



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

December 30, 2022

Via electronic mail



RE: OMA Request for Review – 2022 PAC 74441

Dear [REDACTED]:

This determination is issued pursuant to section 3.5(b) of the Open Meetings Act (OMA) (5 ILCS 120/3.5(b) (West 2020)). For the reasons set forth below, the Public Access Bureau concludes that no further action is warranted as to this matter.

In your Request for Review, received on November 28, 2022, you alleged that the Community Unit School District No. 300 (District) LGBTQ+ Parent Advisory Committee (Committee) violated OMA by not permitting you to attend its November 28, 2022, meeting. You alleged that you were informed by a District staff member that you could not attend the meeting because you are not part of the LGBTQ+ community. You contend that because you are a parent in the District, you are entitled to attend the Committee meetings.

Section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2020)) provides that "[a] person who believes that a violation of this Act by a public body has occurred may file a request for review with the Public Access Counselor[,]" and that the submission "must include a summary of the facts supporting the allegation."

"In order that the people shall be informed, the General Assembly finds and declares that it is the intent of [OMA] to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly." 5 ILCS 120/1 (West 2020). Section 1.02 of OMA (5 ILCS 120/1.02 (West 2020)) defines "public body" as including:

all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards,

bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue[.]

An "advisory body," for purposes of OMA, is an entity that has defined responsibilities and is a formal part of the structure of the public body that it advises. *Board of Regents of the Regency University System v. Reynard*, 292 Ill. App. 3d 968, 977-78 (4th Dist. 1997). In contrast, OMA "is not intended to open to the public the deliberations of merely informal advisory committees who discuss internal" affairs of a public body. *Pope v. Parkinson*, 48 Ill. App. 3d 797, 800 (4th Dist. 1977). Factors to consider in determining whether a group constitutes an advisory body under OMA include:

who appoints the members of the entity, the formality of their appointment, and whether they are paid for their tenure; the entity's assigned duties, including duties reflected in the entity's bylaws or authorizing statute; whether its role is solely advisory or whether it also has a deliberative or investigative function; whether the entity is subject to government control or otherwise accountable to any public body; whether the group has a budget; its place within the larger organization or institution of which it is a part; and the impact of decisions or recommendations that the group makes. *University Professionals of Illinois v. Stukel*, 344 Ill. App. 3d 856, 865 (1st Dist. 2003).

Similarly, courts have considered three primary factors in determining whether a group is a "subsidiary body" of a public body under OMA: "(1) whether the entity has a legal existence independent of government resolution; (2) the nature of functions performed by the entity; and (3) the degree of governmental control over the entity." *Hopf v. Topcorp, Inc.*, 256 Ill. App. 3d 887, 892 (1st Dist. 1993).

Based on the publicly available descriptions of the Committee, it does not appear to be an advisory or subsidiary body of the District's Board of Education (Board), but rather a parent group. The "LGBTQ+ Parent Advisory Forum" is one of four groups listed on the District's webpage for "Parent Groups." It is described as "a committee comprised of the parents and guardians of LGBTQ+ students and LGBTQ+ parents and guardians. Members have the opportunity to collaborate with the Inclusion Department so it can better support and meet the needs of LGBTQ+ stakeholders within District 300 schools and the broader community."¹ The

¹District 300, Parent Groups, LGBTQ+ Parent Forum (LGBTQ+ Forum), <https://www.d300.org/D300-Parent-Groups> (last visited December 27, 2022).

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group's goals are "to provide parents and guardians with education and support, partner with families to surface and address school-related needs, and build community and networking opportunities for LGBTQ+ parents and guardians, as well as the parents and guardians of LGBTQ+ students."² There is no indication that the group's members are formally appointed or that the group has any deliberative function or is subject to the control of any branch of the District or Board. Rather, the group appears to be an informal parent support group. Therefore, it is not a public body subject to the requirements of OMA.

Accordingly, this file is closed. If you have any questions, you may contact me at laura.harter@ilag.gov.

Very truly yours,

[REDACTED]
LAURA S. HARTER
Deputy Bureau Chief
Public Access Bureau

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cc: *Via electronic mail*
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²District 300, Parent Groups, LGBTQ+ Parent Forum (LGBTQ+ Forum), <https://www.d300.org/D300-Parent-Groups> (last visited December 27, 2022).