

LIBERTY JUSTICE CENTER

Edward Condon
Superintendent
River Forest Public Schools

February 24, 2022

via electronic mail to condone@district90.org

Dr. Condon,

I am an attorney with the Liberty Justice Center, a nonprofit public-interest law firm that litigates, among other things, public transparency issues. I have been in contact with Steve Lefko and have reviewed District 90's Open Meetings Act compliance, as well as your response to Mr. Lefko's FOIA request of September 2, 2021 and some of your email correspondence with him, and I write to you in the hopes that you will be willing to address your district's lack of compliance.

Notice

The Open Meetings Act requires that the notices of your meetings "set forth the general subject matter of any resolution or ordinance that will be the subject of final action at the meeting." 5 ILCS 120/2.02(c). But your "Notice of Policy Committee Meeting" as contained in the 9-2-21 FOIA response does not meet this requirement. Nor does, for example, your "[Notice of Policy Committee Meeting](#)" for January 14, 2019.

Separately, I have reviewed an email chain between you and a district parent on January 20 and 21, 2022. This email indicates that District 90 has, on at least one recent occasion, neglected to even publish the *existence* of a meeting (the January 11, 2022 Policy Committee Meeting) on your website.

Going forward, please ensure that your policies are updated so that your notices comply with the OMA.

Minutes

The OMA also requires that all public bodies keep written minutes of their meetings, including, at a bare minimum, "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).

The lead document in the 9-2-21 FOIA response does not meet this requirement because it contains neither a summary of discussion nor a record of any votes taken. It is instead a series of draft documents with a few handwritten edits to them. There is no record of who made these edits, how they were presented or discussed at the meeting, who was present at the meeting, what they said, or how they voted.

Contrast your minutes as contained in the 9-2-21 FOIA response with [the official minutes](#) of the Academic Success Committee Meeting District 181 held on September 9, 2021. That document plainly states who was present, who discussed what topic, and how various attendees answered questions.

The [minutes of District 101's October 28, 2020 Education Committee Workshop](#), although lacking in the detail of District 181's minutes, do at least comply with the Open Meetings Act because they do at least contain "a summary of discussion."

District 205 goes even further and provides [full video](#) of all of its meetings, easily complying with the Open Meetings Act's requirements. And Section 2:192 of *your own policies* requires that "all regular open meetings of the District 90 Board of Education" be "audio recorded," and that those audio recordings "be posted on the District 90 website shortly after the conclusion of the meeting." Your [website](#) does not even list any such meeting on September 9, 2020, let alone contain the audio recording of that meeting.

In order to comply with the Open Meetings Act and your own policies, please ensure that, going forward, you post recordings of all your open meetings on your website.

Subcommittees

Your subcommittees, such as the Equity group and Policy Committee, are subject to the requirements of the OMA. In your October 14, 2021 email to Mr. Lefko, you allege that "the Equity group meeting is a teacher committee, so it is specifically for employees." And your September 1, 2021 email to Mr. Lefko likewise states that you do not take "formal meeting minutes" or "audio recordings" at Policy Committee meetings.

The Open Meetings Act applies to "any gathering . . . of a majority of a quorum of the members of a public body held for the purpose of discussing public business." 5 ILCS 120/1.02. And "public body" is defined as "*all . . . administrative or advisory bodies of . . . school districts . . . and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees.*" *Id.* (emphasis added). Your September 1 argument that you do not need to keep formal minutes for advisory committees because "only the full Board of Education acting publicly has the ability to take formal action" is fatally flawed because the OMA specifically includes "advisory bodies" in its definition of "public body." The Equity group and Policy Committees are each a committee or subcommittee of a school district and therefore subject to the requirements of the Open Meetings Act.

Procedure for closing a meeting

The Act also provides a method by which a public body may hold a meeting closed to the public. 5 ILCS 120/2a. Specifically, at a meeting open to the public, "[a] single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, provided each meeting in such series involves the same particular matters and is scheduled to be held within no more than 3 months of the vote. The vote of each member on the question of holding a meeting closed to the public and a citation to the specific exception contained in Section 2 of this Act [5 ILCS 120/2] which authorizes the closing of the meeting to the public shall be publicly disclosed at the time of the vote and shall be recorded and entered into the minutes of the meeting." *Id.*

If, going forward, you continue to assert that the Equity group or Policy Committee meetings or any other committee or subcommittee meetings are closed to the public, please provide Mr. Lefko and myself with an OMA-compliant copy of the minutes of the open public meeting held within the last three months at which a vote was taken to close those committee meetings, complete with a) an indication of which exemption to the open meetings requirement applies (a list of valid exemptions can be found at 5 ILCS 120/2(c)), b) a record of the "particular matters" involved, and c) a record of how each participant at that meeting voted.



Closed meeting minutes

The OMA requires that a “verbatim record of all . . . closed meetings” be kept “in the form of an audio or video recording.” 5 ILCS 120/2.06(a). It is plain that you are not in compliance with this requirement.

I am aware that your website maintains *some* minutes in audio/video format, but as discussed above, your website plainly does not maintain *all* minutes in such format. And your September 1 email states that, contrary to law, you do not keep formal minutes or audio recordings of closed meetings.

Please update your policies to ensure that you maintain audio or video recordings of all closed meetings, as required by the OMA.

If you require further guidance on compliance with the Open Meetings Act, I can be reached at jmcquaid@libertyjusticecenter.org.

Sincerely,



James J. McQuaid
Liberty Justice Center

