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EVERYDAY DEMOCRACY

AN E-NEWSLETTER FROM THE CITIZEN ADVOCACY CENTER

IL A.G. Public Access Counselor Publishes Determination Letter Protecting Right to Speak During Public Comment

Determination Letter Supports Right to Address Individual Public Officials when Commenting on a Matter of Public Business.

Community Lawyers provided guidance and support to an individual when they contacted CAC about the right to public comment at government meetings.



The specific issue was if members of the public have the right to identify and address individual Board members when commenting on matters of public business, including addressing public officials by name.

The CAC gave a public comment at the government meeting outlining the First Amendment concerns and called for corrective action, helped the individual file a Request for Review (RfR) with the Illinois Attorney General's Public Access Counselor (PAC), and most recently, sent a letter to the same government entity again calling for corrective action.

On March 20, 2023, the PAC released a Determination Letter. **Determination Letters are rulings from the PAC when a RfR has been filed on an Illinois Open Meetings Act (OMA) or Freedom of Information Act (FOIA) issue.** When the PAC issues a ruling, it can either be: (1) a Binding Opinion that is published on the PAC website, or (2) a Determination Letter that provides guidance to the public body *but* is not binding, nor is it posted on the PAC website.

The PAC issues far more Determination Letters than Binding Opinions. While non-binding, Determination Letters have tremendous value because of the instruction provided to public bodies and the legal analysis in Determination Letters is substantively identical to that in Binding Opinions. Determination Letters reveal how the PAC interprets the Illinois FOIA and OMA and is an outstanding tool for community members, journalists, and public officials.

Key Take-Aways from the March 20, 2023 Right to Speak PAC Determination Letter:

- Provides a great overview of how the PAC office generally interprets the "Right to Speak" provision of the Illinois OMA.
- Reviews past rulings for when a speaker during public comment is prohibited from completing a public comment based on public comment rules related to prohibiting

"personal attacks."

- Reviews the ability of a public body to establish reasonable time, place, and manner rules to preserve order and decorum.
- Reviews the right of a speaker in public comment to address public officials on behalf of another person not present at the meeting.

[Read the PAC Right to Speak Determination Letter Here.](#)

Also, check out CAC's website for our [database of other Determination Letters](#). The database is not a comprehensive list of *all* Determination Letters issued by the PAC, but since Determination Letters are only accessible through a FOIA to the PAC, those available on CAC's website are an important resource on FOIA and OMA issues.

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Our mission is to build democracy for the 21st Century by strengthening the citizenry's capacities, resources, and institutions for self-governance.

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