



**THE CITIZEN ADVOCACY CENTER'S GUIDE TO THE ILLINOIS
FREEDOM OF INFORMATION AND ILLINOIS OPEN MEETINGS ACT**
(Issued 12/08)

Open government statutes are cornerstone laws that ensure the public's capacity to play an essential role in the democratic process. They provide the mechanism by which people can knowledgeably discuss public issues, make informed political judgments, and monitor public officials and government agencies to ensure government is acting in the public interest. To that end, the following is a general guide to Illinois Freedom of Information Act and Open Meetings Act statutes produced by the Citizen Advocacy Center.

FREEDOM OF INFORMATION ACT

In 1984, the Illinois General Assembly enacted the Illinois Freedom of Information Act ("the "FOIA"). The Act states that "all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees." 5 ILCS 140/1. Within specified limitations, the Act allows anyone to inspect and obtain copies of all public records prepared, possessed, used by, or in the control of any public body. This access to government information is fundamental to our system of open government, and to the rights of citizens to be informed about the actions of public bodies on matters of public concern. Anyone (including individuals, groups, associations, corporations, firms, partnerships or organizations) may obtain access to government-held information.

WHAT INFORMATION IS AVAILABLE?

Some examples of the records available under the FOIA are: orders, rules, policy statements, planning policies and decisions, reports or studies, public contracts, the names, titles and salaries of public employees, and the voting records of all public bodies. According to the Illinois Attorney General, e-mail records of a member of a public body should be considered a public record for purposes of the FOIA.

WHO IS SUBJECT TO THE ACT?

Only public bodies are subject to the FOIA. Public bodies include any legislative, executive, administrative or advisory bodies of the State; state universities and colleges; counties and municipalities; school districts and all other municipal corporations, boards, bureaus, committees, or commissions of the State; and any subsidiary bodies (such as committees and subcommittees) that are supported by or expend tax revenue. The judiciary is not subject to FOIA, but court records and proceedings are generally open to the public.

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HOW TO FIND INFORMATION

Under the FOIA, every public body must make their existing records available to the public. The FOIA does not require these bodies to answer specific questions, create new records, or keep a central library or index of all government records. Consequently, if a requestor does not know which public body has the records sought, an informal, polite telephone call may be the best place to start. Speaking with people with a public body that has a job related to the topic of interest might help to identify the appropriate body to which the request should be addressed.

Public bodies must maintain a list of the types or categories of records in their possession along with directions, in non-technical language, for accessing electronic data. They must also provide directions for requesting a record and a directory of the employees assigned to process disclosure requests for that public body. If no one is available to answer questions over the telephone, the directory should be on display in each administrative or regional office of the body. The list of records should be available for copy and can be requested through the mail.

HOW TO MAKE A REQUEST

• Put it in writing

An informal telephone call or visit may help a requestor identify the type of records sought and retained by the public body, but, to be official, the request for a public record must be made in writing. A written request will allow one to take advantage of the time limits and appeal mechanisms provided in the FOIA. A copy of the letter and date the letter it is sent should be maintained by the requestor. Also, if the request is sent certified mail and request a return receipt, the date on which the request was received will trigger the time limits for the public body to respond.

Also, it is prudent to check with the public body from to determine if there are specific requirements for filing a FOIA request. Some

public bodies require a certain form. Keep in mind that a public body may not require a requestor to identify him or herself or list a reason for their request in either a written or in-person request.

• Be specific

The letter must specify the records sought, which will avoid confusion and high copying fees. If a broad category of records is requested, collecting the records might be unduly burdensome on the public body, which could justify a delay or refusal to release the records. If information on a certain topic is desired, but there is knowledge that some kinds of material are not sought (*e.g.*, newspaper clippings, or records created before or after a certain date), a request can be made to omitted those records. The preferred format should also be requested. (*e.g.*, paper copy or computer disk).

• Request a fee waiver or reduction

If a disclosure request qualifies, a fee waiver or reduction may be requested. The FOIA gives public bodies discretion to grant a fee waiver or reduction when disclosure is in the public interest.

SAMPLE REQUEST LETTER

Date

*(If desired: Certified mail -- return receipt requested)
(name and title of official) (address of appropriate office of the public body)*

Dear *(name)*,

Pursuant to the Illinois Freedom of Information Act, 5 ILCS 140/1 et seq., this is a request for a copy of the following record(s): *(Describe the subject or the documents containing the information that you want).*

If any record or portion of a record responsive to this request is contained in a record or portion of a record deemed unresponsive to the request, I would like to inspect the entire document. Under the Freedom of Information Act, all non-exempt portions of any partially-exempt documents must be disclosed.

If any fee in excess of \$___ will be incurred in fulfilling this request, please obtain my approval before the fee is incurred. *(Or, if applicable, request a fee reduction or waiver: I request a waiver of any fees your office would ordinarily impose in responding to a request. I do not seek these records for commercial purposes and I intend to disseminate the information because disclosure is in the public interest in that it _____.)*

If any records or portions of records are withheld, please state the exemption on which you rely, the basis on which the exemption is invoked, and the address to which an appeal should be addressed. Thank you for your prompt consideration of my request. If you have any questions, or if I can be of assistance, please contact me at _____.

Sincerely,

(name)

WHAT IT MAY COST

• Reasonable copying costs

The FOIA allows public bodies to charge reasonable fees to pay for copying costs or for the use of their copying equipment, but they may not charge for the time and effort of a search for records. If an abstract of a driving record is requested, however, additional fees may apply. The list of fees charged by a public body must be available at its administrative or regional office(s). If the fees charged are unreasonable, the courts will consider the public body as having denied access to the records.

Fee waiver or reduction

Public bodies may waive or reduce the fees if disclosure is in the public interest. A waiver or reduction might be granted if (a) the request for information is regarding the health, safety and welfare or the legal rights of the general public, (b) there is a plan to disseminate this information, or (c) one will not receive a personal or commercial benefit from the disclosure of the documents. Ordinarily, it is not necessary to explain why access to the records is sought, however, to qualify for a fee waiver or reduction, disclosure may be necessary.

THE PUBLIC BODY RESPONSE

A public body has seven working days to respond after it receives a written request for information under the FOIA. **There are three types of response: delay; disclosure; and denial.**

• Delay

A public body may inform a requestor in writing that it requires an additional seven working days to respond to a request for any of the following reasons:

- the requested materials are stored at other locations;
- the request requires the collection of a substantial number of specified records;
- the request is couched in categorical terms and the response requires an extensive search;
- the requested records have not been located in the course of a routine search and additional efforts are being made to locate them;
- the requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under the Act;
- the public body cannot comply with the request within the time limits without unduly burdening or interfering with the operation of the public body;
- before responding to the request, the public body must consult with other public bodies that have an interest in the records.

• Disclosure

The public body must disclose all records responsive to a request unless an exemption provided in the FOIA applies. It is their burden to show that the exemption applies.

• Denial

A denial must be made in writing and must include the names and titles of everyone responsible for the denial. It must also give the reasons for the denial. If no response is received within the time limit, the FOIA request is considered denied. If the request is denied under one or more of the FOIA's exemptions (described below), the letter must specify which exemptions apply. The denial must also include a notice of the right to appeal the denial. A body may also deny a request that

is burdensome, but must first meet with the requester in an effort to reduce the burden. Repeated requests for the same document are generally considered burdensome.

HOW TO APPEAL

If a public body denies access to information requested under the FOIA, an appeal to the head of the public body is allowed. The head of the public body is “the president, mayor, chairman, presiding officer, director, superintendent, manager, supervisor or individual otherwise holding primary executive and administrative authority for the public body, or such person's duly authorized designee.” 5 ILCS 140/1.02(a). A letter to the head of the public body specifying which records were withheld and stating why the denial was incorrect will start the appeal process. Within seven working days, the head of the body must review the appeal letter, the requested record(s), determine whether denial is proper under the FOIA and provide notification of the determination.

Additionally, the position of Public Access Counselor has been created by the Illinois Attorney General’s Office to respond to FOIA questions. While the Public Access Counselor has no enforcement power, he or she can investigate and issue an advisory opinion requesting that the public body disclose public information. The Public Access Counselor can be reached at:

Office of the Public Access Counselor
500 S. Second Street
Springfield, IL 62705
(217)524-1503

If the head of the public body also denies access, one may file a court action for relief. To appeal the decision of a State body, a complaint must be filed in the circuit court of the county where the public body has its principal office, or in the requestor’s home county. To appeal the decision of some other

public body, the lawsuit must be filed in the county of the principal office of the body. These suits will take precedent over other cases and must be heard at the earliest possible date. In court, the burden is on the public body to prove that the material is exempt under the FOIA. The court will review the decision without any deference to the public body's prior decisions. In addition to granting access to the requested records, the court may award court costs and reasonable attorney fees to a party that substantially prevails in a FOIA lawsuit. 5 ILCS 140/11(i). If the body still refuses to disclose the information, they may be held in contempt of court.

EXEMPTED INFORMATION

The Illinois Freedom of Information Act exempts certain kinds of information from disclosure. If a requested record contains some exempt and some non-exempt information, the FOIA requires that the public body delete the exempt material and disclose the rest. The types of information exempted from public disclosure under the Freedom of Information Act include:

- (a) Information specifically prohibited from disclosure by a federal or State law other than the FOIA. For example, the Appellate Court of Illinois, Second District, has held that an Election Code provision that required the sealing of election records made the release of such information exempt from FOIA. *Kibort v. Westrom*, 862 N.E.2d 609 (Ill. Ct. App. 2d Dist., 2007).
- (b) Information that would constitute an invasion of personal privacy if it were disclosed, including personal medical information, information revealing the identity of people who file complaints, criminal history not part of a public record, personal financial information, academic or professional examination or evaluation results, library circulation

information, information concerning adjudication of student or employee grievance or disciplinary cases, and personal insurance records;

- (c) Information related to public safety and security, including information compiled by any law enforcement or correctional agency for law enforcement purposes, any information that could interfere with pending or actual law enforcement proceedings, information regarding the identity of a confidential source, information relating to the security of correctional facilities, user guides or employee manuals that would jeopardize an informational system or its data, vulnerability and security assessment plans or policies designed to respond to potential attacks, plans of architects and engineers when the plans would jeopardize security, and maps or other records regarding the location or security of utilities.
- (d) Information regarding employment and disciplinary actions of a public body, including employee personnel files, job applicant information, and collective negotiating information (though the final contract is accessible).
- (e) Information involving negotiations for the purchase of real property, which is exempt until the sale is completed;
- (f) Information that could be considered valuable intellectual property of an individual or public body including trade secrets, valuable formulae, computer geographic systems, designs, drawings and research data created by any public body that could be expected to produce private gain or public loss, and course or research materials used by university faculty members; and

- (g) Information that is protected by the attorney client privilege, including communications between a public body and its attorney regarding current or anticipated litigation, or materials prepared or compiled for internal audits or at the request of an advising attorney.

To view the exhaustive list of information specifically exempted from disclosure under the FOIA or to determine if the specific information sought could be exempt from disclosure, please refer to the actual legislation, 5 Illinois Compiled Statutes 140/7, available on the Illinois Attorney General's website: http://www.ag.state.il.us/government/foia_illinois.html

STRENGTHS OF THE LAW

Following are a summary of several strengths of the Illinois Freedom of Information Act:

- The FOIA encourages disclosure at the outset of a requesting party's search for public records and protects the requesting party's interests in litigation.
- The firm deadlines for public bodies to respond to requests theoretically guarantees that a requesting party will receive the requested documents – or the reasons why the documents are unavailable – in a timely manner.
- Under the FOIA, while not mandatory, a party is eligible to receive attorney's fees whenever he or she has substantially prevailed on the merits of the case.

RECOMMENDATIONS FOR REFORM

Following are a summary of several weaknesses of the Illinois Freedom of Information Act and potential reforms:

- As applied, the FOIA statute is weak and devoid of penalties. The lack of penalties often leads to nondisclosure of

public information. Despite explicit firm deadlines, there are no enforcement mechanisms to ensure effective and consistent compliance by public bodies.

- Mandatory attorney fees and a punitive fee structure against public bodies that willfully ignore FOIA is necessary.
- The Public Access Counselor needs to be a statutorily created entity with enforcement powers to hold offending public bodies accountable.
- The FOIA needs to be amended to compensate for the lag in technology, specifically removing the provision that addresses “creating new public records”. For instance, even though a public body could easily create a new record by a few clicks of the mouse, it is not required to do so under the current statute.
- Exemptions under the FOIA need to be revised to decrease the sheer number and tighten interpretation. Specifically, the privacy per se exemptions listed under 5 ILCS 140/7(b)(i-vi). The privacy exemptions often operate to deny requesting parties access to public records.
- Copy fees need to be capped. Despite explicit language limiting public bodies to only charge for the actual cost of physically reproducing the records, public bodies inconsistently apply copy charges for access to public documents without justification.
- Mandate use of Email to provide public information and the creation of electronic reading rooms. E-mail technology provides means to disburse information quickly, efficiently, and at virtually no cost. Additionally, the FOIA should be amended to require that public bodies that regularly maintain websites post information that has been requested so as to build electronic “reading rooms”.

OPEN MEETINGS ACT

The Illinois Open Meetings Act (“the Act” or “OMA”), originally enacted in 1957, states that, “[i]t is the public policy of this State that public bodies exist to aid in the conduct of the people’s business and that the people have a right to be informed as to the conduct of their business. . . . [I]t is the intent of this Act to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly.” 5 ILCS 120/1. The Act promotes public participation in local government. It requires public bodies to hold open meetings, provide the public with adequate notice of meeting times so that citizens may freely attend, and keep records of public meetings. The Act gives citizens the right to be present to observe government meetings, except in limited circumstances designed to protect the public interest or personal privacy concerns.

WHAT IS A MEETING?

A meeting is “any gathering, whether in person or by electronic means . . . of a majority of a quorum of a public body for the purpose of discussing public business” including informal or unofficial meetings. 5 ILCS 120/1.02. Thus, if three people of a seven-person board discuss public business on the telephone, the discussion is subject to the terms of the Act. An amendment in 2007 created an exception to the majority of a quorum rule, requiring three persons from a five-person board to be discussing public business in order to trigger the Act.

THE OPEN MEETINGS ACT APPLIES TO PUBLIC BODIES

Public bodies include all “legislative, executive, administrative, or advisory bodies of the state” along with agencies, committees, boards, municipalities, city councils, village boards and school districts. This includes, but is not limited to, any subsidiary body or

subcommittee supported by or expending tax revenue.

The General Assembly and its committees and commissions are exempt from the OMA, but the Illinois Constitution requires that legislative meetings be open to the public unless two-thirds of the members vote to close a meeting.

WHAT DOES IT MEAN TO BE OPEN?

Public Notice

Public bodies are required to give notice of their regularly scheduled meetings by making public a schedule of their regular dates, times, and places of meetings. Notice must be given at the beginning of each calendar or fiscal year by posting a copy at the principal office of the body holding the meeting and at the location of the meeting. Notice must also be given to the public as well as any news medium that files an annual request. If the public body maintains a website, notice must also be posted online. Failure to post notice online will NOT invalidate any action taken at the meeting.

Agendas

Agendas must give at least 48 hours prior to the meeting where any final action or discussion that will take place. A general heading, such as "New Business," is not considered sufficient notice to the public. It is acceptable to introduce or discuss a resolution not specifically listed on the posted agenda so long as no final action is taken. If the public body maintains a website, they must post agendas online and the agendas must remain online until the meeting has concluded.

Permanent Changes

If there are any permanent changes to regularly scheduled meetings, the public body must give notice at least 10 days before the meeting by publication in a newspaper of general circulation. The public body may post notice of

any changes at the principal office of the body holding the meeting or, if no such office exists, at the building where the meeting will be held.

Special Meetings

For special meetings, public bodies must give at least 48 hours notice. Notice must be posted at the place where the meeting usually takes place and delivered to any news medium that files an annual request. Special meetings include a rescheduled regular meeting or a reconvened regular meeting. This does not apply to an open meeting that is reconvened within 24 hours.

Emergency Meetings

Notice of an emergency meeting shall be given as soon as practicable prior to the holding of the meeting.

CONVENIENCE

All meetings required to be public must be held at specified times and places which are convenient and open to the public. Meetings must, therefore, be more than technically open (i.e., held in open rather than closed session). An open meeting in an inconvenient place violates the OMA. Nevertheless, meetings are not required to be held in locations to accommodate all interested members of the public. Convenience is not a rule of absolute accessibility, but of reasonable accessibility. However, with knowledge that a meeting place would be too small to accommodate the number of citizens who wish to attend a meeting, with the availability of larger alternative venues, and with the refusal to change the meeting place due to a desire to inconvenience the public, the Open Meetings Act is violated. *Gerwin v. Livingston County Board*, 802 N.E.2d 410 (Ill. App. Ct. 4th Dist., 2003).

RECORDING PUBLIC MEETINGS

Any person may record the proceedings at open meetings. However, the public body holding the meeting may prescribe reasonable rules to govern the recording. Public meetings may be recorded by tape, film, or other means.

RECORDING CLOSED MEETINGS

All public bodies must record closed meetings in the form of an audio or video recording. These recordings are not available for public inspection or a court proceeding unless the public body finds there is no longer a need for confidentiality or a court reviews the recordings in a civil or criminal proceeding brought to enforce the OMA. As a result of an enforcement proceeding, the court could require release of the recordings. The recordings must be retained for a minimum of 18 months and may be destroyed after that time, but only if the public body votes to destroy the recordings and creates minutes of the closed meeting.

WRITTEN MINUTES

All public bodies must also keep written minutes of their meetings, whether open or closed. The written minutes must include the date, time, and place of the meeting; whether the members of the public body were present or absent; whether members were physically or electronically present; and a “summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken.” 5 ILCS 120/ 2.06(a)(3).

Minutes are to be made available within 7 days of the public body’s approval of such minutes and if the public body maintains a website, minutes must be posted online and remain online for at least 60 days.

Public bodies must review minutes or recordings from closed meetings at least every six months to make a determination in open

session of whether those minutes or recordings still require confidentiality.

WHEN MAY A PUBLIC BODY CLOSE A MEETING OR HOLD AN EXECUTIVE SESSION?

Public bodies may hold closed meetings provided that they state in an open session the reasons for holding a closed session. A majority of a quorum present during an open session must also vote to close the meeting. The public body must state in open session why it has closed the meeting and must take all final actions in open session.

Public bodies may, but are not required, to hold closed meetings concerning:

EMPLOYMENT MATTERS

- The appointment, employment, compensation, discipline, performance, or dismissal of specific employees of the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee or legal counsel to determine its validity.
- Collective negotiating matters between the public body and its employees or their representatives, or deliberations concerning salary schedules for one or more classes of employees.
- The selection of a person to fill a public office, including a vacancy in a public office.

LAND/INVESTMENT DEALS

- The purchase or lease of real property for the use of the public body.
- The setting of a price for sale or lease of property owned by the public body.
- The sale or purchase of securities, investments, or investment contracts.

SECURITY MATTERS

- Security procedures and the use of personnel and equipment to respond to actual, threatened, or reasonably potential danger to the safety of employees, students, staff, the public, or public property.
- Informant sources, the hiring or assignment of undercover personnel or equipment, or ongoing, prior or future criminal investigations, when discussed by a public body with criminal investigatory responsibilities.

STUDENT RECORDS

- Student disciplinary cases.
- The placement of individual students in special education programs and other matters relating to individual students.

LITIGATION/LEGAL CLAIMS

Litigation is when there is an action against, affecting or on behalf of the particular public body that is pending before a court or administrative tribunal. If a public body finds that an action is probable or imminent, a public body may also convene in closed session.

The establishment of reserves or settlement of claims as provided in the Local Governmental and Governmental Employees Tort Immunity Act, if the disposition of a claim or potential claim might be prejudiced, or the review or discussion of claims, loss or risk management information, records, data, advice or communications from or with respect to any insurer of the public body or any intergovernmental risk management association or self insurance pool of which the public body is a member.

- Evidence or testimony in an open hearing, or in a closed hearing where specifically authorized by law, to a quasi-adjudicative body, as defined in this Act, provided that the body prepares and makes available for

public inspection a written decision setting forth its determinative reasoning.

OTHER EXCEPTIONS

- Conciliation of complaints of discrimination in the sale or rental of housing, when closed meetings are authorized by law or ordinance prescribing fair housing practices and creating a commission or administrative agency for their enforcement.
- Professional ethics or performance when considered by an advisory body appointed to advise a licensing or regulatory agency on matters germane to the advisory body's field of competence.
- Self-evaluation, practices and procedures or professional ethics, when meeting with a representative of a statewide association of which the public body is a member.
- The recruitment, credentialing, discipline or formal peer review of physicians or other health care professionals for a hospital, or other institution providing medical care, that is operated by the public body.
- Deliberations for decisions of the Prisoner Review Board.
- Review or discussion of applications received under the Experimental Organ Transplantation Procedures Act.
- The classification and discussion of matters classified as confidential or continued confidential by the State Employees Suggestion Award Board.
- Discussion of minutes of meetings lawfully closed under this Act whether for purposes of approval of the minutes or semi-annual review of the minutes.
- Deliberations for decisions of the State Emergency Medical Services Disciplinary Review Board.
- The operation by a municipality of a municipal utility or the operation of a municipal power agency or municipal natural gas agency when the discussion involves (i) contracts relating to the

purchase, sale or delivery of electricity or natural gas or (ii) the results or conclusions of load forecast studies.

- The records and meetings of death review teams and their executive council as specified in the Abuse Prevention Review Team Act.

WHAT TO DO IF A VIOLATION OF THE OPEN MEETINGS ACT IS SUSPECTED

If a violation of the OMA has occurred, it should be raised with the public body. . Alternatively, the Illinois Attorney General has created the office of the Public Access Counselor which acts as an intermediary between citizens and public bodies by providing help in resolving disputes or by providing advisory opinions.

The Public Access Counselor can be reached at:

Office of the Public Access Counselor
500 S. Second St.
Springfield, IL 62705
Phone: (217) 524-1503
Fax: (217) 785-2551

A complaint may also be filed with the State's Attorney in the county where the incident occurred or where the public body's principal office is located within 60 days of the alleged violation. If the alleged violation is not discovered within the 60 day period, the State's Attorney may bring an action within 60 days of discovery of the violation.

Any individual, not just the State's Attorney, may bring an action in the local circuit court to enforce the terms of the Act prior to the anticipated violation, or within 60 days after the meeting during which the violation has occurred. The court may assess attorneys' fees against the losing party. An individual may request an OMA complaint form in person, by mail, or by phone.

Violation of the OMA is a criminal offense, punishable by a fine and imprisonment. Upon finding a violation, a court may require:

- Open the closed meeting to the public;
- Issue an injunction to prevent future violations;
- Make public any matter held confidential during a wrong fully closed session; or
- Void any final action taken during a wrongfully closed session.

STRENGTHS OF THE LAW

Following are a summary of several strengths of the Illinois Open Meetings Act:

- The OMA includes a broad presumption of coverage. All meetings of public bodies are presumed to be open and subject to the OMA, unless the meeting topic falls within one of the few exceptions outlined in the law.
- The circumstances under which public bodies may enter executive session are limited to twenty-four well-defined exceptions that Illinois courts have strictly construed.
- The OMA does not grant public bodies the right to sanction members for disclosing information discussed at a closed meeting. Therefore, members of public bodies may share information from closed sessions with interested individuals or groups without fear of legal reprisal.
- The OMA's notice requirement lends strong protection to the public. Under the OMA, a meeting agenda must be properly posted at least 48 hours prior to a meeting. Public bodies must strictly adhere to this notice provision; otherwise, any final actions taken at the meeting can be invalidated.
- The Illinois Office of the Attorney General has established an office specifically targeted at increasing open government compliance, the Public Access Counselor (PAC) Office. The PAC office takes an active role in ensuring that public bodies conduct

their business openly and that members of the public have access to the governmental information to which they are entitled. PAC attorneys occasionally refer OMA matters to the State's Attorney Office for investigation.

umbrella of pending litigation and meet illegally in closed session, usually without repercussions, to discuss items that should be deliberated before the public. Written or verbal notice to sue should be required for the pending litigation to be relied upon for closed sessions.

RECOMMENDATIONS FOR REFORM

Following are a summary of several weaknesses of the Illinois Open Meetings Act and potential reforms:

- Criminal penalties are rarely enforced by States Attorney or the courts - even for egregious OMA violations. Thus, the State Legislature should delegate to an independent regulatory body (for example, the Public Access Counselor's office) significant enforcement capacity and the right to bring an OMA action.
- The OMA provides no remedies short of litigation to address OMA violations. Lawsuits are a cumbersome and expensive proposition that most residents are reluctant to undertake.
- The OMA's requirement regarding what must be included in meeting minutes is too vague to effectively apprise the public of what took place at a meeting. Either amending the statute to require that meeting minutes include substantive information regarding discussions or that audio or video tape records of all meetings covered by the OMA be made and available to the public would advance good government immeasurably.
- A public body may simply re-enact decisions regarding final actions that failed to comply with the OMA or that were not properly posted on the agenda.
- The pending litigation exception for closed sessions is widely exploited by public bodies throughout the state. It is well-known that public bodies sweep a vast amount of deliberation under the

FOR MORE INFORMATION

This contains a general description of the Illinois Freedom of Information Act and suggestions for how to use it effectively. For specific language, consult the Act itself, 5 Illinois Compiled Statutes 140/1 - 140/11. This Act applies to records that public bodies prepared, used, or controlled after July 1, 1984. For access to earlier records, consult the State Records Act, 5 ILCS 160/1-160/26, or the Local Records Act, 50 ILCS 205/1-205/15. For access to federal records, consult the federal Freedom of Information Act, 5 U.S.C. § 552.

To view the Illinois Open Meetings Act in its entirety, please refer to the actual legislation at 5 Illinois Compiled Statutes 120/1 *et. seq.*

This guide is not intended to be legal advice, but only an overview of open government laws. You are advised to consult an attorney before taking any legal action. References to procedures and laws are only summaries and are not meant to be complete or all encompassing. If you have questions or desire further information, please call (630) 833-4080.

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