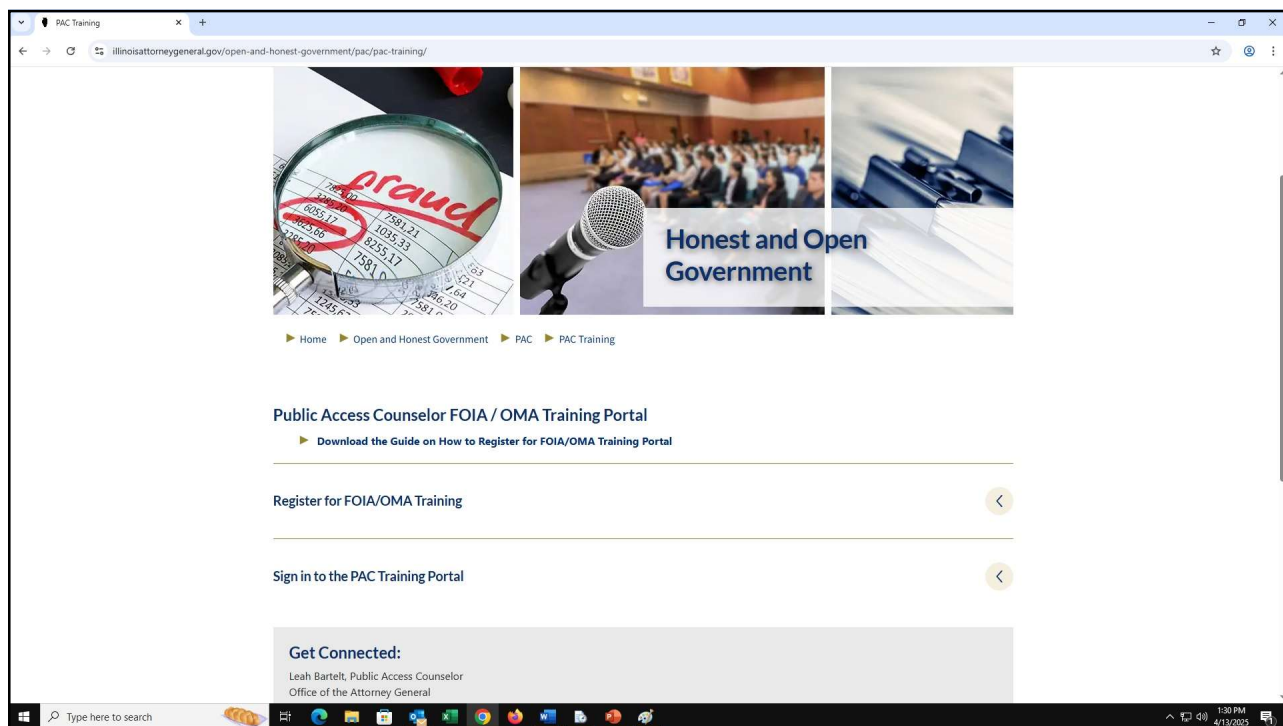
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Home > Open and Honest Government > PAC > PAC Training

Click [here](#) to learn how to register for FOIA/OMA Training Portal

**Register for FOIA/OMA Training**

**Account Information**

Email  \* Email Address

Password  \* Password  \* Confirm Password

**Security Information**

Security Question  \* Question

Security Answer  \* Answer

**Registration Information**

Title and Position  \* Title  \* Select Positions

Name  \* First Name  Initial  \* Last Name

Public Body  \* Public Body Name

Address  \* Street Address

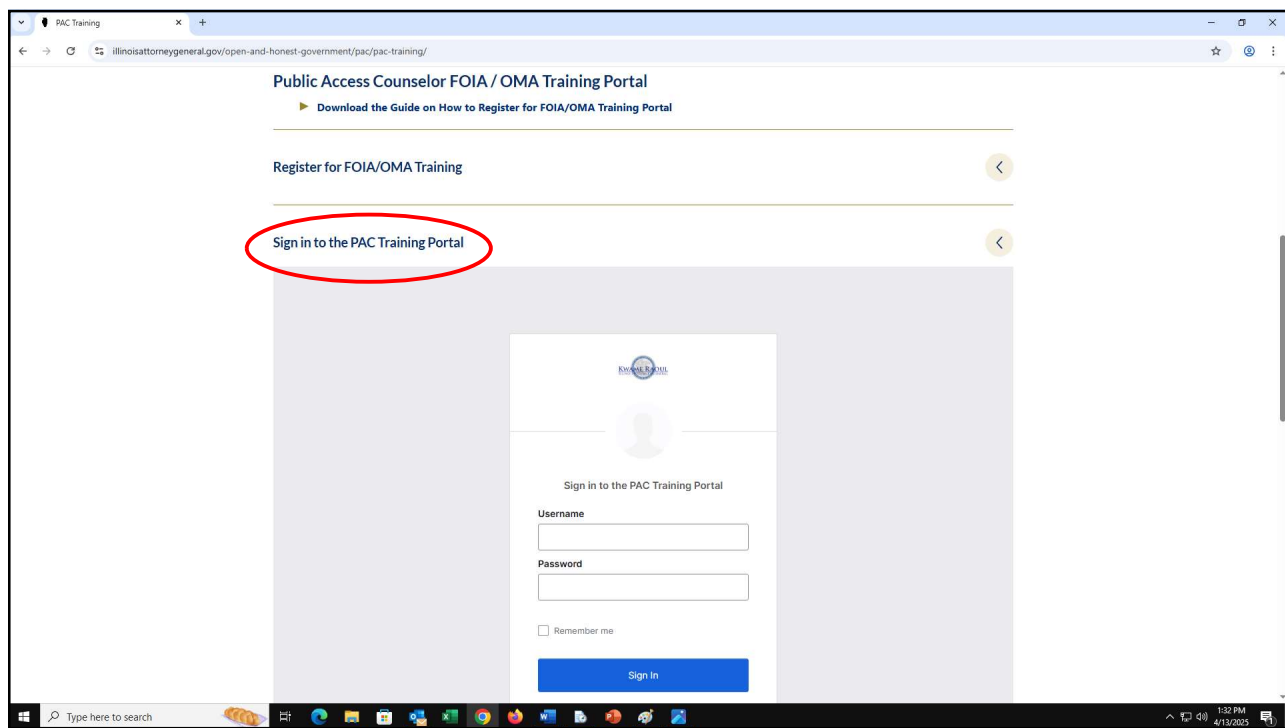
City, State, Zip  \* City  Illinois  \* Zip Code

Phone Numbers  \* Primary Phone  Alternate Phone

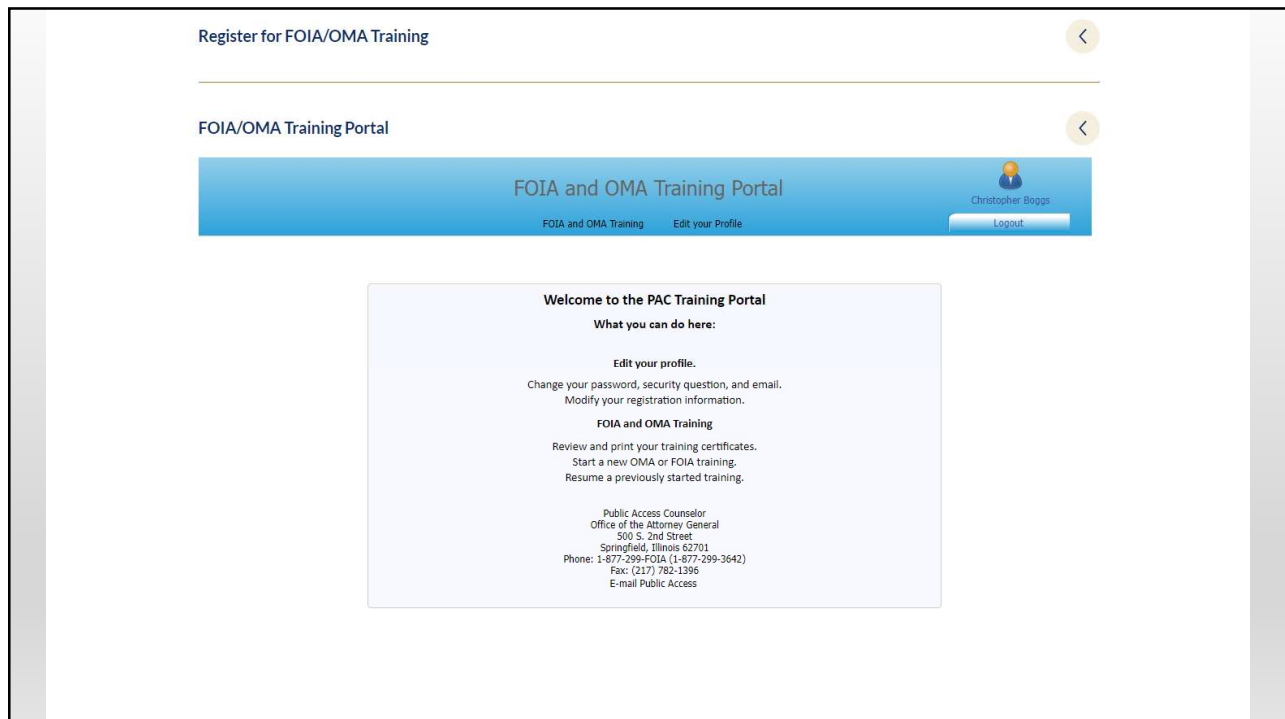
[Register your account](#)

FOIA/OMA Training Portal

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# Openness Required

All **meetings** of **public bodies** shall be **open to the public** unless:

- excepted in subsection 2(c), and
- closed in accordance with Section 2a.

**5 ILCS 120/2(a)**

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## What is a Public Body?



State Boards and  
Commissions



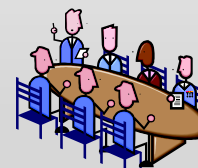
Municipalities



Counties



School Boards



All subsidiary bodies of the  
foregoing bodies

**5 ILCS 120/1.02**

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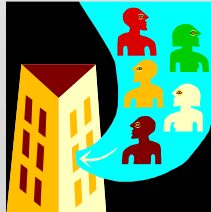


## What is a Not Covered?

General Assembly and its  
Committees or  
Commissions, also ...



Condominium  
Associations



Private Companies  
and their Boards



Individual Officers



Most Not-for-  
Profit Orgs.

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## Is an Entity a “Public Body” under OMA?

Some Factors Relevant to Determining whether an entity is a “subsidiary body” or “advisory body”:

- How was the entity formed? (By statute or ordinance? Part of organized structure? It is its own “corporation”? This is a primary consideration.)
- Who appoints the members?
- What are the entity’s assigned duties/what is the nature of the functions performed by the entity?
- Is the entity subject to government control or accountable to another public body?
- Does the entity have a budget?

*University Professionals of IL v. Stuckel*, 344 Ill. App. 3d 856 (1<sup>st</sup> Dist. 2003)

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## “Public Body” under OMA

If in doubt as to whether a group is a “public body” for purposes of OMA, the committee or commission is free to follow OMA’s requirements of advance notice of meetings, the opportunity for the public to attend, keeping appropriate records, and providing an opportunity for the citizens to address public officials.

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## What is a Meeting?

OMA defines a **meeting** as “any **gathering** \* \* \* of a **majority of a quorum** of the members of a public body held for the **purpose of discussing public business**.”

- Any gathering that meets these requirements is subject to OMA – it must be previously noticed and open to the public.

**5 ILCS 120/1.02**

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## What is a Gathering?

Gathering can occur:

- in person,
- by video or audio conference,
- electronic means, or
- by other means of **contemporaneous interactive communication**.

**5 ILCS 120/1.02**

➔ **Members can “gather” through reply-all emails and texts!**

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## Majority of a Quorum

**“Quorum”**: minimum number of members of a public body who must be present at a meeting in order for the body to take official action.

Usually, a majority of the total members.

**“Majority of a Quorum”**: smallest number of members of a public body able to control action when a bare quorum is present.

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## Majority of a Quorum

Member Number	Quorum	Majority of Quorum
13	7	4
11	6	4
9	5	3*
7	4	3
5	3	3**
3	2	2

\*A quorum cannot include half-a-person.

\*\*Special rule for 5-member public body (5 ILCS 120/1.02).

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## Purpose of Discussing Public Business

A “meeting” occurs only when the requisite number of members gathers for the “purpose of discussing public business.”

So, a social gathering of public body members is not prohibited, but it could turn into a meeting if a majority of a quorum discusses public business.

Also, be mindful of the appearance of impropriety when holding social gatherings.



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## Informal Gatherings/Meet and Greet

- “Informal gathering” that included a majority of a quorum and staff members to “meet, get to know each other and ask questions or state concerns any staff had.”
- “[S]taff members presented questions and concerns about substantive [public body] issues.”
- This gathering constituted a “meeting” subject to the requirements of OMA.

**Ill. Att’y Gen Pub. Acc. Op. No. 23-003**

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## Meeting Location, Scheduling, and Attendance

### **Section 2.01 –**

- Meetings “shall be held at specified times and places which are convenient and open to the public.”
- “No meeting required by this Act to be public shall be held on a legal holiday unless the regular meeting day falls on that holiday.”
- “Except as otherwise provided in this Act, a quorum of members of a public body must be physically present at the location of an open meeting.”

**5 ILCS 120/2.01**

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## Meeting Location

“Times and places which are convenient and open to the public.” **5 ILCS 120/2.01**

- “A meeting can be open in the sense that no one is prohibited from attending it, but it can be held in such an ill-suited, unaccommodating, unadvantageous place that members of the public, as a practical matter, would be deterred from attending it.”
- Rule of reasonableness, not absolute accessibility.

***Gerwin v. Livingston Co. Bd.*, 345 Ill.App.3d 352 (4th Dist. 2003)**

- Most common complaint: Regular meeting room was too small given community interest business of public body. ***Public Access Binding Op. 24-010* (issued Sept. 3, 2024).**
- Meeting at private residence not open. **Ill. Att’y Gen. Pub. Acc. Op. No. 12-008**
- Special meeting 26 miles from usual location not convenient. **Ill. Att’y Gen Pub. Acc. Op. No. 13-014**

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## Meeting Date

“No meeting required by this Act to be public shall be held on a legal holiday unless the regular meeting day falls on that holiday.” **5 ILCS 120/2.01**

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## Meeting Attendance by Members

“Except as otherwise provided in this Act, a quorum of members of a public body must be physically present at the location of an open meeting.” **5 ILCS 120/2.01**

Special rules for:

- Public bodies with statewide authority
- Public bodies that are library systems, municipal transit districts, local workforce investments areas AND have jurisdiction over a specific area of more than 4,500 square miles.
- State advisory boards or bodies

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## Meeting Attendance by Members

- Except in special circumstances, a quorum must be *physically present* at the meeting in order for the member to attend by other means.

**5 ILCS 120/7(a)**

- Before allowing a member to attend remotely, a public body must adopt a rule or regulation permitting electronic attendance.

**5 ILCS 120/7(c)**

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## Meeting Attendance by Members

If those conditions are met, another member may attend a meeting remotely for these reasons **only**:

- Personal illness or disability;
- Employment purposes or business of the public body;
- Family or other emergency; or
- unexpected childcare obligations.

### 5 ILCS 120/7(a)



Member **may not** attend remotely if absence is due to a **vacation or planned out of town trip** that is not related to “employment purposes” or “business of the public body.”

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## Meeting Attendance by Members

In summary, only if:

- A public body has adopted rules allowing for attendance by other means, and
- A quorum of members are attending in person, and
- The member is absent for one of the listed reasons,

A majority of public body may allow member to attend a meeting by other means (video or audio conference).

### 5 ILCS 120/7(c)

- ➔ Members present by video/audio in compliance with section 7 can vote
- ➔ If public body allows a member to attend remotely, member must be recorded in the minutes as attending by phone or video conference (section 2.06(a))

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## Annual Notice of Meetings

At beginning of calendar or fiscal year, public body must post schedule of regular meetings.

- Date
- Time
- Place

Notice of an annual schedule of meetings shall remain on website until a new public notice of the schedule is approved.

**5 ILCS 120/2.02, 5 ILCS 120/2.03**

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## Annual Notice of Meetings

If a change is made in regular meeting dates, at least 10 days' notice of such change shall be given

- by publication in a newspaper of general circulation in the area in which such body functions;
- posted at the principal office of the public body; and
- supplied to those news media which have filed an annual request for notice.

**5 ILCS 120/2.03**

"Meeting dates" means more than one meeting with no intent to return to the regular schedule. **Public Access Binding Op. 24-013 (issued Oct. 25, 2024).**

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## Notice/Agenda for Individual Meetings

- Applies to regular, special, rescheduled regular, and some reconvened meetings
- Notice and Agenda required by section 2.02; agenda and notice can be same document if it lists the date, time, and location of the meeting and agenda information.
- Notice/agenda shall be posted at least 48 hours before meeting.
- Agendas for regular meetings shall be posted at the principal office of the public body and the location of meeting.
  - Agendas for regular meetings of “governing body” shall also be posted to the website of the public body, if full-time staff of the public body maintains the website.
- Notice/agenda posted to website shall remain posted until the regular meeting is concluded.
- One copy of notice/agenda continuously available during the entire 48-hour period preceding the meeting. Posting on a website satisfies this requirement.

5 ILCS 120/2.02(a), 2.02(c)

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## Reconvened and Emergency Meetings

### Reconvened meeting

- No requirement to post notice of a reconvened meeting if: meeting is to be reconvened within 24 hours and an announcement of the time and place of the reconvened meeting was made at the original open meeting and there is no change in the agenda.

### Emergency meeting (meeting that must be held with less than 48 hours notice)

- Notice as soon as practicable but in any event prior to the holding of such a meeting
- Only permissible in case of *bona fide* emergency
- Notice to news media

5 ILCS 120/2.02(a), (b)

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## Meeting Agenda

“[S]hall set forth the **general subject matter** of any resolution or ordinance that will be a **subject of final action** at the meeting.” **5 ILCS 120/2.02(c)**

- Agenda must provide main element of action item, but specific details are not required.
  - “Approve contract for City Manager” is a proper agenda item
- Improper agenda items:
  - “[R]ecommendation ... regarding farming options for the County Farm.” **Ill. Att’y Gen. Pub. Acc. Op. No. 22-008, issued June 30, 2022**
  - “Action ... as a result of closed session discussion” when agenda merely described closed session as pursuant to section 2(c)(1) of OMA. **Ill. Att’y Gen. Pub. Acc. Op. No. 23-004, issued March 27, 2023**

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## Final Action vs. Discussion Items

To comply with section 2.02(c), a public body may not take final action on a matter unless it has been properly posted on the agenda at least 48 hours prior to a meeting. **Ill. Att’y Gen. Pub. Acc. Op. No. 14-003, issued May 5, 2014.**

➔ Therefore, may not amend the agenda to add **action items** less than 48 hours before the meeting.

➔ However, a public body may **discuss** matters not on the agenda, or add **discussion items** less than 48 hours before the meeting, including holding a closed session that was not listed or adding it to the agenda. **5 ILCS 120/2.02(a); 5 ILCS 120/2a**

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## Final Action: Public Recital

- All “final action” must occur in the open session of a meeting.
- Before a public body votes on a matter (takes final action), the vote must be “preceded by a public recital of the nature of the matter being considered and other information that will inform the public of the business being conducted.” **5 ILCS 120/2(e)**
- Recital must describe the “general nature of the matter under consideration” with “specific detail sufficient to identify the particular transaction.”

*Board of Education of Springfield School District No. 186 v. Attorney General of Illinois, 2017 IL 120343, 77 N.E.3d 625 (2017).*

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## Final Action: Must Be Open

- No final action in closed session. **5 ILCS 120/2(e)**
  - III. Att’y Gen. Pub. Acc. Op. No. 24-003, issued March 1, 2024** (city council violated section 2(e) when city manager asked council in closed session for approval to sign exclusive representation agreement with realtor; majority gave approval, and city manager signed, but council did not vote openly)
- “[N]o public body in Illinois subject to the Open Meetings Act can take final action by merely circulating some document for signature and not voting on it publicly.”
  - Howe v. Retirement Board of the Firemen's Annuity & Benefit Fund, 2013 IL App (1st) 122446, ¶129* (court vacated the board's decision to deny disability benefits because the board had circulated the decision for signatures privately rather than voting on it in open session).

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## Final Action: In Summary

- Must be listed in agenda posted 48 hours prior to meeting
- Must be preceded by public recital at meeting
- Must be taken openly (cannot be taken outside of meeting or in closed session).

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## Meeting Minutes (Open Session)

- Public body must approve and make available to the public written meeting minutes of open session.
- Minutes must include, but need not be limited to:
  - ✓ Date, time, and place of meeting;
  - ✓ Names of all members present or absent;
  - ✓ Whether members were physically present or present by video or audio conference;
  - ✓ Summary of discussion of all matters proposed, deliberated, or decided;
  - ✓ Record of any votes taken.

5 ILCS 120/2.06

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## Meeting Minutes (Open Session)

Minutes must be approved by the public body either:

- Within 30 days of the meeting, or
- At the public body's second subsequent regular meeting  
(whichever is later)

Minutes must be available for public inspection and posted on website (if applicable) no later than 10 days after approval.

**5 ILCS 120/2.06**

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## Closed Meetings/Executive Sessions

**Section 2(c)** of OMA authorizes 39 exceptions for a public body to close a portion of its meeting to the public (*i.e.*, closed or executive sessions)

- Exceptions authorize but do not require the holding of a closed session.
- Exceptions are to be **narrowly construed** – topics must fit squarely within the cited exceptions.

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## Closed Meetings/Executive Sessions

- Exceptions relate to, among other things, employment, litigation, land acquisition, collective bargaining, and student disciplinary cases.
- Many are quite specific; review the exceptions to determine whether any apply to your public body.

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## Closed Meetings/Executive Sessions

General Rules for closed/executive sessions:

- Vote in open session to enter closed session – vote must identify the applicable section 2(c) exceptions. **5 ILCS 120/2a**
- Create verbatim recording of the closed session (audio or video). Recording is confidential. **5 ILCS 120/2.06(a)**
- Must generate minutes **5 ILCS 120/2.06(a)** (approved openly; may maintain as confidential).
- No final action in closed session. **5 ILCS 120/2(e)**

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## Exceptions: Employment, 2(c)(1)

- Discussion to consider “appointment, employment, compensation, discipline, performance, or dismissal” of specific employees or legal counsel.
- Must relate to *specific employee or employees*
  - Not general budgetary matters that impact employees. *See, e.g., Ill. Att’y Gen. Pub. Acc. Op. No. 15-007, issued September 16, 2015.*
  - Not general processes involving evaluation of employees. *See, e.g., Ill. Att’y Gen. Pub. Acc. Op. No. 20-004, issued June 2, 2020.*

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## Exceptions: Litigation, 2(c)(11)

Discussion to consider “litigation, when an action against, affecting or on behalf of the particular public body has been filed and is pending before a court or administrative tribunal[.]”

Discussion must be limited to the strategies, postures, theories, and possible consequences of the litigation itself.

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## Exceptions: Litigation, 2(c)(11)

Also, “when the public body finds that an action is **probable or imminent**”

“in which case the basis for the finding shall be recorded and entered into the minutes of the closed meeting.”

Discussion improper if it does not concern “legal theories, defenses, claims, or possible approaches to litigation.”

*City of Bloomington v. Kwame Raoul*, 2021 IL App (4th) 190539, ¶ 36.

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## Exceptions are to be narrowly construed

### III. Att’y. Gen. Pub. Acc. Op. No. 23-016, issued December 27, 2023

- 2(c)(1) was inapplicable because the Board deliberated whether book should be part of curriculum, as opposed to deliberation on specific employees’ job performance or other matters concerning specific employees.
- 2(c)(4) was inapplicable because even if the Board acted as a quasi-adjudicative body to resolve grievances, the grievance at issue was against employees rather than the book itself, and the Board discussed whether to keep the book as a classroom text rather than whether employees violated Board policies.
- 2(c)(10) was inapplicable to all but less than a minute of the recording in total, as Board primarily discussed curriculum matters that broadly impacted whole groups of students.

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## Ending Closed/Executive Session

- Adjourn closed session and return to open session
- If public body wishes to take final action on a matter discussed in closed session, it may do so when it returns to open session **but only if** item was identified on agenda.

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## Closed/Executive Session Minutes

- Minutes of closed session are exempt from disclosure under section 7(1)(I) of FOIA (**5 ILCS 140/7(1)(I)**) unless the public body votes to make them available.
- Approval of closed session minutes is “final action,” so it must occur in open session. Can discuss content in closed session (under **section 2(c)(21)**) and take straw poll but must take open session vote to approve.
- Closed session minutes must be reviewed every six months to determine whether the need for confidentiality still exists. **5 ILCS 120/2.06(d)**
  - This is a different decision than the initial decision to approve the content of the minutes.
- OMA specifically allows access to closed session minutes to duly elected or appointed officials of the public body. **5 ILCS 120/2.06(f)**

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## Right to Record Meeting

Section 2.05 of OMA provides any person the right to record a meeting, subject only to reasonable rules of the authority holding the meeting.

**5 ILCS 120/2.05**

Because OMA specifically provides that meetings may be recorded, a public body would have a steep burden to overcome to show that any rule or policy requiring advance notice is reasonable.

**Ill. Att’y Gen. Pub. Acc. Op. No. 16-014, issued December 28, 2016**

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## Public Comment

“Any person shall be permitted an opportunity to address public officials under the rules **established** and **recorded** by the public body.” **5 ILCS 120/2.06(g)**

➤ Public body may not impose limitations on public comment that are not found in its public comment rules. **Ill. Att’y Gen. Pub. Acc. Op. 23-013** (issued Sept. 13, 2023)

Common Permissible Rules:

- Time limits (per speaker, total time for public comment)
- Matters relating to decorum (no profanity, no electioneering)

Best practice to describe in minutes if public comment occurred

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## Public Comment Rules

- Residency limitations/provision of home address → Improper  
Ill. Att’y Gen. Pub. Acc. Op. No. 14-009, issued September 4, 2014
- Advance sign-up requirements → Improper  
Ill. Att’y Gen. Pub. Acc. Op. No. 14-012, issued September 30, 2014 (5 days notice improper)
- Rules prohibiting criticism of public officials/employees performing public duties → Improper

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## Review of OMA Violations

Any person may file a Request for Review with the Public Access Counselor within 60 days of discovery of the alleged violation.

**5 ILCS 120/3.5**

Any person, including the State’s Attorney of the county, may bring a civil action in the circuit court where the alleged noncompliance has or is about to occur.

**5 ILCS 120/3**

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## Public Access Counselor Review

Requests for Review (RFR) under OMA:

- Any person may file RFR within 60 days of violation (or longer than 60 days under limited circumstances)
- PAC determines whether further action is warranted on allegations; if so, contacts public body to request relevant records and response to allegations.
- PAC may issue determination letter or AG may issue binding opinion (subject to administrative review).

**5 ILCS 120/3.5**

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## Possible OMA Resolutions

If PAC finds an OMA violation, it may direct the public body to:

- Release closed session recording and minutes;
- Instruct the public body to re-vote on a matter; and/or
- Instruct the public body on how to avoid future violations.

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## PAC Contact Information

PAC Hotline: **877-299-3642**  
(Voicemail, 9 a.m. – 5 p.m. on business days)

**[public.access@ilag.gov](mailto:public.access@ilag.gov)**  
**[pactechsupport@ilag.gov](mailto:pactechsupport@ilag.gov)**

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