

# OPEN MEETING LAWS

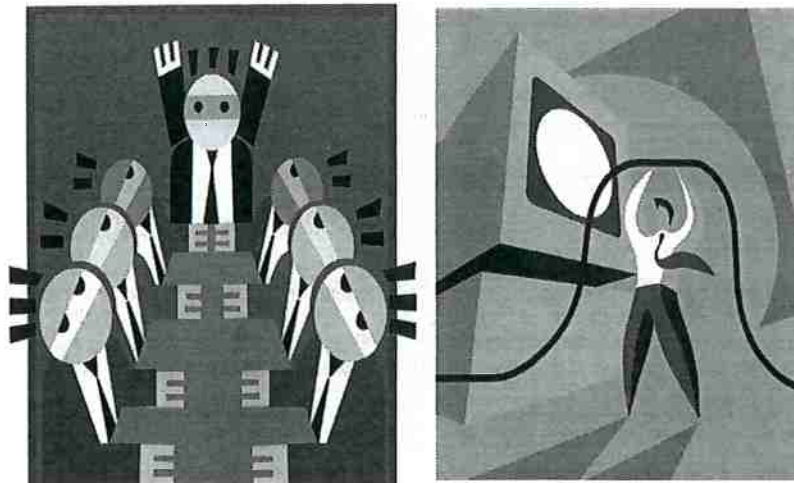
Presented by: Chrissie L. Peterson

National Business Institute  
Fairview Heights, Illinois

May 7, 2015

HEYL  
ROYSER

## Open Meetings Act






## What is the Open Meetings Act (OMA)?

- The Open Meetings Act is a state law that requires that meetings of public bodies be open to the public except in certain specific, limited situations where the law authorizes the public body to close a meeting. OMA also provides that the public must be given advance notice of the time, place and subject matter of the meetings of public bodies.

HEVL  
REVLTER



## What type of “public body” is covered by OMA?

- The “public bodies” covered by OMA include all legislative, executive, administrative or advisory bodies of:
  - the State
  - counties
  - townships, cities, villages, or incorporated towns
  - school districts
  - all municipal corporations
- “Public bodies” also includes all committees, subcommittees and subsidiary bodies of public bodies. Examples of “public bodies” include everything from park district boards to city councils to civic commissions. “Public bodies” includes, but is not limited to, any entity that is supported in whole or in part by tax revenue or which expends tax revenue

HEVL  
REVLTER

## OMA in the Digital Age

- All elected or appointed members of a public body subject to OMA must complete the electronic training and file a copy of the certificate of completion with the public body within 90 days of taking the oath of office or assuming responsibilities.
- <http://www.illinoisattorneygeneral.gov/>

HEYL  
ROYSTER

The screenshot shows the website for the Illinois Attorney General, Lisa Madigan. The header includes the state seal and the text "ILLINOIS ATTORNEY GENERAL LISA MADIGAN" with the tagline "Ensuring Open & Honest Government". A navigation bar shows "1 of 63" and a "Return to page 7" button. The main content area is titled "2014 Open Meetings Act Training" and "WELCOME". It features a quote from President Abraham Lincoln: "It is not merely for to-day, but for all time to come that we should perpetuate for our children's children this great and free government, which we have enjoyed all our lives." Below the quote, it states the purpose of the Open Meetings Act (OMA) and lists training requirements for OMA Designees and Members of Public Bodies. A sidebar on the left contains a table of contents for the training materials.

ILLINOIS ATTORNEY GENERAL  
LISA MADIGAN  
Ensuring Open & Honest Government

1 of 63  
Return to page 7

2014 OMA Training

- Introduction
  - 2013 Changes to Training Requirements
  - Instructions
  - Training Overview
  - Public Policy
- Public Bodies
  - Public Bodies, continued
  - Examples of Public Bodies
- Meetings
  - Public Filming and Taping of Meetings
  - Public Notice of Time and Place of Meetings
  - Exceptions to Open Meetings-Closure
  - Minutes and Other Records of Meetings
  - Agendas and Final Action
  - Review and Enforcement
  - The Public Access Counselor
  - Judicial Enforcement

### 2014 Open Meetings Act Training

#### WELCOME


"It is not merely for to-day, but for all time to come that we should perpetuate for our children's children this great and free government, which we have enjoyed all our lives."  
*President Abraham Lincoln, August 22, 1864*

The purpose of the Open Meetings Act (OMA) is to ensure that the actions of public bodies are taken openly and that their deliberations are conducted openly. To further this policy, the General Assembly has instituted the following training requirements.

#### OMA Designees - Annual Training Required

The Open Meetings Act requires every public body to designate employees, officers, or members to receive training on compliance with the Open Meetings Act. 5 ILCS 120/1.05(a). Each OMA designee must successfully complete the electronic training curriculum developed and administered by the Public Access Counselor (PAC) within 30 days after his or her designation, and thereafter must successfully complete an annual training program.

#### Members of Public Bodies - One-time Training Requirement



## OMA Training

- School board members may alternatively satisfy the training requirements of OMA by participating in a qualifying course of training sponsored by or conducted by an organization created under Article 23 of the School Code (105 ILCS 5/23-1 et seq.).
- In addition to school board members, members of drainage districts and soil and water conservation districts may satisfy the training requirement through alternative methods.


HEYL  
ROYSTER



## OMA in the Digital Age

- 5 ILCS 120/2(a) Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a.


HEYL  
ROYSTER



## What is a Meeting?

- “Meeting” means any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business or, for a 5-member public body, a quorum of the members of a public body held for the purpose of discussing public business.

HEVL  
ROYSTER



## 3 Key Elements of a Meeting

- Gathering
- Majority of a Quorum
- Discussing Public Business


HEVL  
ROYSTER

Board Members	Quorum	Majority of a Quorum
15	8	5
14	8	5
13	7	4
12	7	4
11	6	4
10	6	4
9	5	3
8	5	3
7	4	3
6	4	3
5	3	3**
4	3	2
3	2	2*

## Can emails constitute a meeting?

- Yes, if they meet the definition of a meeting.
- 5 ILCS 120/1.02  
 "Meeting" means any **gathering**, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, **electronic mail**, electronic chat, and instant messaging), or other means of **contemporaneous interactive communication**, of a **majority of a quorum** of the members of a public body held for the **purpose of discussing public business** or, for a 5-member public body, a quorum of the members of a public body held for the purpose of discussing public business.


HEYL MAA  
ROYSER



## Public Notice of Meeting

- On Friday, the City Clerk forgets to post the agenda for the City's regular meeting on Monday. The Mayor calls the Clerk on Friday night and reminds her. She says "Don't worry...I'm on my way to Springfield, but I will post it on the City's Facebook page tonight."
- Can the City Council hold their meeting on Monday?
  - Section 2.02 requires notice of all meetings.
    - Posted at the principal office.
    - Posted at the meeting location (if different).
    - Posted on the website (if full-time staff maintains the website).
    - Sent to the news media that requests it.
    - Posted 48 hours prior to the meeting with continuous availability.


HEVLIAN  
ROYSTER



## Recording a Meeting

- Members of the public may record a meeting by tape, film or other means, subject to some reasonable restrictions.
- Public bodies are required to take minutes of its open meetings.
  - Date, time and place of meeting;
  - List of members present and absent from the meeting and whether they attend in person by phone or video
  - Summary of discussion of all matters proposed, deliberated or decided.
  - Record of any votes taken.
- Committees and subcommittees are also required to take minutes of meetings.
- Public bodies must make minutes available for public inspection and post them on the website (if it has one) within 7 calendar days after the minutes are approved.

HEVLIAN  
ROYSTER



## Exceptions to an Open Meeting

Some common exceptions in 5 ILCS 120/2(c) include:

- the appointment, employment, compensation, discipline, performance, or dismissal of a specific employee or legal counsel for the public body;
- collective negotiating matters or deliberations concerning salary schedules for one or more classes of employees;
- discipline or removal of an occupant of a public office or appointment of an individual to fill a vacant public office;
- evidence or testimony received in a hearing, provided that the body is a quasi-adjudicative body and prepares and makes available for public inspection a written decision setting forth its determinative reasoning;
- the purchase or lease of real property by the public body;
- the setting of a price for sale or lease of property owned by the public body;
- student disciplinary cases;
- the placement of individual students in special education programs and other matters relating to individual students;
- pending or probable litigation against, affecting or on behalf of the public body;

HEYL  
ROYSTER



## Closed Meetings

- If a public body wants to hold a closed session, the public body must first meet in a properly noticed open meeting, then vote to close the meeting by a majority vote of a quorum present. The public body must cite the specific exemption in the Open Meetings Act that applies and allows the closure of the meeting.
- A public body may not take any final action in a closed session.
- Closed sessions must have a verbatim recording and take minutes. Minutes should be reviewed semi-annually.

HEYL  
ROYSTER





## “Electronic Attendance”

- “Meeting” means any gathering, whether in person or by ***video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication...***
- Anybody with a smart phone has the capability to electronically attend a meeting...but can they?

REVIEWS  
BY  
ROBYN



## “Electronic Attendance”

- (5 ILCS 120/7). Attendance by a means other than physical presence.
  - (a) If a quorum of the members of the public body is physically present..., 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.

REVIEWS  
BY  
ROBYN

## “Electronic Attendance”

- (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...**

HEVL  
ROYSTER

### SAMPLE - ELECTRONIC ATTENDANCE REQUEST


I hereby request to electronically attend the meeting of the [Governmental Unit] on \_\_\_\_\_, 200\_\_\_\_, at \_\_\_\_\_ p.m.  
I am eligible to participate electronically because of [check one]:  
\_\_\_\_ (1) personal illness or disability  
\_\_\_\_ (2) employment purposes or business of the public body  
\_\_\_\_ (3) a family or other emergency

During the meeting, I will be at the following location: \_\_\_\_\_  
and reachable at the following phone number: \_\_\_\_\_


Signature of Member \_\_\_\_\_ Date \_\_\_\_\_  
OR  
Request received by \_\_\_\_\_ phone \_\_\_\_\_ e-mail \_\_\_\_\_ fax \_\_\_\_\_ other \_\_\_\_\_

Signature of (Clerk) [Recording Secretary] \_\_\_\_\_ Date \_\_\_\_\_

HEVL  
ROYSTER

- 
- There are 7 members on the Zoning Board of Appeals for Sunnyville. Board Member Smith broke his leg and is recovering at the hospital. Last week, he contacted the clerk to make arrangements to attend tonight's meeting via telephone. Board Members Jones and Johnson forgot about tonight's meeting. 4 Members of the ZBA were present when roll call was taken.
    - Can the meeting proceed?
    - Can Smith attend by phone?
    - Can Smith attend by phone if he is not in the hospital, but is "recuperating" in the Hawaiian Islands with his family?

HEVL  
ROYSER



### Public Participation (Section 2.06(g))

- **Any person shall be permitted an opportunity to address public officials under the rules established and recorded by the public body.**

HEVL  
ROYSER



## Public Participation Q & A

- Do you have to allow public comments at every meeting?
- Do committees and subcommittees have to allow public comments?
- Are public participation rules mandatory?
- Can there be a time limit on how long public comments will last?
- Can there be rules regarding decorum (i.e. no swearing allowed)?

HEYLMA  
ROYSTER

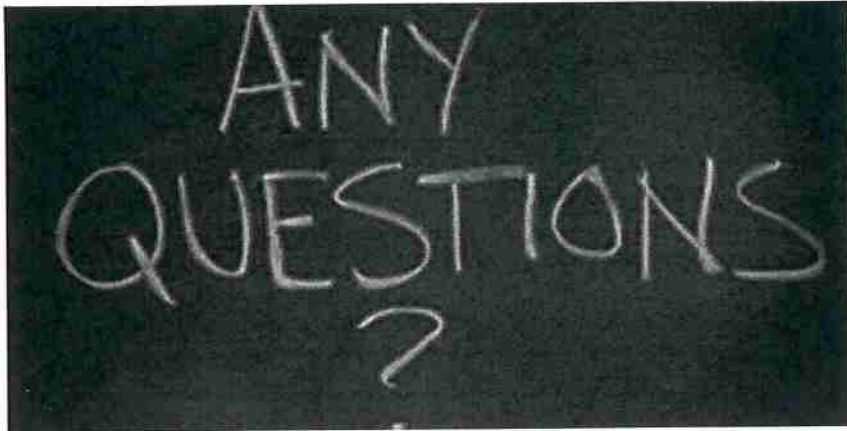


## Public Participation Q & A

- Do public comments have to occur at a certain time during a meeting?
- Does a public body have to respond to the public comments?
- Can a board member address the public body under public comments if they go through the same procedure as any other citizen?
- Can we require a citizen to sign up for public participation in advance of the meeting?
- Can we require a citizen to state their home address for the record?

HEYLMA  
ROYSTER

## Open Meeting Laws



ANY  
QUESTIONS  
?

HEYLIN  
ROYLTER