

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

Fall 2025

As we close out 2025, our office is busy preparing the annual updates to the online FOIA and OMA trainings that are available on the website of the Office of the Illinois Attorney General. Those updates will include information about any new legislative changes to FOIA and OMA taking effect in 2026, as well as discussions of recent court opinions and Attorney General binding opinions on FOIA and OMA. The 2026 versions of the FOIA and OMA trainings will be available in January 2026.

PAC attorneys have had the opportunity this year to present information on FOIA and OMA at statewide conferences held by the Illinois Association of Veterans Assistance Commissions, the Illinois Municipal League, and the Municipal Clerks of Illinois, among others. If you are a member of a statewide or regional organization of public bodies and would like a PAC attorney to attend your 2026 conference to present information on FOIA or OMA, please contact the Public Access Bureau at public.access@ilag.gov.

Leah Bartelt
Public Access Counselor

Online Training Requirement

Please note that the annual online training requirements for FOIA Officers (5 ILCS 140/3.5) and OMA Designees (5 ILCS 120/1.05) are continuous – accordingly, if you are required to annually complete the PAC online training and have not yet done so for 2025, please complete the training as soon as possible and print a copy of the certificate of completion to be filed with your public body. The 2025 FOIA and OMA training modules are accessible on the PAC online



training portal through the end of December via the following 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, by leaving a message 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.

SPECIAL POINTS OF INTEREST AND WEB LINKS

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/>

2024 PAC Annual Report
<https://illinoisattorneygeneral.gov/Page-Attachments/FOIAPAC/PAC-ANNUAL-REPORTS/2025PublicAccessCounselorReport.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>

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. 25-011, August 12, 2025

<https://illinoisattorneygeneral.gov/Page-Attachments/FOIAPAC/2025-Binding-PAC-Opinions/Binding%20Opinion%2025-011.pdf>

OPEN MEETINGS ACT: Improper Private Meeting: Seven members of the Washington County Board (Board), a majority of a quorum of the members, attended an informational presentation hosted by a private energy company. The Board did not post an agenda, record meeting minutes, provide an opportunity for public comment, or otherwise comply with the requirements of OMA. During the gathering, Board members engaged in an interactive discussion with representatives from the energy company about its proposed renewable energy project, a subject that constituted public business of the Board with potentially wide-ranging impacts on Washington County. Although there was no indication that the Board intended to reach a consensus on any issues at the time of the discussion, the members present nonetheless engaged in the collective inquiry phase of deliberations by gathering and exchanging information in anticipation of possibly taking future action. The requirements of OMA apply not only to those gatherings in which public bodies take formal action, but also to discussions of public business for the purpose of collecting information. Accordingly, the gathering was a meeting of the Board subject to the requirements of OMA, and the Board violated OMA by failing to provide public notice and permit the public to attend.

Ill. Att’y Gen. Pub. Acc. Op. No. 25-008, July 15, 2025

<https://illinoisattorneygeneral.gov/Page-Attachments/FOIAPAC/2025-Binding-PAC-Opinions/Binding%20Opinion%2025-008.pdf>

FREEDOM OF INFORMATION ACT: Basis for Withholding Communication from Former Attorney: A member of the news media submitted a FOIA request to Hinsdale Township High School District 86 (District) seeking the attachment to an e-mail from the District’s former legal counsel. The District withheld the attachment, claiming that the record was protected by the attorney-client privilege and exempt from disclosure under section 7(1)(m) of FOIA. Illinois and federal courts have consistently concluded that billing records regarding the payment of fees are not per se exempt from disclosure, and that information within those records is exempt only to the extent that it would reveal the substance of confidential attorney-client discussions. Although the record at issue concerned a billing dispute, it was not a billing statement, and it did not contain any legal advice sought by or provided to the District. Accordingly, the Attorney General concluded that the attachment was not exempt under section 7(1)(m). The District further argued that the attachment was exempt under the Illinois Supreme Court Rules of Professional Conduct. However, the Rules of Professional Conduct govern duties and functions of attorneys, rather than public bodies such as the District, and do not contain any provisions that would allow the District to withhold the requested record. The District finally asserted that the requested record was a deliberative communication exempt from disclosure under section 7(1)(f) of FOIA. Because the District and its former legal counsel had competing, independent interests in the billing dispute, the Attorney General concluded that the record was not exempt under section 7(1)(f). In compliance with the binding opinion, the District provided the requester with a copy of the attachment.

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 precedent in subsequent PAC reviews and referenced in educational presentations.

FOIA:

III. Att’y Gen. PAC Req. Rev. Ltr. 81283/81300, issued September 19, 2025

Thirty-two members of the public individually submitted FOIA requests over five days to Summit Hill School District No. 161 seeking copies of e-mails between two District officials for various time increments. The requesters did not contest their status as recurrent requesters who were acting as a group, but they objected to the District’s designating the request as voluminous and denying it as unduly burdensome. The PAC concluded that the 32 requests submitted by individuals acting as a group collectively comprised a voluminous request. Because the 32 individual requests constitute a single “voluminous” request, a public body may consider all the individual requests in determining whether the single “voluminous” request is unduly burdensome under section 3(g) of FOIA. If the public body makes that determination, it must offer the person an opportunity to narrow their request to manageable proportions.

OMA:

III. Att’y Gen. PAC Req. Rev. Ltr. 87480, issued September 8, 2025

The Clark County Board contended that it was not required to post meeting notices on its website because (1) the County Clerk, who is responsible for posting materials to the site, is an elected official rather than a full-time staff member of the Board, and because (2) she does not “maintain” the website, as that term is used in section 2.02(a) of OMA. To the latter assertion, the Board argued that a private vendor with whom it contracted to create the website and provide software and technical support “maintains” its website. Rejecting this argument, the PAC determined that whether a public body operates and controls the content of its website is dispositive of whether it “maintains” the website for purposes of section 2.02(b) of OMA. The PAC also determined that the County Clerk is “full-time staff” of the County for purposes of section 2.02 of OMA, despite being an elected official.



FOIA

If you receive a FOIA request that asks questions, requires the creation of a new record, or seeks records that your public body does not maintain, do not simply ignore the request. Rather, you must respond to the request promptly, but you can either explain in your response that your public body possesses no responsive records for one of the above reasons or deny the request on the basis that a public body is not required to answer questions or generate new records in response to a FOIA request.

OMA

Ensure that e-mails or text messages exchanged amongst at least a majority of a quorum of your elected/appointed public body members do not inadvertently turn into a “meeting” as defined under OMA. “Reply-all” e-mails and texts can be a “meeting” if the communications are contemporaneous, interactive, and include the requisite number of members of the body. If you do need to communicate with your Board, Council, or Commission electronically (e.g., forwarding an upcoming Board meeting packet for review), you can prevent a potential violation, in part, by asking public body members to reply to your communication individually if they have questions. Finally, keep in mind that, even if an electronic group message does not constitute a “meeting” under OMA, such communications may be subject to a FOIA request.

UPCOMING PAC WEBINARS

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. These webinars supplement the information provided in the mandatory FOIA and OMA electronic trainings discussed above, and allow participants to submit questions to PAC attorneys.

Although the PAC's Fall 2025 Webinar Trainings are already well under way, those interested in registering for one or more of the remaining training sessions may do so at the registration links below:



FOIA for Public Bodies Webinar:

Wednesday, November 12, 2025, 10:00 a.m. – 12:00 p.m.

https://ilattorneygeneral-gov.zoom.us/webinar/register/WN_OjR-cDhRR_evF3BIRG8kVQ



Open Meetings Act Webinar:

Wednesday, November 19, 2025, 10:00 a.m. – 11:30 a.m.

https://ilattorneygeneral-gov.zoom.us/webinar/register/WN_HKZFXMl1TY-ydrI4ip5Hug



FOIA for Law Enforcement Agencies Webinar – Common Reports:

Tuesday, December 2, 2025, 10:00 a.m. – 11:30 a.m.

https://ilattorneygeneral-gov.zoom.us/webinar/register/WN_inhPjn-rRpy9MNC_8HkiSQ



FOIA for Law Enforcement Agencies Webinar – Video Recordings:

Wednesday, December 3, 2025, 1:00 p.m. – 2:30 p.m.

https://ilattorneygeneral-gov.zoom.us/webinar/register/WN_38uFq5PSbGfCsV45QrNHA

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 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.*

Have a
question for
PAC?

Leah Bartelt, Public Access Counselor
Illinois Attorney General's Office
500 South Second Street • Springfield, Illinois 62701

Public Access Hotline: (877) 299-3642
Public Access Fax: (217) 782-1396
General E-mail: Public.Access@ilag.gov

PAC Technical Support: PACTechnicalSupport@ilag.gov