



# **Navigating FOIA, OMA & Website Obligations**

**Guidance for School Business Officials**

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# Agenda for Today



Updates from the PAC on OMA/FOIA



Website Obligations and Policies



New Legislation



# Case Updates



PAC Binding/Non-Binding Decisions, *Balzer v. Northeast Ill. Regional Commuter Railroad Corp.*

# FOIA – *Balzer v. Northeast Illinois Regional Commuter Railroad Corporation*

FOIA request sent via email to Metra's operating company on July 31.

Metra's internal security software quarantined the message.

FOIA officer discovered the message on August 1.

When does the clock start?



## FOIA – *Balzer v. Northeast Illinois Regional Commuter Railroad Corporation*

- FOIA requests “received” once enter email system, NOT when discovered after a quarantine period
- Takeaway – monitor internal quarantine or filter systems for FOIA requests regularly

# Balzer - Takeaways



FOIA deadlines begin when the request enters your system—*not* when the request is discovered or released.



Regularly check spam, quarantine, and security queues.



Train FOIA Officers on email-security processes.



Respond on time or risk waiving key defenses.

# PAC OMA Non-Binding Opinion

- School Board President and Vice President hold regular meetings with Superintendent, members of the district's admin team, and, sometimes, a teacher's union representative.
- Does OMA apply?

# Applicable Factors – Subsidiary Body



who appoints the members of the group;



the formality of their appointment;



whether members are paid for their participation;



the group's assigned duties;



whether the group is subject to government control or remains accountable to a public body;



whether the entity has a budget;



where the entity falls within the larger public body; and



the impact of the entity's decisions or recommendations

# PAC OMA Non-Binding Opinion

- No violation
- President and VP initiated the group to hold informal meetings
- No formal recommendations made with binding impact
- Not a committee or advisory body
- OMA compliance unnecessary

# PAC OMA Binding Opinion No. 25-007



City committee created by mayor



Committee included city officials, performed governmental functions



Supported by city staff



Subject to OMA?

# PAC OMA Binding Opinion No. 25-007

PAC ruled yes, as a subsidiary committee

- “The function of the Committee is inherently the type of work that is performed by the City as a corporate authority.”

Applicable factors:

- the extent to which the entity has a legal existence independent of government resolution
- the degree of government control over the entity
- the extent to which the entity is publicly funded
- the nature of the functions performed by the entity

# PAC OMA Binding Opinion No. 25-009

- Village Board of Trustees voted to appoint an individual to fill a vacancy on the board
- The name of the candidate was not included in the motion
- Board voted *against* approving the motion to fill the vacancy
- Violation of OMA?

# PAC OMA Binding Opinion No. 25-009

- Violation. Section 2(e) of the OMA provides that no final action may be taken at a closed meeting, in addition to stipulating that final action 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.”

# PAC OMA Binding Opinion No. 25-011



Members of a county board attended a meeting hosted by a private energy company without first posting an agenda or preparing minutes.



A majority of a quorum of members attended.



The energy company held the meeting to discuss a proposed energy project.



Violation of OMA?

# PAC FOIA Binding Opinion No. 25-014

- Police Department improperly assessed a \$696 fee for obtaining copies of body cam footage
- May charge a request “for the actual cost of purchasing the recording medium, whether disc, diskette, tape, or other medium”
- Also may charge for “actual cost for reproducing” paper records “in color or in a size other than letter or legal,” but not applicable to video footage
- Generally, cannot charge for cost of redacting records

# PAC FOIA Non-Binding Determination

- Not required to convert records maintained only in paper format to an electronic format in order to respond to a request
- If choose to accommodate a requester by creating electronic records, limited to charging the fees for electronic records outlined in section 6(a)
- No fees for the first 50 pages, then 15 cents per page after that

# Can I Charge Them?

For black and white, letter or legal sized copies (8 ½ x 11 or 8 ½ x 14), the first 50 pages must be free, and any additional pages can cost no more than 15 cents a page. For color copies or abnormally sized copies, the public body can charge the actual cost of copying.

And for electronic records, only the actual cost of the recording medium (such as a flash drive).

The public body must provide electronic documents in the requester's requested format if (1) it maintains the records in an electronic format, and (2) it is feasible for the public body to provide the records in the requested format. If that format is not available to the public body, it must provide the documents in the electronic format in which they are kept or in paper, at the option of the requester. A public body is not required to convert records maintained in paper format into an electronic format.



# Can I Charge Them?

The public body cannot charge for time to search.

Documents shall be furnished without charge or at a reduced charge, as determined by the public body, if the person requesting the documents states the specific purpose for the request and indicates that a waiver or reduction of the fee is in the public interest. Waiver or reduction of the fee is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and is not for the principal purpose of personal or commercial benefit.



# PAC OMA Non-Binding Determination

- Board improperly discussed during closed session a member's absenteeism and an ordinance that addressed absenteeism for members
- The exception in section 2(c)(3) of OMA, to the general requirement that public bodies conduct public business openly, only permits discussions about the discipline, performance, or removal of a public official if the public body is empowered to remove that official from office.
- The exception did not apply

# PAC OMA Binding Opinion No. 26-001

- Village board violated OMA when the mayor improperly curtailed a resident's public comment.
- Public bodies may intervene when a speaker's "inflammatory comments" unreasonably disrupt a meeting
- Section 2.06(g) guarantees an opportunity to address public officials directly
- Takeaway: allow the opportunity for public comment with only reasonable constraints

# Combating Mass FOIA Abuse



Several firms working together to propose bills designed to protect school districts' and other public bodies' time/resources from mass FOIA requests and related lawsuits



Rep. Didech (Buffalo Grove) has introduced and is sponsoring [HB 4681](#), [HB 4682](#), [HB 4683](#), and [HB 4684](#)



If enacted, provide more lenient procedures for responding to mass FOIA requests and no longer provide mandatory attorneys' fees for mass FOIA requesters who sue



# Legislation Updates



P.A. 104-0438 impacts OMA, FOIA, and LRA

# OMA - Meetings

OMA now prohibits public bodies from holding meetings on election days



# OMA – Remote Attendance

1. Personal illness or disability
2. Employment purposes or business of the public body
3. Family or other emergency
4. Unexpected childcare obligations
5. Performance of active military duty



# OMA – Training of Township Officials

Elected or appointed members of a *township* board can satisfy training requirements by attending a course conducted by an organization that represents townships



# FOIA – “Person”

FOIA requires public body to make public records available to a “person”

“Person” includes individuals who act as an agent of a corporation, partnership, firm, organization, or association

# FOIA/LRA – Junk Mail Exclusion



Unsolicited commercial mail sent to a public body and not responded to by an official, employee, or agent of the public body or



Unsolicited commercial electronic communication sent to a public body and not responded to by an official, employee, or agent of the public body.

# No Junk Mail Exemptions

July							August						
Su	Mo	Tu	We	Th	Fr	Sa	Su	Mo	Tu	We	Th	Fr	Sa
	1	2	3	4	5	6					1	2	3
7	8	9	10	11	12	13	4	5	6	7	8	9	10
14	15	16	17	18	19	20	11	12	13	14	15	16	17
21	22	23	24	25	26	27	18	19	20	21	22	23	24
28	29	30	31				25	26	27	28	29	30	31
2:●	9:○	16:○	24:○	31:●			7:○	15:○	23:○	30:●			

*Balzer v. Northeast Illinois Regional Community Railroad Corp.*, 2026 IL App (1st) 120742.

- Requester emailed request to FOIA Officer (July 31-day 0), but it was held in the public body’s third-party email security quarantine system until the next day when the FOIA Officer released it from the security system and acknowledged the request. The request was identified as unduly burdensome and a request to narrow was sent by the FOIA Officer on the next day (Aug 1-day 1). The requester sent terse responses about not narrowing. The FOIA Officer responded on Aug 8<sup>th</sup> that the request was denied for his refusal to narrow.
- Requester filed in court, requesting the original documents, attorney’s fees and costs as a prevailing party, and a civil penalty.
- The Appellate Court found that despite those emails attempting to narrow the scope, the public body never told the requester the request was denied until August 8<sup>th</sup>, the 6<sup>th</sup> day—security quarantine did not change that the FOIA request “entered” the public body’s system on July 31<sup>st</sup> not August 1<sup>st</sup>.

# FOIA – Electronic Requests

- Appear entirely within the body of the request
- No attachments/hyperlinks to review the request
- Must notify the requester within 5 business days of this requirement if requester used attachments/hyperlinks in initial request

# FOIA- Posting Requirements



Beginning Jan. 1, 2026, a public body that has a website is only required to post required information on its website.



Must also make it available for inspection or copying and mail it upon request.



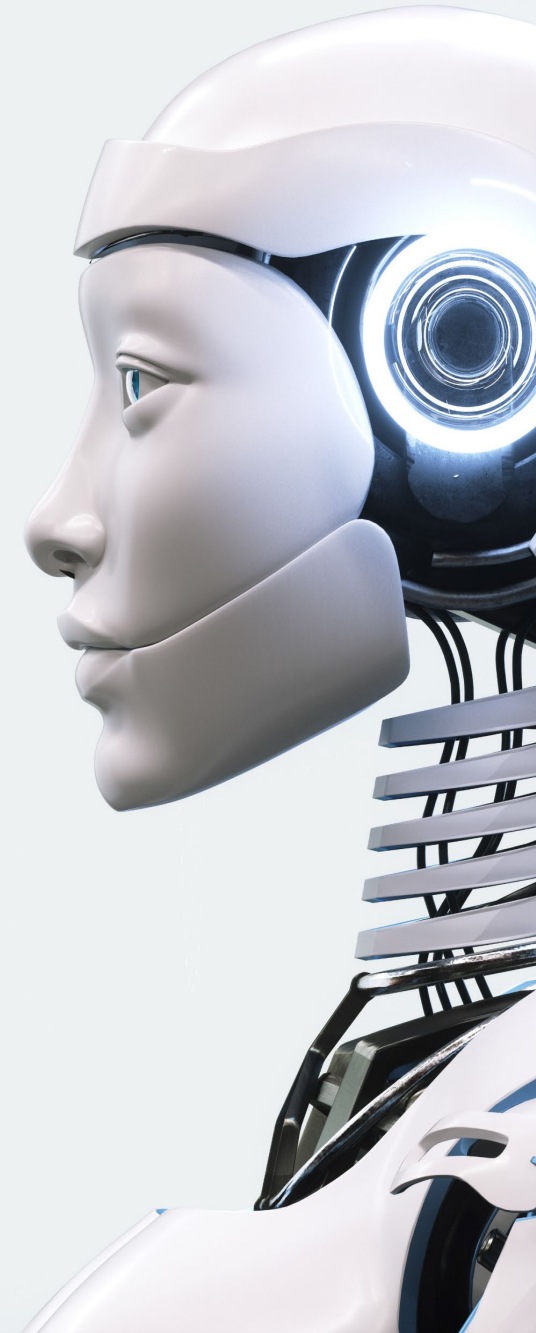
No website = continue to post the information in admin and regional offices

# Reminder – Posting Requirements

- brief description of public body, including its purpose
- a diagram of its functional subdivisions
- total operating budget
- number and location of all offices
- number of employees
- information regarding advisory bodies

# AI Requests - Timeline

- 1.If there is a “reasonable belief that a request was not submitted by a person,” the public body may require the requester to confirm either orally or in writing that the requester is an actual person
- 2.Request should be sent within 5 business days
- 3.Deadline for response is tolled until the requester verifies status as a person, which must occur within 30 days
- 4.Can deny FOIA request if not confirmed
- 5.May not require submission of personal, private, or identifying information (such as photo ID)



# What is AI-Generated?

- Requests received by multiple school districts using mass requesting technology
- May have same time stamp or same request language
- Not just language that looks like it was generated by Chat GPT
- NOTE: We MUST respond. Nonresponse because "it's AI" is not an option



# AI Requests for Verification



Emailing off-thread



Requesting phone call to confirm identity

# FOIA - Immunity

Officers and employees of a public body will now also have immunity from liability if they disclose records in accordance with an opinion of the Attorney General



“I’m a doctor... This man needs someone who can grant me immunity from liability, and *fast*.”



# Website Requirements



Updates and Reminders for School Districts

# Why should we care about website posting requirements?



- Compliance, compliance, compliance.
- But also, transparency (especially for public bodies) in providing information to the school community and to members of the public who are invested in education as a public good.

# Pop quiz



- How many website posting requirements are there for Illinois public schools?
- Name 2 Illinois laws that these requirements come from.
- Name 2 federal laws.
- Who is the intended audience?
- What is the purpose of these website posting requirements?

# General categories



School policies



School finances



Employee/personnel



Training and compliance



Progress reports and data



Student privacy



Public notices

# School policies

Nondiscrimination policy

Bullying prevention policy

Faith's Law employee code of conduct policy (also charters and nonpublics)

Anti-bias/intergroup conflict policy

# School finances (annually)



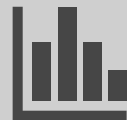
Contracts – over \$25,000, all CBAs, driver's education



~~ISBE report on contracts over \$25,000~~



Itemized budget (must notify parents how to find it)



ISBE fiscal efficiency report

# Employee/personnel

- **Contact information** - Board, Title IX Coordinator, health/sex ed coordinators, FOIA officers
- **Salaries/benefits** – ISBE report on superintendent, admin, teachers (10/1)
- **Data re: support personnel licensure** (12/1)
- **Training** – Board member, Title IX

# Progress reports and data



**School Report Card** (student attendance and financial resources)



**Discipline reduction plan** and a 1-year **progress report** (for districts in the top 20% of ISBE school discipline metrics)



**Student assessment report**

# Student privacy (SOPPA)

- 1) **An explanation of the data elements or covered information that the school collects**
- 2) **A list of operators**
- 3) **For each operator, a list of any subcontractors to whom covered information may be disclosed**
- 4) **A written description of the procedures that a parent may use to carry out their rights to inspect, review, and correct information maintained by the school, operator, or ISBE.**
- 5) **A list of any breaches of covered information**

**Each written agreement entered into under SOPPA.**



# Accessibility, curriculum

Third party online curriculum compliance

Remote learning plans (during PHE)

Health/safety, sex ed curriculum and contact info of supervisors (charters too)

ADA website compliance



# Public notices



BOARD MEETINGS



PUBLIC HEARINGS

# OMA, FOIA, Local Records Act

- Annual schedule of regular board meetings
- Agendas of all regular meetings
- Minutes of all regular board meetings
- IMRF reports on total compensation of employees over \$75,000 and \$150,000. *\*As a note, we counsel clients to include TRS employees as well, since they are already required to be included in the ISBE report on salaries and benefits.*
- Description of the school district (purpose, divisions, total budget, locations, FT/PT, Board)
- FOIA process
- Severance agreements with employee or contractor found to have engaged in sexual harassment or discrimination

# FOIA Reminder – Website Postings

- Brief summary of the public body, including a summary of its purpose.
- Block diagram of its functional subdivisions
- Total amount of its operating budget
- Number and location of all its separate offices
- Approximate number of full and part-time employees
- Identification and membership of any board, commission, committee, or council which operates in an advisory capacity relative to the operation of the public body, or which exercises control over its policies or procedures, or to which the public body is required to report
- The method by which the public may request information and public records, the designated FOIA officer, the address to which requests for public records should be directed, and any applicable fees under the FOIA

With this recent amendment to 5 ILCS 140/4, public bodies must now post all such information on their website effective 1-1-26, or, if they have no website, at all administrative offices

# Federal requirements



LEA ANNUAL  
REPORT CARD



LEA ASSESSMENT  
PLAN (POSTED ON  
LEA AND SCHOOL  
WEBSITES)



TITLE IX –  
COORDINATOR INFO,  
NONDISCRIMINATION  
POLICY



DISTRICT  
PROCEDURAL  
SAFEGUARDS  
NOTICE REGARDING  
SPECIAL EDUCATION



ANNUAL  
NONDISCRIMINATION  
NOTICE IN CAREER AND  
TECHNICAL EDUCATION  
(CTE) PROGRAMS



ADA COMPLIANT  
WEBSITE