



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

May 29, 2020

*Via electronic mail*

Mr. Theodore Wynnynchenko  
1086 Oak Street  
Winnetka, Illinois 60093-2165  
ted@wynnynchenko.com

RE: OMA Request for Review – 2020 PAC 63089

Dear Mr. Wynnynchenko:

This determination is issued pursuant to section 3.5(a) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(a) (West 2018)).

On May 21, 2020, this office received your Request for Review alleging that the Board of Education (Board) of New Trier Township High School District 203 (District) and its Policy Committee (Policy Committee) violated OMA by failing to provide the public with telephone access to its May 18, 2020, Board meeting and May 19, 2020, Policy Committee meeting that were live-streamed on the Zoom platform. You stated that you were unable to attend the meetings, which were held remotely pursuant to an Executive Order issued by the Governor to stop the rapid spread of COVID-19 throughout the State,<sup>1</sup> because you did not have internet access at the time of the meetings. You also stated that when you later obtained a device capable of connecting to the May 18, 2020, Board meeting, you were required to submit your name and e-mail address in order to attend. In addition, you asserted that the Board improperly restricted your ability to provide public comment by requiring comments to be submitted before the meeting commenced.

Section 1 of OMA (5 ILCS 120/1 (West 2018)) provides 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." Section 1 further provides that "citizens shall be given advance notice of and the right to attend all meetings at which any business of a public body is discussed or acted upon in any way."

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<sup>1</sup>Executive Order 2020-07, §6, issued March 16, 2020, at 3.

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On May 27, 2020, an Assistant Attorney General in the Public Access Bureau contacted counsel for the District concerning your complaint about requiring members of the public to submit their names and e-mail addresses in order to attend remote meetings. Counsel conveyed information from a District official confirming that (1) Zoom rather than the District collects attendees' names and e-mail addresses, and does not provide them to the District; (2) the District does not appear to have the ability to disable the requirement that people submit their names and e-mail addresses to gain access to meetings via Zoom; and (3) Zoom does not require verification of the authenticity of the information submitted by attendees. In other words, an individual who is unwilling to submit his or her legal name may access the Board's meetings by submitting a pseudonym. Further, the District official stated that the Board would provide members of the public who do not wish to submit their legal names or e-mail addresses to Zoom with the alternative of accessing future meetings by telephone. Accordingly, this office will take no further action concerning your allegation that the Board unreasonably restricted access to its meetings by requiring members of the public to submit their names and e-mail addresses.

With respect to public comment, section 2.06(g) of OMA (5 ILCS 120/2.06(g) (West 2018)) provides: "Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body." No Illinois reviewing court has interpreted this provision. The Public Access Bureau has consistently determined that a Request for Review must set forth facts demonstrating that a public body enforced its rules or guidelines to improperly restrict public comment in order to violate section 2.06(g) of OMA. *See, e.g.*, Ill. Att'y Gen. PAC Req. Rev. Ltr. 43028, issued July 22, 2016 (allegation that public comment rules violate OMA insufficient to merit further action absent facts indicating that any member of the public was improperly restricted from addressing public officials); Ill. Att'y Gen. PAC Req. Rev. Ltr. 42560, issued July 7, 2016 (same).

The agenda for the Board's May 18, 2020, meeting indicated that the meeting would commence in open session at 6:00 p.m., and states, in pertinent part, "Guidelines for Public Comment: To submit a public comment, please email [rustonl@nthsh.net](mailto:rustonl@nthsh.net) by 5:00 p.m. by Monday May 18<sup>th</sup>."<sup>2</sup> You asserted that you intended to submit a public comment for that meeting but "missed the Board's published deadline for submission of my comments, and, therefore, did not submit them."<sup>3</sup>

Although you inferred—perhaps not unreasonably—from the Board's written guideline that your public comment would be rejected if it was submitted less than an hour

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<sup>2</sup>New Trier Township High School District 203 Board of Education, Regular Meeting (May 18, 2020).

<sup>3</sup>Letter from Theodore Wynnychenko to Sarah Pratt, Public Access Counselor, Public Access Bureau, Office of the Attorney General (May 21, 2020), at 2.

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before the meeting commenced, the language of the guideline itself does not so state. The agenda requested that members of the public submit public comments by 5:00 p.m., but does not identify that time as a hard deadline or otherwise indicate that the Board would refuse to accept public comments submitted after 5:00 p.m. Further, as this office has previously emphasized: "No provision of OMA sets out guidelines concerning public comment during public health emergencies that preclude public bodies from physically convening meetings." Ill. Att'y Gen. PAC Req. Rev. Ltr. 62252, issued April 2, 2020, at 3. In the absence of such a provision, the Public Access Bureau is unable to conclude that the Board violated OMA by requesting members of the public submit public comments one hour before its remote meeting commenced.

This file is closed. If you have questions, you may contact me at (312) 814-6756.  
or [ssilverman@atg.state.il.us](mailto:ssilverman@atg.state.il.us).

Very truly yours,



STEVE SILVERMAN  
Bureau Chief  
Public Access Bureau

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cc: *Via electronic mail*  
The Honorable Cathleen H. Albrecht  
New Trier Township High School District 203  
7 Happ Road  
Northfield, Illinois 60093  
[albrechc@newtrier.k12.il.us](mailto:albrechc@newtrier.k12.il.us)

cc: *Via electronic mail*  
Mr. Brian P. Crowley  
Franczek, P.C.  
300 South Wacker Drive, Suite 3400  
Chicago, Illinois 60606  
[bpc@franczek.com](mailto:bpc@franczek.com)