



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

February 9, 2022

Via electronic mail

The Honorable Claudia Medina
Member
Board of Education
Proviso Township High Schools District No. 209
cmedina@pths209.org

RE: OMA Request for Review – 2022 PAC 69602

Dear Ms. Medina:

This determination is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(b) (West 2020)). On January 26, 2022, the Public Access Bureau received your Request for Review alleging that the Proviso Township High Schools District No. 209 Board of Education (Board) violated OMA by declining to permit you to attend its January 11, 2022, meeting remotely. For the reasons set forth below, the Public Access Bureau concludes that no further action is warranted as to this matter.

In your Request for Review, you explained that you are a member of the Board. You stated that you became ill on January 11, 2022, and immediately notified the Superintendent and Board President of your illness and requested to attend the January 11, 2022, meeting remotely. You stated that despite your request, you were not given a link to join the meeting remotely. You also alleged that the Superintendent "has consistently communicated with 6 of the 7 board members, and has ensured not to send, documents to me, Claudia Medina, a sitting board member[.]" and has otherwise limited his communications with you.¹ You alleged that the Superintendent's practices prevent you from being able to do your job as a Board member.

¹E-mail from Claudia Medina, Board Member Proviso District 209, to [Jane] Sternecky, *et al.* (January 26, 2022).

Section 7 of OMA describes, among other things, when a public body member may attend a public body's meeting by a means other than physical presence. It states, in relevant part:

(a) If a quorum of the members of the public body is physically present as required by Section 2.01, a majority of the public body **may allow** a member of that body to attend the meeting by other means if the member is prevented from physically attending because of: (i) personal illness or disability; (ii) employment purposes or the business of the public body; or (iii) a family or other emergency. "Other means" is by video or audio conference.

(b) If a member wishes to attend a meeting by other means, the member must notify the recording secretary or clerk of the public body before the meeting unless advance notice is impractical.

(c) A majority of the public body **may allow** a member to attend a meeting by other means only in accordance with and to the extent allowed by rules adopted by the public body. The rules must conform to the requirements and restrictions of this Section, may further limit the extent to which attendance by other means is allowed, and may provide for the giving of additional notice to the public or further facilitate public access to meetings. 5 ILCS 120/7(a), (b), (c) (West 2020). (Emphasis added.)

Notably, the language in sections 7(a) and 7(c) that "a majority of the public body **may allow** a member" to attend by other means is permissive, not mandatory. Therefore, a public body is not required to permit a member to attend a meeting remotely even if that member is unable to attend the meeting in person because of one of the reasons enumerated in section 7(a). Further, section 7(c) allows a public body to create its own rules that may further restrict the extent to which remote attendance is permitted beyond the limitations described in OMA. Section 2:220 of the Board's Policy Manual states, in relevant part, that

A quorum of the Board must be physically present at all Board meetings. A majority of the full membership of the Board of Education constitutes a quorum. Provided a quorum is physically present, **a Board member, provided he or she has received permission from the Board President, may attend a meeting** by video or audio conference if he or she is prevented from physically

attending because of: (1) personal illness or disability, (2) employment of District business, or (3) a family or other emergency. If a member wishes to attend a meeting by video or audio means, he or she must notify the recording secretary or Superintendent at least 24 hours before the meeting unless advance notice is impractical. The recording secretary or Superintendent will inform the Board President of the request and make appropriate arrangements.^[2] (Emphasis added.)

The Board's Policy requires the Board President to first grant permission before a Board member suffering from illness may participate in a meeting by alternative means. Presumably, if the Board President gives permission, the Board takes a vote at the meeting on whether to allow that Board member to participate remotely. Because OMA gives public bodies discretion on whether to permit members to participate remotely, the Board President was not required to allow you to attend the January 11, 2022, meeting by video or audio conference.

Your other contentions concerning the communications practices of the Superintendent do not allege a violation of OMA, and therefore are not subject to review by this office. *See* 5 ILCS 120/3.5(a) (West 2020) ("[a] person who believes that a violation of this Act by a public body has occurred may file a request for review with the Public Access Counselor[.]" and that the submission "must include a summary of the facts supporting the allegation."); 15 ILCS 205/7(c)(3) (West 2020) (the Public Access Counselor's authority to resolve disputes is limited to alleged violations of OMA and the Freedom of Information Act (5 ILCS 140/1 *et seq.* (West 2020))).

This letter closes this file. If you have any questions, you may contact me at the Springfield address on the first page of this letter or Laura.Harter@ilag.gov.

Very truly yours,



LAURA S. HARTER
Deputy Bureau Chief
Public Access Bureau

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²Proviso Township High Schools District 209, Board Policy Manual, §2:220 Quorum, https://boardpolicyonline.com/?b=proviso_209.

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cc: *Via electronic mail*
 The Honorable Rodney Alexander
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