



# Office of the Illinois Attorney General's Public Access Counselor Update

Fall 2024

We are pleased to announce that the PAC's FOIA and OMA Training Portal has a new look and a new web address. The updates include a new registration interface, with a help window to provide guidance on completing the registration form. For annual trainees, there's no need to change your username or password—the credentials you have been using for the past few years will allow you to access the new portal. Any new certificates of completion, and any certificates you have earned since 2021, are available in the FOIA and OMA Training Tab under "Training In Progress and Completed" by clicking on the icon under "Action."

**Find the new training portal here!**

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

FOIA officers must complete training annually, so as we approach the end of the year, we encourage FOIA Officers who have not already completed the training to get their FOIA training certificate for 2024 soon. If you are your public body's Open Meetings Act designee, please complete your annual OMA training before the end of the year if you have not done so already. The 2025 editions of the FOIA and OMA training will be available by the end of January 2025, and will include information about new legislative amendments, recent court opinions, and PAC Binding Opinions.

**Leah Bartelt**

Public Access Counselor

## 2024 Online Training Portal

As noted, the 2024 FOIA/OMA training modules are accessible on the PAC online training portal via our new web address <https://illinoisattorneygeneral.gov/open-and-honest-government/pac/pac-training/>.



For those requiring general assistance in accessing the portal, you may speak with a PAC attorney M-F during business hours at 877-299-3642. For those needing a password reset or who encounter more complex technical difficulties, please contact PAC IT staff at [PACTechnicalSupport@ilag.gov](mailto:PACTechnicalSupport@ilag.gov).

## Take Note!



Election Day was November 5, 2024, and some counties may be welcoming new county board members into office. OMA requires all elected and appointed members of public bodies (including county boards) to complete OMA training no later than 90 days after the date the member takes the oath of office or otherwise assumes responsibilities as a member of the public body (if they are not required to take an oath). Members can complete OMA training on the PAC's website and should print or download their certificate of completion and give a copy to their public body.

## PAGES AND POSTS FOR FOIA & OMA INFORMATION

Office of the Illinois Attorney General webpage - <https://www.illinoisattorneygeneral.gov/>

Public Access Bureau Webpage and Resources - <https://www.illinoisattorneygeneral.gov/open-and-honest-government/pac/>

Public Access Bureau Online Training Portal - <https://illinoisattorneygeneral.gov/open-and-honest-government/pac/pac-training/>

2023 PAC Annual Report - <https://www.illinoisattorneygeneral.gov/Page-Attachments/FOIAPAC/PAC-ANNUAL-REPORTS/2023PublicAccessCounselorReport.pdf>

Illinois FOIA Statute - <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=85&ChapterID=2>

Illinois OMA Statute - <https://www.ilga.gov/legislation/ilcs/ilcs3.asp?ActID=84&ChapterID=2>

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## Recent PAC Binding Opinions

Below are summaries of and links to two recently-issued PAC binding opinions. All binding opinions can be accessed on the PAC webpage: <https://www.illinoisattorneygeneral.gov/Open-And-Honest-Government/PAC/Opinions/>

### Ill. Att’y Gen. Pub. Acc. Op. No. 24-010, September 3, 2024

<https://www.illinoisattorneygeneral.gov/Page-Attachments/FOIAPAC/2024-Binding-PAC-Opinions/Binding%20Opinion%2024-010.pdf>

**OPEN MEETINGS ACT:** Duty to Make Meetings Convenient and Open to the Public: Three members of the public submitted separate Requests for Review to the Public Access Bureau alleging that the Village of Dolton Board of Trustees failed to make its June 3, 2024, and July 1, 2024, meetings convenient and open to the public. Section 2.01 of OMA provides that “[a]ll meetings required by this Act to be public shall be held at specified times and places which are convenient and open to the public[]” and requires public bodies to take measures to ensure they afford the public reasonable access to their meetings. Given the matters of significant public interest the Board intended to discuss and the lack of adequate seating at previous meetings, it was foreseeable that the location and set-up of the Board’s June 3, 2024, and July 1, 2024, meetings would be insufficient to accommodate many interested members of the public. Yet, the Board made no adjustments to afford reasonable access to the meetings, and members of the public were prohibited from entering the meeting space. Additionally, the Board added restrictions such as parking barricades outside Village Hall that impeded public access to the meetings and failed to identify any security concerns that justified so heavily curtailing public attendance at the meetings. Accordingly, Attorney General Raoul concluded that the Board violated section 2.01 of OMA by failing to make its June 3, 2024, and July 1, 2024, meetings convenient and open to the public, and directed the Board to take immediate action to ensure future meetings were reasonably accessible to the public.

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### Ill. Att’y Gen. Pub. Acc. Op. No. 24-011, September 20, 2024

<https://www.illinoisattorneygeneral.gov/Page-Attachments/FOIAPAC/2024-Binding-PAC-Opinions/Binding%20Opinion%2024-011.pdf>

**FREEDOM OF INFORMATION ACT:** Public Body Must Prove How Disclosure of All Records Withheld Under Section 7(1)(d)(i) of FOIA Would Interfere With a Pending Law Enforcement Investigation: A member of the public submitted a FOIA request to the Elk Grove Village Police Department seeking copies of a specific police report and related records, which the Police Department denied in its entirety, pursuant to section 7(1)(d)(i) of FOIA. Section 7(1)(d)(i) exempts, in relevant part, 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 actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement agency that is the recipient of the request. Although the Police Department asserted that it was participating in an ongoing multi-agency investigation concerning other similar incidents, the Police Department’s response to the PAC was devoid of facts to support its claim that disclosure of the report would obstruct any joint investigation. Because the Police Department had not proven by clear and convincing evidence that disclosure of the records would interfere with a law enforcement proceeding, Attorney General Raoul concluded that the Police Department had not sustained its burden of demonstrating that the entire police report and a related record were exempt from disclosure under section 7(1)(d)(i) of FOIA. The Attorney General directed the Police Department to disclose the records to the requester with appropriate redactions.

## Helpful Non-Binding Determinations

Note: The PAC does not currently publish on our website copies of our non-binding determinations. However, upon request, the PAC will provide copies of these determination letters to public bodies, members of the public, and any other interested individuals as certain important conclusions in non-binding determinations are often relied on as precedents in subsequent PAC reviews and referenced in educational presentations.

### **FOIA:**

#### **Ill. Att’y Gen. PAC Req. Rev. Ltr. 82787, issued September 18, 2024**

A member of the public alleged that CTA improperly designated him as a recurrent requester under section 2(g) of FOIA despite the requester’s assertion to CTA that he was a member of the news media. Section 2(f) of FOIA defines “news media”, in relevant part, as a newspaper or other periodical issued at regular intervals whether in print or electronic format. FOIA requests made by “news media” for certain purposes cannot be considered as requests from a recurrent requester. The requester argued that he was “regular contributor” to the Chicago Tribune and that the intent of his request was to contribute an article of opinion or op-ed; however, the requester did not explain what “regular contributor” means, including whether it would entitle him to submit a FOIA request on behalf of the newspaper. The PAC noted that individuals contribute content to newspapers for a variety of reasons and in a variety of capacities, not only as journalists, but also as public officials, marketing professionals, and advocates for special interests or particular causes. Seeking records for the purpose of contributing an op-ed does not make a requester part of the news media that is excluded from being designated as a recurrent requester. Accordingly, the PAC concluded that CTA did not improperly treat the FOIA request as a request submitted by a recurrent requester under section 2(g). The PAC also generally noted that the inclusion of official media credentials with a FOIA request, or submission of a FOIA request from a media e-mail domain, could be used to support an assertion that a request is being “made by news media.”

### **OMA:**

#### **Ill. Att’y Gen. PAC Req. Rev. Ltr. 79466, issued September 10, 2024**

A member of the public submitted a Request for Review alleging, in relevant part, that the Skokie Village Board adjourned its December 18, 2023, meeting before she and other members of the public were afforded an opportunity for public comment. Pursuant to the Board’s procedures, public comment typically is listed as a standalone agenda item, and it was listed as agenda item 15 at the meeting in question. Although members of the public were allowed to comment on individual agenda items directly following Board discussion of each item, the Board adjourned the meeting after agenda item 12B, which was before the Board had reached the time in the meeting set aside for general public comment. The PAC determined that members of the public could have reasonably believed they had to wait until the public comment period designated on the agenda to comment on non-agenda matters, and the available information demonstrated that several members of the public expressed a desire to comment but were unable to do so because of the early adjournment of the meeting. Accordingly, the PAC concluded that the Board violated section 2.06(g) of OMA and reminded the Board of its statutory obligation to provide the public with an opportunity to address the Board before it adjourns its meetings.

### **Have a question for PAC?**

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Public Access Fax  
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General E-mail [Public.Access@ilag.gov](mailto:Public.Access@ilag.gov)

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### FOIA

Although FOIA primarily addresses requests for inspection or copies of public records, it also requires each

public body to “prominently display at each of its administrative or regional offices” a brief description of itself, which will include but not be limited to:

- a short summary of its purpose;
- a block diagram giving its functional subdivisions;
- the total amount of its operating budget;
- the number and location of all its separate offices;
- the approximate number of full and part-time employees, and
- the identification and members of any board, commission, committee, or council that operates in an advisory capacity, or which exercises control over the public body’s policies or procedures, or to which the public body is required to report and be answerable for its operations.

Additionally, each public body must display “a brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information officer or officers, the address where requests for public records should be directed, and any fees allowable under Section 6 of this Act.” 5 ILCS 140/4(b). A public body shall make this information available for inspection and copying. A public body that maintains a website shall also post this information on its website.

### OMA

Does your public body have a full-time staff person who maintains the public body’s website? OMA plainly requires the physical posting of meeting agendas (section 2.02(a)) and notices (section 2.02(b)), and also requires public bodies to make available its approved meeting minutes for public inspection (section 2.06(b)). However, these provisions also require public bodies with a website maintained by full-time staff of the public body to post the governing body’s regular meeting materials on its website. This does not mean that the public body must have a full-time IT staff person for this provision to apply; rather, any public body with a full-time staff person whose various duties include maintenance of the website would need to ensure compliance with these requirements.

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## RECENT AND UPCOMING PAC WEBINARS

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The Public Access Counselor is charged, in relevant part, with providing education on the requirements of FOIA and OMA. FOIA officers, OMA designees, elected/appointed officials, and municipal staff are encouraged to participate in a series of free educational webinars offered throughout the year by the PAC. Please note that the content of these webinars is not targeted for the general public.

Although the PAC’s Fall 2024 Webinar Trainings are already underway, those interested in registering for one or more of the remaining training sessions may do so at the link registration links below:

### Open Meetings Act Webinar

Thursday, November 21, 2024 • 10:00 a.m. – 11:30 a.m.

### FOIA for Law Enforcement Agencies Webinar – Common Reports:

Tuesday, November 19, 2024 • 10:00 a.m. – 11:00 a.m.

### FOIA for Law Enforcement Agencies Webinar – Video Recordings:

Thursday, December 5, 2024 • 10:00 a.m. – 11:00 a.m.

[https://ilattorneygeneral-gov.zoom.us/webinar/register/WN\\_SpOc1JSYTrasETyC4iLO4Q](https://ilattorneygeneral-gov.zoom.us/webinar/register/WN_SpOc1JSYTrasETyC4iLO4Q)

In addition to hosting these webinars, PAC attorneys may be available for in-person presentations covering FOIA and/or OMA. Any group or organization interested in hosting a training conducted by a PAC attorney may contact this office at [Special.Events@ilag.gov](mailto:Special.Events@ilag.gov) for more information. *In an effort to best utilize the PAC’s resources, we request that any hosting organization procure a minimum of 25 attendees prior to requesting an in-person presentation.*