Illinois foia guide





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Illinois attorney general foia guide. List of foia exemptions. Illinois foia laws. Illinois foia guide for law enforcement. How to become a foia officer in illinois. Foia illinois guidelines. How to file a foia request in illinois.

Skip over table of contents to continue reading article Compare Donald M. Craven, Esq. Donald M. Craven, P.C. 1005 North Seventh Street Springfield, Illinois 62702-3918 (217) 544-0713 (facsimile) Last updated August 26, 2021 Compare Foreword It is public policy in Illinois that all persons are entitled to full and complete information about the affairs of government and the official acts and policies of public officials and public bodies be conducted openly. See 5 ILCS 140/1; 5 ILC duties of discussing public issues fully and freely, making informed political judgments and monitoring government to ensure that it is being conducted in the legislative interests." 5 ILCS 140/1. These policies are reflected in the legislative interests." 5 ILCS 140/1. These policies are reflected in the legislative interests." 5 ILCS 140/1. These policies are reflected in the legislative interests." 5 ILCS 140/1. 140/1 to 11. An Open Meetings Act has existed in Illinois since 1957, and a number of amendments over the years have served to widen its scope and to effectively overrule cases that restricted notice requirements and relief available for violations. As for records, Illinois acknowledges the common law right to inspect and copy records, People ex. rel Gibson v. Peller, 34 Ill. App. 2d 372, 374-75, 181 N.E. 2d 376, 378 (1st Dist. 1962). The state has had a State Records Act, 5 ILCS 160/1 to 26, since the late 1800s, but the 1984 FOIA was designed to serve as the focal reference statute for open records questions. The FOIA does not nullify other case and statutory law regarding records, but the Legislature declared it to be the exclusive state statute on freedom of information, except to the extent that other state laws create additional obligations for disclosure of information. 5 ILCS 140/1. A lengthy statement of intent precedes the FOIA: The Act is not intended to be used to violate individual privacy, to further commercial enterprise, or to disrupt the day-to-day workings of any public body. It is not intended to create an obligation on the part of any public body. It is not intended to create an obligation on the part of any public body to maintain or prepare any public body. It is not intended to create an obligation on the part of any public body to maintain or prepare any public body. It is not intended to create an obligation on the part of any public body. It is not intended to create any public body to maintain or prepare any public body. It is not intended to create any public body to maintain or prepare any public body. as otherwise required by applicable local state or federal law. Restraints on information access are to be regarded as limited exceptions, policies, procedures, rules, standards and other aspects of government activity that affect the conduct of the government and the lives of its people. The legislative history of the FOIA reflects the explicit intention that case law construing the federal Freedom of Information Act is to be used in Illinois Act. Roulette v. Dep't of Cent. Mgmt. Servs., 141 Ill. App. 3d 394, 400, 490 N.E. 2d 60, 64, 95 Ill. Dec. 587, 591 (1st Dist. 1986). The Act applies to all disclosure requests initiated after the effective date of the Act even if the requested records were prepared or received prior to that date. See Carrigan v. Harkrader, 146 Ill. App. 3d 535, 496 N.E. 2d 1213, 100 Ill. Dec. 148 (3rd Dist. 1986). An agency may not deny access to records on grounds that they contain confidential or non-disclosable information; the agency may delete the confidential or non-disclosable information and must disclose the remainder of the record. See 5 ILCS 140/7. The first rule of thumb that every person seeking information should follow is this: Read the statutes. They are written in reasonably clear language, and most questions do not require a lawyer's help to interpret. With respect to open meetings, city councils, county boards and school districts have a tendency to invoke the "litigation" exception has specific limitations, which are discussed below, and persons seeking information should be sufficiently aware of those limitations to ask questions in an effort to determine whether the exemption is being invoked legitimately. The author, as counsel to the Illinois Broadcasters Association, Illinois Broadcasters Association, Illinois Press violation of the Open Meetings Act. Each violation, no matter how "minor" or technical, can be used as a tool to educate public officials about the Act and the Illinois FOIA. The case law included here is intended to address the most important, general principles used to interpret the statutes. Illinois has a large body of case law involving disputes over open records, and a somewhat smaller collection of case law addressing open meetings. Many of the older cases are no longer good law because of subsequent amendments. case law in Illinois addressing open meetings and records questions, but it is hoped that it will provide persons seeking information with a sound knowledge of the basics and the ability to ask informed questions when faced with a closed meeting or a denial of a record request. Open Meetings Act, see 5 ILCS 120/1.02, there is a constitutional provision which requires that sessions of both houses of the General Assembly, together with meetings of committees and commissions be open to the public, unless closure is authorized by a 2/3 vote of each house. committees, joint committees and legislative commissions shall be open to the public. Sessions and committee meetings of a house may be closed to that house determine that the public interest so requires; and meetings of joint committees and legislative commissions may be so closed if two-thirds of the members elected to each house so determine. Ill. Const. art. IV. § 5(c) Compare Open Records Compare I. Statute Compare A. Who can request records? Compare I. Statute of requester Every public body must make available to any person for inspection and copying all public records except those identified as exceptions. See 5 ILCS 140/3(a). Person is defined as any individual, corporation, partnership, firm, organization or association, acting individually or as a group. See 5 ILCS 140/2(b). Compare 2. Purpose of request the requested for a commercial purpose or whether to grant a request for a fee waiver. 5 ILCS 140.3(c). But it is a violation of the FOIA for a commercial purpose without disclosing that it is for a commercial purpose, if requested to do so by the public body. 5 ILCS 140/3.1(c). The legislative intent section states that the Act is not intended to be used to further a commercial enterprise, violate individual privacy or disrupt the day-to-day working of public bodies. See 5 ILCS 140/1. However, the Illinois Supreme Court has stated that this section is simply a declaration of policy or preamble. As such, it is not part of the Act itself . . . and has no substantive legal force. Lieber v. Board of Trs., 176 Ill. 2d 401, 680 N.E.2d 374, 223 Ill. Dec. 641 (1997). Further, the Illinois Supreme Court has noted that the Act does not require that persons requesting information explain their need for it or their planned use of it. Family Life League v. Dep't of Pub. Aid, 112 Ill.2d 449, 456, 493 N.E.2d 1054, 1057-58, 98 Ill. Dec. 33, 36-37 (1986). Compare 3. Use of records The public policy declaration makes it clear that the intent of the Act is to further the fundamental philosophy of self-government. The Act also makes no specific restrictions on subsequent use of information acquired. Compare 4. Can an individual request records on behalf of a third party or organization? Compare The Act applies to any public body. See 5 ILCS 140/2; 5 ILC incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees thereof, and a School Finance Authority created under Article 1E of the School Code. 5 ILCS 140/2(a). No particular agency is specifically excluded in entirety from provisions of the Act, but the Act contains numerous exemptions, the nature of which depends on the agency in guestion and the records sought. The Act, however, does specifically exclude child death review teams or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act, and regional youth advisory Board sor the Statewide Advisory Board established under the Department of Children and Family Services Statewide Youth Advisory Board Act. See 5 ILCS 140/2(a). The Illinois Appellate Court, Fourth District, held in Board of Regency University System v. Revnard, 292 Ill. App. 3d 968, 686 N.E.2d 1222, 227 Ill. Dec. 66 (1997), that inclusion within the definition of a "public body" "depends primarily upon organizational structure." Board of Regents, 292 Ill. App. 3d at 977, 686 N.E.2d at 1228, 227 Ill. Dec. at 72. Reynard further held that subsidiaries of public bodies can themselves be public bodies that, in turn, have subsidiaries constituting public bodies covered by the Act. Id. The court noted that the Illinois State University Board of Regents, 292 Ill. App. 3d at 978, 686 N.E.2d at 1229, 227 Ill. Dec. at 73. Consequently, a subsidiary of the ISU Senate, the Athletic Council of Illinois State University, was a public body that was required to comply with the Act. Id.; see also Duncan Publig Inc. v. City of Chicago, 304 Ill. App. 3d 778, 709 N.E.2d 1281, 237 Ill. Dec. 568 (1st Dist. 1999) (holding that individual departments of city were subsidiary public bodies and, thus, public bodies that were each individually subject to the Act). Compare 1. Executive offices. See 5 ILCS 140/2(a). As with all public bodies, the exemptions set out in 5 ILCS 140/7 apply to specific types of records kept by executive branches. In Quinn v. Stone, 211 Ill. App. 3d 809, 570 N.E. 2d 676, 156 Ill. Dec 200 (1st Dist. 1991), the court held that a FOIA request directed at an individual alderman is not a "public body" subject to the Act. Rather, Quinn held that suit should have been brought against the mayor and the City Council, of which the alderman was a member. See Quinn, 211 Ill. App. 3d at 811, 570 N.E.2d at 677, 156 Ill. Dec. at 200, 201. The Act also emphasizes that financial records are open: All records relating to the obligation, receipt, and use of public funds of the State, units of local government, and school districts are public records subject to inspection and copying by the public. See 5 ILCS 140/2.5. Relatedly, certified payroll records submitted to a public body under Section 5(a)(2) of the Prevailing Wage Act are open—except that contractors' employees' addresses, telephone numbers, and social security numbers must be redacted by the public body prior to disclosure. 140/2.10. And all settlement agreements entered into by or on behalf of a public body are public records subject to inspection and copying by the public, although certain information specifically exempt under Section 7 may be redacted. 5 ILCS 140/2.20. The Act does not set out exceptions to disclosure of records concerning specific functions of executive offices; it sets out exceptions only to specific types of records. The Act may in effect exempt all the records generated by one entire function. For example, one function, memoranda and other records in which . . . policies or actions are formulated," with one exception: if a document containing such policies is publicly cited and identified by the head of the public body (as in a decision to grant a license or zoning request, for example), then the document must be disclosed. See 5 ILCS 140/7(1)(f). The record must be both 'predecisional' and 'deliberative' of policy decisions to qualify for this deliberative process exemption. Fisher v. Off. of Illinois Att'y Gen., 2021 IL App (1st) 200225, ¶ 19 (quoting Harwood v. McDonough, 799 N.E.2d 1213, 100 Ill. Dec. 148 (3d Dist. 1986), the court held that an applicant for a liquor license was not entitled to a copy of a letter which the local sheriff submitted in conjunction with the license application because the letter merely expressed an opinion about the applicant and was not publicly cited or identified as a basis for the decision. In Harwood, the Appellate Court, First District, denied access to a consultant's final report, finding it was "preliminary" to the final agency decision. See 799 N.E.2d 859 (1st Dist. 2003). Compare 2. Legislative bodies Public bodies whose records are subject to the Act include legislative bodies. See 5 ILCS 140/2(a). It should be noted that records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents are exempt from disclosure if those records are in the nature of preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated. 5 ILCS 140/7(1)(f) (emphasis added). Compare 3. Courts Courts Courts Courts Courts Courts Courts Courts are open under the First Amendment, the common law and Illinois' Clerks of Courts Act. Press-Enterprise Co. v. Super. Ct., 478 U.S. 1 (1986); Skolnick v. Altheimer & Gray, 191 Ill.2d 214, 230-233, 730 N.E.2d 4, 15-17 (2000); 705 ILCS 105/16. But a court may deny access where there are conflicting interests between the public right of access and other fundamental rights—such as a defendant's constitutional right to a fair trial. See In re CBS Inc., 540 F. Supp. 769 (N.D. Ill. 1982). The Illinois FOIA does not specifically address court records, except to state that the following documents maintained by a public body pertaining to criminal history record information are open: (i) court records that are public; (ii) records that are otherwise available under State or local law; and (iii) records in which the requesting party is the individual identified, except as provided under Section 7(1)(d)(vi). 5 ILCS 140/2.15(b). However, Illinois' appellate courts have held that the entire judicial branch, including a circuit clerk and a pretrial services agency that was an arm of the court and directly accountable to the chief judge of the judicial circuit, is not subject to the disclosure requirements of the Act. See Newman, Raiz and Shelmadine, LLC v. Brown, 394 Ill. App. 3d 548, 648 N.E.2d 324, 207 Ill. Dec. 868 (2d Dist. 1995); see also Ill. Att'y Gen. Op. 005 (1999) (Illinois Attorney General opining, in response to inquiry from Illinois Supreme Court justice, that Illinois Courts commission not covered by FOIA, as lack of reference to courts or judiciary in Act's definition of a public body indicates an intent to exclude the judicial branch from the requirements of that Act). States' Attorneys (county level elected officials who serve as prosecutors and counsel for counties and officers) are subject to the Act. Nelson v. Kendall County, 2014 IL 116303, 10 N.E.3d 893. Compare 4. Nongovernmental bodies and subcommittees of a public body. 5 ILCS 140/2(a). "Subsidiary body" is not defined by the Act, but a court interpreting the meaning of that term under the FOIA may also look to case law construing the Illinois Open Meetings Act definition of public bodies, which is almost identical to the one contained in the Freedom of Information Act. See Better Gov't Ass'n v. Illinois High Sch. Ass'n, 2017 IL 121124, ¶ 25. In Rockford Newspapers Inc. v. Northern Illinois Council on Alcoholism & Drug Dependency, 64 Ill. App. 3d 94, 380 N.E.2d 1192, 21 Ill. Dec. 16 (2d Dist. 1978), the court found that a private, not-for-profit organization formed to administer drug and alcohol treatment programs ("NICADD") was not subject to the provisions of the Open Meetings Act, despite the fact that 90 percent of its funding came from governmental grants and contracts and that its programs were monitored and regulated by federal, state and local governmental grants and contracts and that its programs were monitored and regulated by federal, state and local governmental grants and contracts and that its programs were monitored and regulated by federal, state and local governmental grants and contracts and that its programs were monitored and regulated by federal, state and local governmental grants and contracts and that its programs were monitored and regulated by federal, state and local governmental grants and contracts and that its programs were monitored and regulated by federal, state and local governmental grants and contracts and that its programs were monitored and regulated by federal, state and local governmental grants and contracts and that its programs were monitored and regulated by federal, state and local governmental grants and contracts and that its programs were monitored and regulated by federal, state and local governmental grants and contracts and that its programs were monitored and regulated by federal governmental grants and contracts and that its programs were monitored and regulated by federal governmental grants and contracts and that its programs were monitored and regulated by federal governmental grants and contracts and that its programs were monitored and regulated by federal governmental grants and contracts and that its programs were the following factors were relevant in determining that NICADD was not a subsidiary body subject to the Open Meetings Act: (1) the formal legal nature of NICADD (not-for-profit corporation); (2) the independence of its board of directors; (3) the independence of employees from direct government control; and to a lesser extent (4) the degree of governmental control over NICADD; and (5) the nature of NICADD's function's. Rockford Newspapers, 64 Ill. App. 3d at 96-97, 380 N.E.2d at 1193-94, 21 Ill. Dec. at 17-18. Hopf v. Topcorp, 170 Ill. App. 3d 85, 527 N.E.2d 1, 122 Ill. Dec. at 17-18. Hopf v. Topcorp, 170 Ill. App. 3d 85, 527 N.E.2d 1, 122 Ill. Dec. at 17-18. Hopf v. Topcorp, 170 Ill. App. 3d 85, 527 N.E.2d 1, 122 Ill. Dec. at 17-18. Hopf v. Topcorp, 170 Ill. App. 3d at 96-97, 380 N.E.2d at 1193-94, 21 Ill. Dec. at 17-18. Hopf v. Topcorp, 170 Ill. App. 3d at 96-97, 380 N.E.2d at 1193-94, 21 Ill. Dec. at 17-18. Hopf v. Topcorp, 170 Ill. App. 3d 85, 527 N.E.2d 1, 122 Ill. Dec. at 17-18. Hopf v. Topcorp, 170 Ill. App. 3d 85, 527 N.E.2d 1, 122 Ill. Dec. at 17-18. Hopf v. Topcorp, 170 Ill. App. 3d 85, 527 N.E.2d 1, 122 Ill. Dec. at 17-18. Hopf v. Topcorp, 170 Ill. App. 3d 85, 527 N.E.2d 1, 122 Ill. Dec. at 17-18. Hopf v. Topcorp, 170 Ill. App. 3d 85, 527 N.E.2d 1, 122 Ill. Dec. at 17-18. Hopf v. Topcorp, 170 Ill. App. 3d 85, 527 N.E.2d 1, 122 Ill. Dec. at 17-18. Hopf v. Topcorp, 170 Ill. 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Topcorp, 170 Ill development corporation, owned by a city and a private university, was found to not be a public body within the meaning of the Act. Id. at 93. The Illinois Supreme Court agreed that while no single factor is conclusive in the determination, the key distinguishing factors are governmental entities that fund them. For example, the Illinois Appellate Court has ruled that private landlords receiving federal funds for housing through a local housing authority have no protectable right of privacy that prevents disclosing a list of those landlords who receive and the addresses of properties subsidized under the program. Mid-America Television Co. v. Peoria Hous. Auth., 93 Ill. App. 3d 314, 417 N.E.2d 210, 48 Ill Dec. 808 (3d Dist. 1981). And in Family Life League v. Dep't of Pub. Aid, 112 Ill. 2d 449, 493 N.E.2d 1054, 98 Ill. Dec. 33 (1986), the Illinois Supreme Court ruled that the Illinois S services. In making its ruling, the court noted that receipt of state funds by physicians creates a public interest in the physicians' activities regarding the use of the funds that outweighs the physicians' limited privacy interest in the information. See Family Life League, 112 Ill. 2d at 457, 493 N.E.2d at 1058, 98 Ill. Dec. at 37. The same principles extend to other factual situations. In Public Access Opinion 11-004 (available at $\hat{\Psi}$], the PAC concluded that settlement agreements entered into by an intergovernmental risk management association or self-insurance pool on behalf of a public body are subject to disclosure; 5 ILCS 140/7(1)(s) does not exempt the amount of money expended to settle In 2010, the General Assembly expanded the scope of the Act, to include as public records of a public body the records of contractors for the public body. See 5 ILCS 140/7(2). Illinois courts have weighed in on this subsection, further defining when contractors for the public body. See the meaning of "directly relates" under FOIA's purpose and policy behind Section 7(2) rather than dictionary definitions of the phrase. Section 7(2) was included to prevent government entities from contracting to avoid their disclosure obligations. Rushton v. Dep't of Corr., 2019 IL 124552, ¶ 28, 160 N.E.3d 929, 937-8 (settlement agreement records of a private medical care contractor for the Department of Corrections are subject to disclosure); Chicago Tribune v. Coll. of Du Page, 2017 IL App (2d) 160274, 79 N.E.3d 694 (holding that records of a statewide athletic association are not subject to disclosure). Lathrop v. Juneau & Assocs., Inc., 220 F.R.D. 322 (S.D. Ill. 2004) held that a requester stated claim under the FOIA against members of private engineering firm, based on allegations that the firm held a municipal position of city engineer. Compare 5. Multi-state or regional bodies Compare 5. agreements between states would be covered by FOIA because 5 ILCS 140/1 states that "access by all persons to public records promotes the transparency and accountability of public bodies at all levels of government." (emphasis added). Illinois FOIA specifically provides that, if a record contains information that is not exempt (in this case, for example, information that may pertain to another state and may not be disclosed under the state's laws), the exempt material may be redacted and the non-exempt material may be 750 N.E. 2d 242, 255 Ill. Dec. 661 (5th Dist. 2001). If a multi-state or regional body is not a part of Illinois' government, but is subject to control by an Illinois agency, an argument can be made that disclosure is required pursuant to the test enunciated in Rockford Newspapers Inc. v. Northern Illinois Council on Alcoholism & Drug Dependency, 64 Ill. App. 3d 94, 380 N.E.2d 1192, 21 Ill. Dec. 16 (2d Dist. 1978). Compare 6. Advisory boards and commissions, quasi-governmental entities Advisory boards and commissions, quasi-governmental entities may be public bodies depending on the test enunciated in Rockford Newspapers Inc. See "Nongovernmental bodies," supra. Compare 7. Others The Act prohibits public body" also includes state universities and colleges and school districts. See 5 ILCS 140/2(a). The Illinois Attorney General has opined that local ethics commissions or ultimate jurisdictional authorities (the elected or appointed official or subsidiary body of a unit of local government or school district having the power to discipline a particular employee) are not exempt from disclosure under the Act. See Ill. Att'y Gen. Op. 007 (1999). Compare Compare 1. What kinds of records are broadly defined as "all records, reports, forms, writings, letters, memoranda, books, papers, maps, photographs, microfilms, cards, tapes, recordings, electronic data processing records, electronic communications recorded information and all other documentary materials pertaining to the transaction of public business, regardless of physical form or characteristics, having been prepared by, in the possession of, or under the control of any public body." 5 ILCS 140/2(c) (emphasis added). "A public record that is not in the possession of a public body, and that directly relates to the governmental function and is not otherwise exempt under this Act, shall be considered a public body, for purposes of this public body, for purposes of this act, shall be considered a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function and is not otherwise exempt under this Act, shall be considered a public body, for purposes of this act, shall be considered a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function and is not otherwise exempt under this Act, shall be considered a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function and is not otherwise exempt under this Act, shall be considered a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function and is not otherwise exempt under this Act, shall be considered a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function and is not otherwise exempt under this Act, shall be considered a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function and is not otherwise exempt under this Act, shall be considered a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function and is not otherwise exempt under this Act, shall be considered a public body but is in the possession of a party with whom the agency has contracted to perform a governmental function and is not otherwise exempt under this Act, shall be considered a public body Act." See 5 ILCS 140/7(2). The Supreme Court has interpreted "directly relates" in light of FOIA's overall policy and the specific policy and purpose for Section 7(2). Rushton v. Dep't of Corr., 2019 IL 124552, ¶ 28, 160 N.E.3d 929, 937-938. Compare 2. What physical form of records are covered Any and all records regardless of physical form or characteristics are covered. 5 ILCS 140/2(c). When a person requests a copy of a record maintained in an electronic format specified by the requester, if feasible. 5 ILCS 140/6(a); see Fagel v. Dept of Transp., 2013 IL App (1st) 121841, ¶ 31. If it is not feasible to furnish the public records in the specified electronic format, then the public body must furnish it in the format in which it is maintained by the public body, or in paper format at the option of the requester. 5 ILCS 140/6(a); see also AFSCME v. County of Cook, 136 Ill. 2d 334, 555 N.E.2d 361, 144 Ill. Dec 242 (1990). Requesters should be aware that repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under this Act may be exempt as "unduly burdensome." 5 ILCS 140/3(d); see Public Access Opinion 11-003 (available at (a subsequent FOIA request cannot be deemed "unduly burdensome." 5 ILCS 140/3(d); see Public Access Opinion 11-003 (available at (a subsequent FOIA request cannot be deemed "unduly burdensome." 5 ILCS 140/3(d); see Public Access Opinion 11-003 (available at (a subsequent FOIA request cannot be deemed "unduly burdensome." 5 ILCS 140/3(d); see Public Access Opinion 11-003 (available at (a subsequent FOIA request cannot be deemed "unduly burdensome." 5 ILCS 140/3(d); see Public Access disclosed the requested records or properly denied the request); see also Nat'l Ass'n of Criminal Defense Lawyers v. Chicago Police Dept., 399 Ill. App. 3d 1, 17, 924 N.E.2d 564, 577, 338 Ill. Dec. 358 (1st Dist. 2010) ("A request that is overly broad and requires the public body to locate, review, redact and arrange for inspection a vast quantity of material that is largely unnecessary to the appellants' purpose constitutes an undue burden."). Requesters should resolve what format they prefer before making requests and explicitly state so in the initial request. Records requests should be as precise as possible. See Kenyon v. Garrells, 184 Ill. App. 3d 28, 540 N.E.2d 11, 132 Ill. Dec. 595 (4th Dist 1989). At least one appellate court gave credence to a claim that release of an entire database was exempt based on an allegation that a contract's trade secrets should be spared from disclosure. Garlick v. Naperville Twp., 2017 IL App (2d) 170025, 84 N.E.3d 607. Compare 3. Are certain records available for inspection but not copying? There is nothing in the FOIA which makes certain records available for inspection but not copying. The Act states that public records must be made available for inspection or copying. See 5 ILCS 140/3(a). DesPain v. City of Collinsville, 382 Ill. App. 3d 572, 888 N.E.2d 163, 320 Ill. Dec. 946 (5th Dist. 2008), held that the term "public record," as used in the FOIA, referred to the original document, rather than a copy thereof. Thus, a requester who asked to listen to recordings of city council meetings was entitled to listen to the original recordings of city council meetings was not a valid basis for denying a request to inspect a tape-recorded public record. Id.; see also AFSCME v. County of Cook, 136 Ill. 2d 334, 555 N.E.2d 361, 144 Ill. Dec 242 (1990) (public body's cannot choose the format in which it releases information). Compare 4. Telephone call logs Compare 5. Electronic records (e.g., databases, metadata) FOIA requests can apply to a public body's database. While the FOIA does not require a public body to create a new method to retrieve already stored data. Hites v. Waubonsee Community Coll., 2018 IL App (2d) 170617, ¶ 64. Compare a. Can the requester choose a format for receiving records? Compare b. Can the requester obtain a customized search of computer databases to fit particular needs Compare 6. Email Email is treated as any other public record. See 5 ILCS 140/2; 5 ILCS 140/2 140/1; 5 ILCS 140/7(1)(c) ("The disclosure of information that bears on the public duties of public records which are constitute public records which are presumptively open. 5 ILCS 140/2; 5 ILCS 140/1.2. That is, a public body can withhold "private matter" contained within this public record only if it can show—by clear and convincing evidence—that the private matter" contained within this public body must provide facts that demonstrate that disclosing the records would be "highly personal or objectionable to a reasonable person and [that] the subject's right to privacy outweighs any legitimate public interest in obtaining the information." 5 ILCS 140/7(1)(c); see 5 ILCS 140/7(1) duties of public employees and officials shall not be considered an invasion of personal privacy." 5 ILCS 140/7(1)(c). Emails and text messages relating to public business are public records, even if those records are on privately owned devices. City of Champaign v. Madigan, 2013 IL App (4th) 120662, 992 N.E.2d 629, 372 Ill. Dec. 787; see also Public Access Opinion 16-006 (available at . Communications pertaining to the transaction of public business are public records, even on personal accounts. Information not relating to public business on a privately owned device is not subject to disclosure. See Quinn v. Stone, 211 Ill. App. 3d 809, 570 N.E.2d 676, 156 Ill. Dec. 200 (1st Dist. 1991). Compare 7. Text messages and other electronic messages Text messages are public body. 5 ILCS 140/2(c). Although an alderman is not a "public body" under the Act (and thus, is not subject to the Act's disclosure requirements), if the alderman's text or instant messages have been received by, used by or are in the possession of, or under the control of any public body, they would be subject to disclosure. City of Champaign v. Madigan, 2013 IL App (4th) 120662, 922 N.E.2d 629, 372 Ill. Dec. 787; see also Quinn v. Stone, 211 Ill. App. 3d 809, 570 N.E.2d 676, 156 Ill. Dec. 200 (1st Dist. 1991). Public business conducted within personal accounts is subject to FOIA. Better Gov't Ass'n. v. City of Chicago, 2020 IL App (1st) 190038, 169 N.E.3d 1066 (mayor and director of Chicago Department of Public Health can function as public bodies, and communications pertaining to public business, sent and received from personal accounts, may be "public records" subject to FOIA). The purpose of FOIA is to promote government affairs. Allowing government affairs. 20. Any public matter contained in government hardware is subject to inspection and copying under the FOIA. See 5 ILCS 140/2; 5 posts A social media site or social media postings are subject to disclosure if the site or the posting have been or are being used by, received by, or is in the possession of, or under the control of any public body. 5 ILCS 140/2(c). Compare 9. Computer software is open, unless (1) it constitutes proprietary or trade secret information under 5 ILCS 140/7(1)(g); (2) it is copyright protected and, thus, exempt under 5 ILCS 140/7(1)(a); or (3) it is exempt as "[a]dministrative or technical information associated with automated data processing operations . . . that, if disclosed, would jeopardize the security of the system or its data or the security of materials exempt under this Section." 5 ILCS 140/7(1)(o); Garlick v. Naperville Twp., 2017 IL App (2d) 170025, 84 N.E.3d 607. The FOIA and the case law interpreting the Act do not address metadata. As such, it should be open. See 5 ILCS 140/1.2. Compare 10. Can a requester ask for the creation or compilation of a new record? The public body need not create or maintain records it would not otherwise create or maintain. See Chicago Trib. Co. v. Dept of Fin. & Pro. Regul., 2014 IL App (4th) 130417, ¶ 34, 8 N.E.3d 11, 19 ("FOIA (1) 'is not designed to compel the compilation of data the governmental body does not ordinarily keep'") (citing Kenyon v. Garrels, 184 Ill. App. 3d 28, 540 N.E.2d 11 (1989); Public Access Opinion 11-001 (available at . Compare D. Fee provisions Compare 1. Types of assessable fees (e.g., for search, review, duplication) and levels or limitations on fees The fees, if any, a public body may charge for producing copies of public records are set forth in 5 ILCS 140/6. Separate fee limitations apply to records in electronic format (5 ILCS 140/6(a)) as opposed to paper records (5 ILCS 140/6(b)). A public body may not charge any fee for producing copies if it failed to respond to an initial request within 5 business days or failed to obtain the requisite extension of time, but later provides the requester with copies of the requested public records. 5 ILCS 140/3 Compare 2. Particular fee specifications or provisions With respect to electronic format, the public body shall furnish it in the electronic format specified by the requester, if feasible. If it is not feasible to furnish the public records in the specified electronic format, then the public body shall furnish it in the format in which it is maintained by the public body, or in paper format at the option of the requester. A public body may not charge the requester for the costs of any search for and review of the records or other personnel costs associated with reproducing the records. Except to the extent that the General Assembly expressly provides, statutory fees applicable to copies of public records when furnished in an electronic format." 5 ILCS 140/6(a). With respect to non-electronic records the Act provides that except when a fee is otherwise fixed by statute, a public body to copy records. 5 ILCS 140/6(b). But no fees shall be charged for the first 50 pages of black and white, letter or legal sized copies shall not exceed 15 cents per page. Id. If a public body provides copies in color or in a size other than letter or legal, the public body may not charge more than its actual cost for reproducing the records. Id. In calculating its actual cost for reproducing records or for the use of the equipment of the records or other personnel costs associated with reproducing the records. Id. Such fees shall be imposed according to a standard scale of fees, established and made public by the body imposing them. The cost for certifying a record shall not exceed \$1. Id. For abstracts of a driver's record, the FOIA's fee provision allows the Illinois Vehicle Code, 625 ILCS 5/6-118, to set the fee—regardless of whether a paper or electronic copy is furnished. 5 ILCS 140/6(e). The Act states that "the imposition of a fee not consistent with subsections (6)(a) and (b) constitutes a denial of access to public records for the purposes of judicial review." 5 ILCS 140/6(d). The Illinois Attorney General has opined that, while county recorders may establish a Web site providing Internet access to information contained in the recorders' records and need not post public records in their entirety (though they all must be open for examination at the recorders' offices), county records and need not post public records See Ill. Att'y Gen. Op. 00-012 (2000) The FOIA's fee provision does not authorize a public body to records. 5 ILCS 140/6. A public body may not charge a copying fee for electronic records. 5 ILCS 140/6. A public body to records. diskette, tape, or other medium. 5 ILCS 140/6(a). With respect to paper copies, a public body must provide for free the first 50 pages of black and white, letter or legal sized copies requested by a requester. After that, a public body may charge fees reasonably calculated to reimburse its actual cost for reproducing and certifying public records and for the use, by any person, of the equipment of the public body to copy records. 5 ILCS 140/6(b). But the fee for black and white, letter or legal, the public body may not charge more than its actual cost for reproducing the records. Id. In calculating its actual cost for reproducing records or other personnel costs associated with reproducing the records. Id. Such fees shall be imposed according to a standard scale of fees, established and made public by the body imposing them. The cost for certifying a record shall not exceed \$1. Id. For large volume requests, the act sets fees as follows: If a voluminous request is for electronic records and those records are not in a portable document format (PDF), the public body may charge up to \$20 for not more than 2 megabytes of data, up to \$40 for more than 4 megabytes of data, and up to \$100 for more than 4 megabytes of data, up to \$40 for more than 80 megabytes of data, up to \$40 for more than 80 megabytes of data, up to \$40 for more than 80 megabytes of data. megabytes but not more than 160 megabytes of data. 5 ILCS 140/6. Except for requests, the act does set standards for search fees. "A public body may charge up to \$10 for each hour spent by personnel in searching for and retrieving a requested record for necessary redactions. No fees shall be charged for the first 8 hours spent by personnel in searching for or retrieving and transporting public records from an off-site storage facility when the public body imposes a fee pursuant to this subsection (f), it must provide the request for public body. If a public body. If a public body imposes a fee pursuant to this subsection (f), it must provide the request for public records." 5 ILCS 140/6(f). Compare 3. Provisions for fee waivers If a request for documents states the specific purpose for the request and also indicates that a waiver or reduction of fees is in the public body. See 5 ILCS 140/6(c). In determining the amount of the waiver or reduction, the public body may consider the amount of materials requested and the cost of copying them. Waiver or reduction of fees is in the public interest if the principal purpose of the request is to access and disseminate information regarding the health, safety and welfare or the legal rights of the general public and not principally for personal or commercial benefit. See id. The phrase "commercial benefit" does not apply to requests by news media, as long as the principal purpose of news media, as long as the principal purpose of news media, as long as the principal purpose of news media is defined as a newspaper or other periodical issued at regular intervals, a news service, a radio station, a television station, a community antenna television station, a community antenna television service, or a person or corporation engaged in making news reels or other motion picture news for public showing. See 5 ILCS 140/2(f). Compare 4. Requirements or prohibitions regarding advance payment There is no specific provision with respect to whether fees must be paid in advance. Presumably this will be according to the agency's policy. Compare 5. Have agency's policy. Compare 5. Have agency's policy. records for the purposes of judicial review." 5 ILCS 140/6(d); Sage Info. Servs. v. Suhr, 2014 IL App (2d) 130708, 10 N.E.3d 241 (challenging fees sought to be imposed by a county assessment office). Compare 6. Fees for electronic records When producing electronic records a public body may charge no more than the cost of the medium (digital device) used to transmit the requested electronic records. That is, if the records are produced on a disc, the public body's fee can only be as high as the cost of the disc. See 5 ILCS 140/6(a). Compare 1. Attorney General's role Compare 2. Availability of an ombudsman Compare 3. Commission or agency enforcement Compare F. Are there sanctions for noncompliance? Compare G. Record-holder obligations Section 4 of the Act requires each public body is required to make a reasonable search for the records based on the facts of the case. Maynard v. Central Intelligence Agency, 986 F.2d 547, 559 (1st Cir. 1993); Public Access Opinion 16-006 (available at (public body failed to perform reasonable search for email records). Note: A public body is not required to perform an exhaustive search, but should construe the request liberally to search reasonable locations containing records. If the public body determines there are no records, they must show the adequacy of the search performed and locations possibly containing the requested records. The burden then shifts to the requester to produce evidence of an inadequate search. Better Gov't Ass'n. v. City of Chicago, 2020 IL App (1st) 190038, ¶¶ 31-32. If the public body denies the request and cites a statutory exemption. Compare 2. Proactive disclosure requirements Section 8.5 allows, but does not require, public bodies to post documents on a website. In the event of a request for those documents, the public body may simply point the requester to the website. Compare 3. Records retention requirements In Illinois, FOIA is a record-production statute. Record retention requirements are found in the State Records Act and the Local Records Act. Those acts impose record retention requirements and establish commissions to oversee record retention policies. 5 ILCS 160/1. Destruction of a record after a FOIA request has been made is a violation of FOIA. Public Act 19-013, . Compare 4. Provisions for broad, vague, or burdensome requests Compare II. Exemptions and other legal limitations Compare A. Exemptions in the open records statute Compare 1. Character of exemptions as set forth in other statutes. The Illinois FOIA sets out specific categories of exemptions as set forth in other statutes. Supreme Court has held that, under the Freedom of Information Act, "public records are presumed to be open and accessible. The Act does create exceptions are to be read narrowly." Lieber v. Board of Trs., 176 Ill. 2d 401, 407, 680 N.E.2d 374, 377, 223 Ill. Dec. 641, 644 (1997). When a public body receives a proper request, "it must comply with that request unless one of the narrow statutory exemptions applies." Id. (emphasis added); see also Lieber v. Southern III. Univ., 279 III. App. 3d 553, 664 N.E.2d 1155, 216 III. Dec. 227 (5th Dist. 1996) (holding that Act's public policy statement, 5 ILCS 140/1, does not provide an alternative exemption from disclosure, and that public body may validly shield itself from mandatory disclosure only by meeting its burden to prove that the information, and the public with easy access to government information, and the public policy statements of section 7 and the public body may validly shield itself from mandatory disclosure only by meeting its burden to prove that the information is exempt under 5 ILCS 140/7; "[T]he main purpose of the Act is to provide the public with easy access to government information, and the exemptions in section 7 and the public policy statements of section should not be construed to defeat that purpose"). The public body must prove it is exempt from disclosure by clear and convincing evidence. 5 ILCS 140/11(f). The Act suggests that invoking any applicable exemptions is discretionary, while releasing non-exempt material is mandatory: "When a request is made to inspect or copy a public record that contains information that is exempt from disclosure under this Section, but also contains information that is not exempt from disclosure, the public body shall make the remaining information available for inspection and copying." 5 ILCS 140/7(1) (emphasis added). Likewise, the Illinois Appellate Court held that "[t]he purpose of the Act is to ensure disclosure of information, not to protect information, not to protect information, not to protect information." Id. Relying on Roehrborn, the Illinois Attorney General has stated that "[t]he exemptions do not . . . prohibit the dissemination of information; rather, they merely authorize the withholding of information Act 13 (2004) (available at . Some Illinois exemptions resemble exemptions in the federal Act. It should be noted here that the legislature intended that case law construing the federal Act be used to interpret the Illinois Act. See Roulette v. Dep't of Cent. Mgmt. Servs., 141 Ill. App. 3d 394, 400, 490 N.E.2d 60, 64, 95 Ill. Dec. 587, 591 (1st Dist. 1986). Compare 2. Discussion of each exemption The following information is exempt from inspection and copying: Federal or State Law Exemption. Information specifically prohibited from disclosure from federal or state law or rules and regulations adopted under these laws. See 5 ILCS 140/7 (1)(a). In Chicago Tribune v. University of Illinois Board of Trustees, the court held that the federal Family Education Rights and Privacy Act, 20 U.S.C. 1232g ("FERPA") did not qualify as FOIA exemption because FERPA does not "specifically prohibit" disclosure of the information. See 5 ILCS 140/7 (1)(a) (emphasis added). The court notes that this is a narrow ruling because FERPA was the only exemption at issue. Chicago Tribune Co. v. University of Illinois Bd. of Trs., 781 F. Supp. 2d 672 (N.D. Ill. 2011), vacated on other grounds, 680 F.3d 1001 (7th Cir. 2012); 5 ILCS 140/7(1)(a). The Appellate Court of Illinois, Fifth District, held that this exemption did not apply to a state trial court order gagging the parties to a lawsuit from disclosing the terms or conditions of a settlement agreement where the parties themselves had requested the gag order. Carbondale Convention Ctr. Inc. v. City of Carbondale, 245 Ill. App. 3d 474, 477, 185 Ill. Dec. 405, 407, 614 N.E.2d 539, 541 (5th Dist. 1993); see also Kibort v. Westrom, 371 Ill. App. 3d 247, 862 N.E.2d 609 (2d Dist. 2007) (disclosure of election ballots, ballot box tapes and poll signature cards was prohibited by the Election Code and, thus, exempt under 5 ILCS 140/7(1)(a)). Private Information. Private information is exempt from disclosure, unless disclosure is required by another provision of this Act, a State or federal law, or a court order. See 5 ILCS 140/7(1)(b). "Private information" means unique identification number, employee identification number biometric identifiers, personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal license plates, except as otherwise provided by law or when compiled without possibility of attribution to any person. 5 ILCS 140/2(c-5). Private information also includes "files, documents, and other data or databases maintained by one or more law enforcement agencies regarding the physical or mental status of one or more individual subjects." 5 ILCS 140/7(1)(b-5). Note: The Illinois Appellate Court, First Judicial District, has ruled that a school district must release the information it compiles regarding test scores where that information can be masked and scrambled in order to preserve individual student identities. See Bowie v. Evanston Cmty. Consol. Sch. Dist. 65, 168 Ill. App. 3d 101, 522 N.E.2d 669, 119 Ill Dec. 7 (1st Dist. 1988). The Fifth District Appellate Court ordered the production of records from the Cancer Registry maintained by the Illinois Department of Public Health. Southern Illinoisan v. Department of Public Health, 349 Ill. App. 3d 431, 812 N.E. 2d 27, 285 Ill. Dec. 438 (5th Dist. 2004). A newspaper had requested records for the diagnosis of neuroblastoma by date of diagnosis and ZIP code. The Illinois Supreme Court affirmed, finding that because the request did not tend to lead to the identity of patients, the documents were not exempt. 218 Ill. 2d 390, 844 N.E. 2d 1 (2006), but see King v. Cook County Health and Hospitals System, 2020 IL App (1st) 190925 (holding unredacted zip codes of mental health patients were exempt where Confidentiality Act and HIPAA regulations protected disclosure). Similarly to Southern Illinoisian, it was held that a request for records from a state hospital system documenting the time and date patients were admitted for gunshot wounds was allowable as patient specific information was not requested. Sun-Times v. Cook County Health and Hospital System, 2021 IL App (1st) 192551, ¶ 27. Personal Information. When disclosure of information contained within a public record would "constitute a clearly unwarranted invasion of personal privacy" that is "highly personal or objectionable to a reasonable person and ... the subject's right to privacy outweighs any legitimate public interest in obtaining the information." 5 ILCS 140/7(c). The public duties of a public employee or official are not considered an invasion of personal privacy. Id. Note: If disclosure is consented to in writing by the individual subject of the information, then disclosure is permissible. Note: Under the Judicial Privacy Act, a judicial officer can make a written request to protect their personal information from public disclosure. However, without a request the information is then exempt and redacted before a public record can be disclosed. 5 ILCS 140/7(1.5). Note: Information about wages and salaries is not exempt under Section 7(1)(c) of FOIA; there is a significant public interest in public funds and knowing how they are spent. See Public Access Opinion 18-005 (available at . Note: A superintendent's employment contract, as a whole, constitutes information that bears on his public duties." Stern v. Wheaton-Warrenville Community Unit School Dist., 233 Ill.2d 396, 910 N.E.2d 85 (2009); see also Reppert v. Southern Ill. Univ., 375 Ill. App. 3d 502, 874 N.E.2d 905 (4th Dist. 2007) (holding that employment contracts are not per se exempt). In addition, post-mortem photographs are exempt to the extent that "surviving family members have legally-recognized rights in the depiction of a decedent's remains." Public Access Opinion 10-003 (available at . The attorney general noted that family members have a right to be free from the embarrassment that may result from the public display of a loved one's remains. Id., compare with See Nat'l Ass'n of Criminal Def. Lawyers v. Chicago Police Dept., 399 Ill. App. 3d 1, 924 N.E.2d 564 (1st Dist. 2010) (release of de-identified photos); see also and Public Access Opinion 18-018 (available at (records of complaints of a police officer's conduct can be disclosed as it does not invade the officer's personal privacy when the actions were performed during public duty). Law Enforcement and Administrative enforcement proceedings, and any law enforcement or correctional agency for law enforcement purposes," see 5 ILCS 140/7(1)(d)), but only to the extent that disclosure would: (i) interfere with pending or actually and reasonably contemplated law enforcement proceedings conducted by any law enforcement or correctional agency that is the recipient of the request. See 5 ILCS 140/7(1)(d)(i); see also Castro v. Brown's Chicken & Pasta Inc., 732 N.E. 2d 37 (1st Dist. 2000). (ii) interfere with active administrative enforcement proceedings. See 5 ILCS 140/7(1)(d)(iii). (iv) "unavoidably disclose the identity of a confidential source or confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative, law enforcement, or penal agencies." See 5 ILCS 140/7(1)(d)(iv). But, there are exceptions: "identities of witnesses to traffic accidents, traffic accidents, traffic accidents, traffic accidents, traffic accidents and rescue reports and rescue reports and rescue reports." would interfere with an active criminal investigation. Id. Note: In Chicago Alliance for Neighborhood Safety v. City of Chicago, the court held that the names of community liaisons with the police department are exempt. 348 Ill. App. 3d 188, 808 N.E. 2d 56, 283 Ill. Dec. 506 (1st Dist. 2004); see Nat'l Ass'n of Criminal Def. Lawyers v. Chicago Police Dept., 399 Ill. App. 3d 1, 924 N.E.2d 564 (1st Dist. 2010) (ordering disclosure, because redaction of open investigation files was not unduly burdensome to agencies and invasion of personal privacy in making disclosure, because redaction of open investigation files was not unduly burdensome to agencies and invasion of personal privacy in making disclosure of faces in photographic police lineups did not outweigh public's interest in disclosure); see also PAC Op. 21-005 (time off request records of officers improperly redacted as records would not jeopardize life or physical safety of officers). (v) "disclose unique or specialized investigative techniques other than those generally used and known or disclose unique or specialized investigative techniques other than those generally used and known or disclose unique or specialized investigative techniques of correctional agencies related to detection, observation of incidents of crime or misconduct." See 5 ILCS 140/7(1)(d)(v) (emphasis added). This applies only if disclosure would result in demonstrable harm to the agency or public body. Id. (vi) "endanger the life or physical safety of law enforcement person." See 5 ILCS 140/7(d)(vi) (emphasis added). Note: Criminal history record information. Pursuant to section 2.15(b), the following documents are deemed public records subject to inspection and copying by the public; (ii) records that are public; (ii) records in which the requesting party is the individual identified, except as provided under Section 7(1)(d)(vi). Pursuant to section 2.15(a), arrest records must be released notwithstanding the personal information exemption under Section 7(1)(c). Additionally, Section 2.15(b) provides specific circumstances when criminal history records may be released—but this is not an exclusive list. Criminal history records may be released even if they do not fit into one of the categories provided for in Section 2.15(b). The public body need not create or maintain records they would not otherwise create or maintain. See Public Access Opinion 11-001 (available at . (vii) obstruct an ongoing criminal investigation by the public body receiving the FOIA request. See 5 ILCS 140/7(1)(d)(vii). Note: The Illinois Appellate Court, First Judicial District, has ruled that sampling data and calculations compiled by a metropolitan sanitary district are investigatory records compiled for law enforcement purposes and thus not subject to disclosure where the sanitary district relied on a self-reporting system. The court held that disclosure would defeat the purpose of the sampling data system, which was to check on whether the targets of the program were reporting accurately. Griffith Labs. v. Metropolitan Sanitary Dist., 168 Ill. App. 3d 341, 522 N.E.2d 744, 119 Ill. Dec. 82 (1st Dist. 1988). Correctional Institutions. "Records that relate to or affect the security of correctional institutions and detention facilities." 5 ILCS 140/7(1)(e). One court has held that the names of federal prisoners held in a county jail are exempt from disclosure. Brady-Lunny v. Massey, 185 F. Supp. 2d 928 (C.D. Ill. 2002). Records Requested by Committed Persons. Six exemptions exist within the Act that allow facilities to deny requests made by persons committed in state institutions, specifically the Department of Corrections, Department of Human Services Division of Mental Health, or a county jail. If a person committed to one of those institutions requests records, the request may be denied: a. "if [the requested] materials are available in the library of the [institution] where [the requester] is confined," 5 ILCS 140/7(1)(e-5), Cebertowicz v. Illinois Dept. of Corr., 2016 IL App (4th) 151024 ¶ 25, 62 N.E. 3d 175, 181 (finding library must only make materials include records from staff members' personnel files, staff rosters, or other staffing assignment information," 5 ILCS 140/7(1)(e-6); c. "if [the requested] materials are available through an administrative request to the Department of Corrections or Department of Corrections or Department of Human Services Division of Mental Health," 5 ILCS 140/7(1)(e-7), See Mlaska v. Illinois Dept. of Corr., 2016 IL App (4th) 150189-U, ¶ 49; d. if "disclosure of [the requested materials] would result in the risk of harm to any person or the risk of an escape from [the institution], '5 ILCS 140/7(1)(e-8); e. if the requested materials contain "personal information pertaining to the person's victim or the victim's family, including, but not limited to, a victim's home address, home telephone number, work or school address, work telephone number, social security number, or any other identifying information, except as may be relevant to a requester's current or potential case or claim," 5 ILCS 140/7(1)(e-9), Mohammad v. Chicago Police Dept., 2020 IL App (1st) 190011, ¶ 35, appeal denied, 163 N.E.3d 728 (Ill. 2021) (noting that institution providing records to defendant's attorney. during prosecution of claim does not result in institution's waiver of right to claim exemption in response to later FOIA request after conviction); or f. if the requested materials are law enforcement records of other persons, "including, but not limited to, arrest and booking records, mug shots, and crime scene photographs, except as these records may be relevant to the requester's current or potential case or claim," 5 ILCS 140/7(1)(e-10). Preliminary drafts, notes, recommendations, memoranda and other records in which opinions are expressed, or policies or actions are formulated." See 5 ILCS 140/7(1)(f). Exception: a specific record or relevant portion of a record shall not be exempt when the record is publicly cited and identified by the head of the public body. Id. This "extends to all those records or officers and agencies of the General Assembly that pertain to the preparation of legislative documents." Id. Care should be taken to assure that a government agency does not attempt to assert that information sought is in preliminary report form when in fact it is not. This occurred in Hoffman v. Illinois Dep't of Corr., 158 Ill. App. 3d 473, 511 N.E.2d 759, 110 Ill. Dec. 582 (1st Dist. 1987). There, the plaintiff sought disclosure of information relating to the identity and procedure for administering drugs used to implement Illinois' death penalty. The Department of Corrections argued that the information sought, contained in a memorandum discussing procedures governing execution, was exempt because it was in preliminary draft form. The plaintiff invoked the provision of the Act which allows a trial court to conduct an in camera examination (private examination by the judge in the judge's chambers) of requested records. The judge found that, despite the department's assertion, the memorandum indicated that it was final, and therefore subject to disclosure. Id. at 477. One federal court, interpreting the federal FOI Act, has stated that it was final, and therefore subject to disclosure. Id. at 477. One federal court, interpreting the federal FOI Act, has stated that documents that reflect the "give-and-take" of the decision-making process, such as drafts or memos generated before adoption of a policy or the making of a decision, are exempt from disclosure. Marzen v. U.S. Dep't of Health & Human Servs., 632 F. Supp. 785 (N.D. Ill. 1986). Since the legislature intended that case law construing the federal Act be used to interpret the Illinois Act, Roulette v. Dep't of Cent. Mgmt. Servs., 141 Ill. App. 3d 394, 400, 490 N.E.2d 60, 64, 95 Ill. Dec. 591 (1st Dist. 1986), this case would apply to documents exempted from disclosure under this provision, often called the 'deliberative process exemption' in the Federal FOIA. For the exemption to apply, the records must be both (1) inter or intra agency and (2) predecisional and deliberative." Fisher v. Office of Ill. Attorney General, 2021 IL App (1st) 200225, ¶ 20. The records "must be both predecisional in the sense that [they are] actually related to the process by which the policies are formulated." Chicago Tribune Co. v. Cook County Assessor's Office, 2018 IL App (1st) 170455, ¶ 28. In Harwood v. McDonough, the court applied this exemption to a final consultant report because it was preliminary to final government action. 799 N.E.2d 859 (1st Dist. 2003). However, in Chicago Public Media v. Cook County Office of the President, 2021 IL App (1st) 200888, the court held the OCCP failed to establish emails containing media talking points, interview question responses, Wikipedia edits, or a conference speech were within the scope of the exemption applies to discussions about media strategy. Case law has made clear that this exemption is limited to the expression of opinions or policy; it does not protect from disclosure the factual information on which those opinions or policies are based. See, for example, Kalven v. City of Chicago, 2014 IL App (1st) 121846, 7 N.E. 3d 741, overruled on other grounds, Perry v. Dep't of Fin. & Pro. Regul., 2018 IL 122349, 106 N.E.3d 1016, 423 Ill. Dec. 848 (2018). Nor does it pertain to documents exchanged with third parties. See PAC Op. 21-004. The preliminary document exemption described here applies to all records of officers and agencies of the General Assembly that pertain to the preparation of legislative documents. See 5 ILCS 140/7(1)(f). Trade Secrets and Commercial Information. If disclosure would cause competitive harm, the following are exempt: trade secrets, commercial information, or financial information, or financ N.E.2d 880 (1st Dist. 2007) as superseded by statute as stated inCity of Chicago v. Janssen Pharmaceuticals, Inc., 2017 IL App (1st) 150870, 78 N.E.3d 446 (the revised statute changed "or" to "and" which narrows the application of the exemption). Note: It is permissible to consent to public disclosure. See 5 ILCS 140/7(1)(g). Legislative history indicates that 'trade secrets' includes information in the future. Roulette v. Dep't of Ctr. Mgmt. Servs., 141 Ill. App. 3d 394, 400, 490 N.E.2d 60, 64, 95 Ill. Dec. 587, 591 (1st Dist. 1986). See also Cooper v. Dep't of

Lottery, 266 Ill. App. 3d 1007, 640 N.E.2d 1299, 203 Ill. Dec. 926 (1994). This interpretation of the term "trade secret" is only applicable to "FOIA requests made pursuant to earlier versions of the statute." City of Chicago v. Janssen Pharmaceuticals, Inc., 2017 IL App (1st) 150870, ¶ 28, 78 N.E.3d 446, 456. The defendant is required to provide a basis for both the claim that the documents contain trade secrets, commercial or financial information, obtained where the documents are both proprietary, privileged or confidential; and that disclosure would result in competitive harm. Id. ¶ 29 (emphasis added). Proposals and Bids. Proposals and bids for any contract, grant or agreement, including information that would frustrate procurement or give an advantage to someone if it were disclosed. Information prepared by or for a body is exempt until a final selection is made. See 5 ILCS 140/7(1)(h). Research Data. Valuable formulas, computer geographic systems, designs, drawings and research data obtained or produced by any public body when disclosure "could reasonably be expected to produce private gain or public loss." See 5 ILCS 140/7(1)(I). This exemption does not apply to requests from the news media for Geographic Information Systems documents. Educational Examination Data. The following information is subject to exemption: (i) Test questions, scoring keys and other exam data used to administer academic examinations; (ii) faculty evaluations; (iii) student disciplinary cases—but only the identity of the student is exempt. (iv) and course or research materials used by faculty. 5 ILCS 140/7(1)(j). Note: Scrambled or masked test scores in which individual students' identities are unascertainable are available. See Bowie v. Evanston Cmty. Consol. Sch. Dist. 65, 128 Ill. 2d 373, 538 N.E. 2d 557, 131 Ill. Dec. 182 (1989). Architects and Engineers' technical documents for projects that are not developed with public funds. Projects constructed or developed with public funds. funds are exempt when disclosure would compromise security. See 5 ILCS 140/7(1)(k). Closed Meeting Minutes available to the public body makes the minutes available to the public under Section 2.06 of the Open Meetings Act. See 5 ILCS 140/7(1)(l). Communications with Attorney or Auditor. Communications between a public body and an attorney, or an auditor representing the public body—but only if the communications would not be subject to discovery in litigation. The following are also exempt: materials prepared or compiled with respect to internal audits of public bodies; and, upon the request of the public body's attorney, materials prepared or compiled by or for a public body in anticipation of a criminal, civil, or administrative proceeding. See 5 ILCS 140/7(1)(m). In Illinois Education Association v. State Board of Education, 204 Ill. 2d 456, 791 N.E.2d 522, 274 Ill. Dec. 430 (2003), the court rejected the application of this exemption to materials supplied by the State Board to the Attorney General. The State Board, by the way of vague or conclusory affidavits, failed to establish a privilege. The court warned public bodies not to mistreat the phrase "attorney-client privilege" as an utterance "which magically casts a spell of secrecy." Id. at 470. Note: Attorney billing records that contain explanations for legal fees or indicate the type of work done or matters discussed between the attorney-client discussions and, thus, would be subject to valid claims of attorney-client privilege or exemption under 5 ILCS 140/7(1)(m). See Ulrich v. Stukel, 294 Ill. App. 3d 193, 689 N.E.2d 319, 228 Ill. Dec. 447 (1st Dist. 1997). However, attorney billing records are not per se exempt. "It is well-recognized that information regarding a client's fees generally is not a 'confidential communication' between an attorney and client, and thus is not protected by the attorney client privilege. The payment of fees is merely incidental to the attorney-client relationship and typically does not involve the disclosure, the exempted from disclosure, the exempted from disclosure, the exempted from disclosure of confidential communications arising from the relationship." material may be redacted or deleted and any material that is not exempt, which could include hours, amount of fees, identification of attorneys and assignments, etc., must be made available for inspection and copying. See 5 ILCS 140/8. Employee Grievances or Disciplinary Cases. "Records relating to a public body's adjudication of employee grievances or disciplinary cases." But the final outcome of the case is not exempt when discipline is imposed. See 5 ILCS 140/7(1)(n). See generally Gekas v. Williamson, 393 Ill. App. 3d 573, 912 N.E.2d 347 (4th Dist. 2009). Grievances and disciplinary adjudication are "separate and distinct" parts of an investigatory process. "Relating to" is read narrowly to fulfill the purpose of the FOIA. Peoria Journal Star v. City of Peoria, 2016 IL App (3d) 140838, ¶¶13-14, 52 N.E.3d 711. Data-processing Operations. This information includes—but is not limited to—software, operating protocols, computer program abstracts, file layouts, source listings, object modules, load modules, user guides, documentation that—if disclosed—would jeopardize the security of the system, its data, or the security of materials exempt under this section See 5 ILCS 140/7(1)(o). Collective Bargaining Negotiations. Documents or materials relating to collective negotiating matters between public bodies and their employees or representatives. Exception: any final contract or agreement shall be subject to inspection and copying. See 5 ILCS 140/7(1)(p). Employee Examination Data. "Test questions, scoring keys, and other examination data used to determine the qualifications of an applicant for a license or employment." See 5 ILCS 140/7(1)(q); see Kopchar v. City of Chicago, 395 Ill. App. 3d 762, 919 N.E.2d 76 (1st Dist. 2009). Real Estate. The records, documents and information relating to real estate purchase negotiations until those negotiations end. With regard to parcels involved in an eminent domain proceeding under the Eminent Domain Act, records, documents and information relating to a real estate sale are exempt until a sale is consummated. See 5 ILCS 140/7(1)(r). Proprietary Insurance Information and records related to the operation of an intergovernmental risk management association, self-insurance pool, or a jointly self-administered health and accident cooperative or pool. See 5 ILCS 140/7(1)(s). In Public Access Opinion 11-004 (available at , the PAC concluded that settlement agreements entered into by an intergovernmental risk management association or self-insurance pool on behalf of a public body are subject to disclosure; 5 ILCS 140/7(1)(s) does not exempt the amount of money expended to settle a claim. Likewise, in Public Access Opinion 11-005 (available at , the PAC determined that the Illinois Department of Central Management should disclose Nerve Conduction Velocity Tests results were not protected by 5 ILCS 140/7(1)(s). Regulation Procedures for Financial Institutions. Information contained in or related to examination, operating, or condition reports that are prepared by or for the use of a public body that is responsible for the supervision of financial institutions, insurance companies, or pharmacy benefit managers. Exception: if disclosure is otherwise required by State law. See 5 ILCS 140/7(1)(t). Electronic Security. Information that would disclose or might lead to the disclosure of secret or confidential information, codes, algorithms, programs or private keys intended to be used to create electronic or digital signatures under the Electronic Commerce Security Act. See 5 ILCS 140/7(1)(u). that are designed to identify, prevent or respond to potential attacks upon a community's systems, population, facilities, or installations. This exemption applies when destruction or contamination would constitute a clear and present danger to the health or safety of the community, but only to the extent that disclosure could reasonably be expected to jeopardize the effectiveness of the measures or the safety of the public or the personnel who implement the security measures. Information exempt under this subsection may include details pertaining to the mobilization or deployment of personnel or equipment, the operation of communication systems or protocols, or tactical operations. See 5 ILCS 140/7(1)(v). In Sun-Times v. Chicago Transit Authority, 2021 IL App (1st) 192028, the court ruled the CTA and Chicago PD lawfully withheld security camera footage of a subway incident, even though the security camera footage of a subway incident, even though the security camera footage of a subway incident, even though the security camera footage of a subway incident, even though the security camera footage of a subway incident, even though the security camera footage of a subway incident, even though the security camera footage of a subway incident, even though the security camera footage of a subway incident, even though the security camera footage of a subway incident, even though the security camera footage of a subway incident, even though the security camera footage of a subway incident footage of a subway inci to jeopardize the effectiveness of [the camera surveillance system's] security measures." Note: The presence of some exempt information does not automatically result in making the entire request exempt. A public body must still disclose the nonexempt portion of the requested records. Labs v. City of Chicago Mayor's Office, 2021 IL App (1st) 192073, at ¶ 19. Power Generator Maps and other records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency." 5 ILCS 140/7(x). Public Utility Documentation. Information related to proposals, bids, or negotiations that deal with electric power procurement under Section 1-75 of the Illinois Power Agency Act and Section 16-111.5 of the Public Utilities Act. It must be deemed confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission. See 5 ILCS 140/7(1)(y). Information about Students. "Information about students exempted from disclosure under Sections 10-20.38 or 34-18.29 of the School Code, and information about undergraduate students exempted from disclosure under Sections 25 of the Illinois Credit Card Marketing Act of 2009." 5 ILCS 140/7(1)(z). Viatical Settlements Act. "Information the disclosure of which is exempted under the Viatical Settlements Act of 2009." See ILCS 140/7(1)(aa). Juvenile Justice Mortality Review team and records maintained by a mortality review team and records maintained by a mortality Review. Team Act. See 5 ILCS 140/7(1)(bb). Cemetery Care Act. Information regarding interments, entombments, or inurnments of human remains that are submitted to the Cemetery Oversight Act, whichever is applicable. See 5 ILCS 140/7(1)(cc). Illinois Public Aid Code. Correspondence and records (i) that may not be disclosed under Section 11-9 of the Illinois Public Aid Code or (ii) that pertain to appeals under Section 11-8 of the Illinois Public Aid Code. See 5 ILCS 140/7(1)(dd). Personal Information of Minors. The names, addresses, or other personal information of Minors. in programs of park districts, forest preserve districts, conservation districts, recreation associations. See 5 ILCS 140/7(1)(ee). Personal Information of Participants and registrants in programs of park districts, forest preserve districts, conservation districts, recreation agencies, and special recreation associations where such programs are targeted primarily to minors. See 5 ILCS 140/(1)(ff). Independent Tax Tribunal Act. Confidential information described in Section 1-100 of the Illinois Independent Tax Tribunal Act. submitted to the State Board of Education by the School Security and Standards Task Force under item (8) of subsection (d) of Section 2-3.160 of the School Code2 and any information contained by the Department of Human Services under the Sexually Violent Persons Commitment Act or committed to the Department of Corrections under the individual is confined; (ii) include records from staff members' personnel files, staff rosters, or other staffing assignment information; or (iii) are available through an administrative code of Illinois. See 5 ILCS 140/7(1)(ii). Confidential information in Civil Admin Code. Confidential information in Civil Administrative code of Illinois. See 5 ILCS 140/7(1)(jj) Government Financial Information. The public body's credit card numbers, bank account information, the disclosure of which could result in identity theft or impression or defrauding of a governmental entity or a person. ILCS 140/7(1)(kk) as added by P.A. 101-434. Threat Assessment. Records concerning the work of the threat assessment team of a school district. 5 ILCS 140/7(1)(ll) as added by P.A. 101-455. Note: Section 7 "does not authorize withholding of information or limit the availability of records to the public, except as stated in [Section 7] or otherwise provided in this Act." 5 ILCS 140/7(3). Statutory exemptions under Section 7.5 The following are exempt from inspection and copying: (a) Technology Advancement Act." 5 ILCS 140/7.5(a). (b) Library Records Confidentiality Act. Library records identifying library users with the books or other materials checked out by an individual under the Library Records. "Applications, related documents, and medical records received by the Experimental Organ Transplantation Procedures Board and any and all documents or other records prepared by the Experimental Organ Transplantation Procedures Board or its staff relating to applications it has received." 5 ILCS 140/7.5(c). (d) Sexually Transmissible Disease Control Act. "Information and records held by the Department of Public Health and its authorized representatives relating to known or suspected cases of sexually transmissible Disease Control Act." 5 ILCS 140/7.5(d). (e) Radon Industry Licensing Act." 5 ILCS 140/7.5(e). (f) Architectural, Engineering, and Land Surveying Qualifications Based Selection Act. "Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act." 5 ILCS 140/7.5(f). (g) Illinois Prepaid Tuition Act. "Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act." 5 ILCS 140/7.5(f). (g) Illinois Prepaid Tuition Act. "Firm performance evaluations under Section 55 of the Architectural, Engineering, and Land Surveying Qualifications Based Selection Act." 5 ILCS 140/7.5(f). (g) Illinois Prepaid Tuition Act. exempted under Section 50 of the Illinois Prepaid Tuition Act." 5 ILCS 140/7.5(g). (h) State Officials and Employees Ethics Act, and records of any lawfully created State or local inspector general's office that would be exempt if created or obtained b an Executive Inspector General's office under that Act." 5 ILCS 140/7.5(h). (i) Emergency Plans. "Information contained in a local emergency energy plan ordinance that is adopted under Section 11-21.5-5 of the Illinois Municipal Code." 5 ILCS 140/7.5(i). (j) Wireless Emergency Telephone Safety Act." 5 ILCS 140/7.5(j). (k) Vehicle Code. "Law enforcement officer identification information or driver identification information compiled by a law enforcement agency or the Department of Transportation under Section 11-212 of the Illinois Vehicle Code." 5 ILCS 140/7.5(k). (l) Abuse Prevention Review Team Act. "Records and information provided to a residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act." 5 ILCS 140/7.5(l). (m) Residential Real Property Disclosure Act. "Information provided to the predatory lending database created pursuant to Article." 5 ILCS 140/7.5(m). (n) Capital Crimes Litigation Act. "Defense budgets and petitions for certification of compensation and expenses for court appointed trial counsel as provided under Sections 10 and 15 of the case, even if the prosecution chooses not to pursue the death penalty prior to trial or sentencing." 5 ILCS 140/7.5(n). (o) Health and Hazardous Substances Registry Act. "Information that is prohibited from being disclosed under Section 4 of the Illinois Health and Hazardous Substances Registry Act." 5 ILCS 140/7.5(o). (p) Regional Transportation Authority Act and the Bi-State Transit Safety Act. "Security portions of system safety program plans, investigation reports, surveys, schedules, lists, data, or information compiled, collected, or prepared by or for the Regional Transportation Authority under Section 2.11 of the Regional Transportation Authority and from being disclosed by the Personnel Record Review Act." 5 ILCS 140/7.5(r). (s) Public Utilities Act. "Information prohibited from being disclosed by the Illinois School Student Records Act." 5 ILCS 140/7.5(r). (s) Public Utilities Act." 5 ILCS 140/7.5(r). (t) Health Information Exchange. "All identified or deidentified health information in the form of health data or medical records of the Illinois Health Information Exchange, and identified or deidentified health information in the form of health data and medical records of the Illinois Health Information in the form of health data or medical records of the Illinois Health Information Exchange, and identified or deidentified health information in the form of health data or medical records of the Illinois Health data or medical records of the Illinois Health Information Exchange, and identified health information in the form of health data or medical records of the Illinois H Health Information Exchange in the possession of the Illinois Health Information Exchange Office due to its administration of the Illinois Health Information Exchange. The terms "identified" and "deidentified" and "deidentified" and subsequent amendments thereto, and any regulations promulgated thereunder." 5 ILCS 140/7.5(t). (u) Brian's Law. Records and information provided to an independent team of experts under the Developmental Disability and Mental Health Safety Act (also known as Brian's Law). 5 ILCS 140/7.5(u). (v) Firearm Concealed Carry Act. Names and information of people who have applied for or received Firearm Owner's Identification Cards under the Firearm Concealed Carry Act, unless otherwise authorized by the Firearm Concealed Carry Act, records of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act. 5 ILCS 140/7.5(u). (w) Toll Highway Act. 5 ILCS 140/7.5(u). 140/7.5(w). (x) Counties Code or Municipal Code. 5 ILCS 140/7.5(x). (y) Adult Protective Services Act. Confidential information under the Adult Protective Services Act. Confidential information unde Elder Abuse and Neglect Act, including information about the identity and administrative finding against any caregiver of a verified and substantiated decision of abuse, neglect, or financial exploitation of an eligible adult maintained in the Registry established under Section 7.5 of the Adult Protective Services Act. 5 ILCS 140/7.5(y). (z) Fatality Under Adult Protective Services Act. 8 Exempted from disclosure under Section 15 of the Adult Protective Services Act. 5 ILCS 140/7.5(a). (a) Wildlife Code. 5 ILCS 140/7.5(a). (bb) Juvenile Court Act. Information which is or was prohibited from disclosure by the Juvenile Court Act of 1987. 5 ILCS 140/7.5(bb). Note: The Juvenile Court Act exemption, 5 ILCS 140/ 016 (available at & PAC Op. 20-008. (cc) Law Enforcement Officer-Worn Body Camera Act. Recordings made under the Law Enforcement Officer-Worn Body Camera Act. 5 ILCS 140/7.5(cc). (dd) Condominium and Common Interest Community Ombudsperson Act. Information that is prohibited from being disclosed under Section 45 of the Condominium and Common Interest Community Ombudsperson Act. 5 ILCS 140/7.5(dd). (ee) Pharmacy Practice Act. 5 ILCS 140/7.5(ee). (ff) Revised Uniform Unclaimed Property Act. Information that is exempted from disclosure under the Revised Uniform Unclaimed Property Act. 5 ILCS 140/7.5(ff). (gg) Illinois Vehicle Code. 5 ILCS 140/7.5(fg). (h) Election Code. 5 ILCS 140/7.5(gg). 140/7.5(hh). (ii) Civil Administrative Code of Illinois. 5 ILCS 140/7.5(ii). (jj) Day and Temporary Labor Services Act. Information and reports that are required to be submitted to the Department of Labor by registering day and temporary labor services Act. 5 ILCS 140/7.5(jj). (kk) Seizure and Forfeiture Reporting Act. 5 ILCS 140/7.5(kk). (ll) Illinois Public Aid Code. Information the disclosure of which is restricted and exempted under Section 5-30.8 of the Illinois Public Aid Code. 5 ILCS 140/7.5(ll). (mm) Crime Victims Compensation Act. 5 ILCS 140/7.5(ll). Assistance Act. 5 ILCS 140/7.5(nn) (oo) First Responders Suicide Prevention Act. Communications, notes, records, and reports arising out of a peer support counseling session prohibited from disclosure under the First Responders Suicide Prevention Act. 5 ILCS 140/7.5(op). (pp) First Responders Suicide Prevention Act. 5 ILCS 140/7.5(pp). (qq) Reproductive Health Act. Information and records held by the Department of Public Health and its authorized representatives collected under the Reproductive Health Act. 5 ILCS 140/7.5(qq). (rr) Cannabis Regulation and Tax Act. Information that is exempt from disclosure under the Cannabis Regulation and Tax Act. 5 ILCS 140/7.5(rr). (ss) Illinois Human Rights Act. Data reported by an employer to the Department of Human Rights pursuant to Section 2-108 of the Illinois Human Rights Act. 5 ILCS 140/7.5(st). (uu) Sexual Assault Evidence Submission Act. Information that is exempt from disclosure under Section 50 of the Sexual Assault Evidence Submission Act. 5 ILCS 140/7.5(vv). (ww) State Treasurer Act. Information that is exempt from disclosure under Section 5-36 of the Illinois Public Aid Code. 5 ILCS 140/7.5(vv). 16.8 of the State Treasurer Act. 5 ILCS 140/7.5(ww). (xx) Illinois Insurance Code. 5 ILCS 140/7.5(xx). (yy) Illinois Educational Labor Relations Act. Information prohibited from being disclosed under the Illinois Educational Labor Relations Act. 5 ILCS 140/7.5(yy). (zz) Illinois Public Labor Relations Act. 5 ILCS 140/7.5(aaa). Compare B. Other B. Ot statutory exclusions If another statute permits disclosure, or the rules of a particular agency do so, such provisions may be construed to prevail over any arguable exception in the Act. See, e.g., Etten v. Lane, 138 Ill. App. 3d 439, 442, 485 N.E.2d 1177, 1179, 92 Ill. Dec. 934, 936 (5th Dist. 1985) (holding that records must be disclosed under the clear language of an administrative rule; parole board rule granting an inmate access to all documents considered in making a parole decision prevailed over any arguable exception, common law prohibitions, recognized privileges against disclosure None. In fact, the Illinois Appellate Court, Fourth District declined to engage in a balancing test that weighs the FOIA's policy of openness against the burden imposed by forcing a public body to comply with the Act's requirements. See Board of Regents v. Reynard, 292 Ill. App. 3d 968, 977, 686 N.E.2d 1222, 1228, 227 Ill. Dec. 66, 72 (4th Dist. 1997) ("There is nothing in either [the Illinois Freedom of 1. HIPAA Compare 2. DPPA Compare 3. FERPA Compare 4. Other Compare F. Segregability requirements Compare 6. Agency obligation to identify basis of redaction or withholding Compare 9. FERPA Compare 5. Segregability requirements Compare 6. Agency obligation to identify basis of redaction or withholding Compare 6. Agency obligation to identify basis of redaction or withholding Compare 6. Agency obligation to identify basis of redaction or withholding Compare 6. Agency obligation to identify basis of redaction or withholding Compare 6. Agency obligation to identify basis of redaction or withholding Compare 6. Agency obligation to identify basis of redaction or withholding Compare 6. Agency obligation to identify basis of redaction or withholding Compare 6. Agency obligation to identify basis of redaction of whether the record in question is exempt from disclosure. Whether disclosure can be denied may depend on how the records, but if they are introduced into evidence in a court proceeding, they may become public records, for example, are not public records, but if they are introduced into evidence in a court proceeding, they may become public records. it is a record kept by a public body (see definitions), it is an open record unless it is exempted by the provisions of the Act. (The reference following each entry refers to the specific statutory exemption.) Compare A. Autopsy and coroners reports Open if in connection with a coroner proceeding, but might be closed in connection with a pending criminal investigation under 5 ILCS 140/7(1)(d)(i); see Public Access Opinion 10-003 (available at . Post-mortem photographs may be exempt if release of those photographs may be exempt if release of those photographs may be exempt if release of those photographs would raise privacy concerns. An autopsy of a private citizen done by a public hospital would probably be exempt from disclosure under the personal privacy exemption or the federal Health Insurance Portability and Accountability Act of 1996 (HIPAA). See 5 ILCS 140/7(1)(c); 5 ILCS 140/7(1)(a); see also Trent v. Coroner of Peoria County, 349 Ill. App. 3d 276, 812 N.E.2d 21, 285 Ill. Dec. 432 (3d Dist. 2004). Compare B. Administrative enforcement records (e.g., worker safety and health inspections, or accident investigations) Open, unless the public body can show that disclosure would cause any of the problems enumerated in 5 ILCS 140/7(1)(d). Section 7(d) exempts records in the possession of a public body created in the course of administrative enforcement proceedings "but only to the extent that disclosure would: interfere with active administrative enforcement proceedings" but only to the extent that disclosure would cause any of the problems enumerated in 5 ILCS 140/7(1)(d). enforcement proceedings conducted by the public body that is the recipient of the request; . . . create a substantial likelihood that a person will be deprived of a fair trial or an impartial hearing; [] unavoidably disclose the identity of a confidential source, confidential information furnished only by the confidential source, or persons who file complaints with or provide information to administrative, investigative . . . agencies; except that the identities of witnesses to traffic accidents, traffic the request; [] disclose unique or specialized investigative techniques other than those generally used and known or disclose internal documents of crime or misconduct, and disclosure would result in demonstrable harm to the agency or public body that is the recipient of the request; [] endanger the life or physical safety of law enforcement person." 5 ILCS 140/7(1)(d) are less likely to exist in connection with closed as opposed to active investigations, so as to render administrative enforcement records for closed investigations more accessible. Compare C. Bank records pertaining to public bodies are open unless a specific exemption applies. Section 7(1)(t). Financial information that a public body has obtained from a person or business which was furnished under a claim of privilege or confidentiality and disclosure would cause competitive harm to the person or business is also exempt from disclosure. 5 ILCS 140/7(1)(g). Financial information such as credit card numbers, bank account numbers, bank acco information is exempt due to the possibility of identity theft, impression or fraud. 5 ILCS 140/7(1)(kk). Compare D. Budgets Open; "[a]ll records relating to the obligation, receipt, and use of public funds of the State, units of local government, and school districts are public records subject to inspection and copying by the public." 5 ILCS 140/2.10. Compare E. Business records, financial data, trade secrets Depends; such records are exempt if release would cause competitive harm to a person or entity from which the records were obtained. See 5 ILCS 140/7(1)(g); see also BlueStar Energy Servs., Inc. v. Illinois Commerce Comm'n, 374 Ill. App. 3d 990, 871 N.E.2d 880 (1st Dist. 2007) (holding that documents furnished to state agency that regulates public utilities by a regulated utility company were exempt from disclosure for containing to a public body's regulation of financial information). Financial information pertaining to a public body's regulated utility company were exempt from disclosure for containing confidential information). are not exempt. Proposals and bids for contracts, grants or agreements are closed by 5 ILCS 140/7(1)(g), (t), (s), (u). Compare G. Collective bargaining records Closed except for final contracts. See 5 ILCS 140/7(1)(g). Compare H. Economic development records Open, but records pertaining to real estate purchase negotiations are exempt until those negotiations have been completed or terminated. 5 ILCS 140/7(1)(r). With respect to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding, records regarding that parcel are exempt except as allowed under discovery rules. Records relating to a real estate sale are exempt until a sale is consummated. 5 ILCS 140/7(1)(r). Also exempt are construction related technical documents (such as architects' plans and other transmissions) for public and non-public projects (including power generating and distribution stations and other transmission) for public and non-public projects (including power generating and distribution stations and other transmission) for public and non-public projects (including power generating and distribution stations and other transmission) for public and non-public projects (including power generating and distribution stations) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and non-public projects (including power generating and distribution) for public and distribution for public and distribution for public and distribution for public and distribution) for public and distribution for public and distribution for public and distribution for public and distribution) for public and distribution for and distribution facilities, water treatment facilities, airport facilities, aport stadiums, convention centers, and all government owned, operated, or occupied buildings) if disclosure would compromise security. 5 ILCS 140/7(1)(k). Compare I. Election Records The voter registration database maintained by the State Board of Elections is open. 2002 Op Att'y Gen. No. 02-009 (available at . Election results are open records, unless specifically prohibited by state law as in Kibort v. Westrom, 371 Ill. App. 3d 247, 862 N.E.2d 609, 308 Ill. Dec. 676 (2d Dist. 2007). Kibort held that, under the Election Code, an election authority was required to keep ballots sealed for two months after receiving them apart from examination upon statutorily authorized discovery recount proceedings, and tally lists and poll books delivered to county clerk were required to be kept sealed for one year after delivery except for use of certified copies as evidence in election contests and other judicial proceedings, and thus, within such time periods, records from were exempt from disclosure. Illinois does not allow secret ballots. See WSDR, Inc. v. Ogle County, 100 Ill. App. 3d 1008, 1011, 427 N.E.2d 603, 606 (2d Dist. 1981). Compare J. Emergency responders (911 calls) are not exempt from disclosure. Again, privacy issues may allow some redaction. Public Access Opinion 17-011 (available at . Compare K. Gun permits The list of persons with Firearm Owner's Identification cards is closed. 5 ILCS 140/7.5(u). Compare L. Homeland security and anti-terrorism measures The General Assembly added or amended the exemptions in Section 7(k), (v) and (x) in response to homeland security concerns. Compare M. Hospital reports Closed under personal privacy exemption and federal statute protecting medical records, the Health Insurance Portability Act of 1996 (HIPAA). See 5 ILCS 140/7(1)(c); 5 I 372 Ill. App. 3d 1077, 1090, 866 N.E.2d 651, 663 (5th Dist. 2007) (holding that names of patients treated at public hospital were exempt from disclosure). (As a practical matter, certain records — admission and birth information, for example — are often published by voluntary agreement between hospitals and the media.) Compare N. Personnel records Open if it related to the performance of public duties, Gekas v. Williamson, 393 Ill. App. 3d 573, 590, 912 N.E.2d 347, 361 (4th Dist. 2009), but may be closed if specifically exempt under 5 ILCS 140/7(1)(n) or other exemptions. Compare 1. Salary Open. See 5 ILCS 140/7(1); see also Stern v. Wheaton-Warrenville Cmty. Unit Sch. Dist. 2009, 233 Ill. 2d 396, 415, 910 N.E.2d 85, 97 (2009) (superintendent's employment contract was not exempt under personnel file exemption). Compare 2. Disciplinary records relating to a public body's investigation of employee grievances are open. But any records generated as part of a public body's adjudication of employee grievances are closed—except for the final outcome in cases where discipline was imposed. 5 ILCS 140/7(1)(n); see generally Gekas v. Williamson, 393 Ill. App. 3d 573, 590, 912 N.E.2d 347, 361 (4th Dist. 2009). Compare 3. Applications The name of an unsuccessful applicant to public employment is likely closed. See Public Access Opinion 11-003, at pp. 13-19 (available at (opining that disclosure of names of unsuccessful applicants would amount to 5 ILCS 140/7(1)(c).) Public Access Opinion 11-003 also concluded that the names of the unsuccessful applicants' current employers should be closed for privacy reasons. On the other hand, information regarding a public body's expenses incurred in process of evaluating applicants—such as fees for services assessed by a private information, which "means" of evaluating applicants—such as fees for services assessed by a private information, which "means" of evaluating applicants—such as fees for services assessed by a private information, which "means" of evaluating applicants—such as fees for services assessed by a private information, which "means" of evaluating applicants—such as fees for services assessed by a private information, which "means" of evaluating applicants—such as fees for services assessed by a private information, which "means" of evaluating applicants—such as fees for services assessed by a private information, which "means" of evaluating applicants—such as fees for services assessed by a private information, which "means" of evaluating applicants—such as fees for services assessed by a private information, which "means" of evaluating applicants—such as fees for services assessed by a private information, which "means" of evaluating applicants—such as fees for services assessed by a private information, which "means" of evaluating applicants—such as fees for services assessed by a private information, which "means" of evaluating applicants—such as fees for services assessed by a private information of the private informat unique identifiers including a person's social security number, driver's license number, employee identification number, biometric identifiers, personal telephone numbers, and personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and personal telephone numbers, and personal financial information, passwords or other access codes, medical records, home or personal telephone numbers, and persona except as otherwise provided by law or when compiled without possibility of attribution to any person." 5 ILCS 140/2(c-5). Compare 5. Expense reports Open. See 5 ILCS 140/2.10. Compare 6. Evaluations/performance reviews Compare 7. Complaints filed against employees Compare 8. Other Compare 6. Evaluations/performance reviews 5 ILCS 140/7(1)(d). Compare 1. Accident reports Open, unless (a) an investigation is ongoing or actually contemplated and that investigation would likely deprive someone of a fair trial; or (c) release of the records would likely identify an confidential source. See 5 ILCS 140/7(1)(d)(i), (iii), (iv). The identities of witnesses to traffic accidents, traffic accident reports, and rescue reports are open, unless disclosure would interfere with an active criminal investigation conducted by the agency that is the recipient of the request. 5 ILCS 140/7(1)(d)(iv). Compare 2. Police blotter Open. Compare 3. 911 tapes Open. Compare 4. Investigatory records Open, unless release of the records would interfere with an ongoing or reasonably contemplated investigation. See 5 ILCS 140/7(1)(d)(i); Day v. City of Chicago, 388 Ill. App. 3d 70, 80, 902 N.E.2d 1144, 1153 (1st Dist. 2009) (ongoing investigation exemption did not apply when inmate convicted 14 years earlier requested murder investigation file). Convicted defendants' videotaped custodial interrogation was exempt under 5 ILCS 140/7(1)(a) because Criminal Code 725 ILCS 5/103-2.1(g) prohibited disclosure of electronic records with any statements made by an accused until each defendant's right to appeal had been exhausted. Disclosure of electronic records with any statements made by an accused until each defendant's right to appeal had been exhausted. "public disclosure of sensitive or embarrassing personal information, especially of an innocent person." Hosey v. City of Joliet, 2019 IL App (3d) 180118 ¶ 15, 124 N.E.3d 1075, 1079-80. Compare 5. Arrest records Open. 5 ILCS 140/2.15; Public Access Opinion 11-001 (available at (concluding that Section 2.14 of the FOIA requires disclosure of arrest records Open. 5 ILCS 140/2.15; Public Access Opinion 11-001 (available at (concluding that Section 2.14 of the FOIA requires disclosure of arrest records Open. 5 ILCS 140/2.15; Public Access Opinion 11-001 (available at (concluding that Section 2.14 of the FOIA requires disclosure of arrest records Open. 5 ILCS 140/2.15; Public Access Opinion 11-001 (available at (concluding that Section 2.14 of the FOIA requires disclosure of arrest records Open. 5 ILCS 140/2.15; Public Access Opinion 11-001 (available at (concluding that Section 2.14 of the FOIA requires disclosure of arrest records Open. 5 ILCS 140/2.15; Public Access Opinion 11-001 (available at (concluding that Section 2.14 of the FOIA requires disclosure of arrest records Open. 5 ILCS 140/2.15; Public Access Opinion 11-001 (available at (concluding that Section 2.14 of the FOIA requires disclosure of arrest records Open. 5 ILCS 140/2.15; Public Access Opinion 11-001 (available at (concluding that Section 2.14 of the FOIA requires disclosure of arrest records Open. 5 ILCS 140/2.15; Public Access Opinion 11-001 (available at (concluding that Section 2.14 of the FOIA requires disclosure of arrest records Open. 5 ILCS 140/2.15; Public Access Opinion 11-001 (available at (concluding that Section 2.14 of the FOIA requires disclosure of arrest records Open. 5 ILCS 140/2.15; Public Access Open reports). Compare 6. Compilations of criminal histories Open, pursuant to 5 ILCS 140/2.15(b). That subsection provides a non-exclusive list of records that are public; (ii) records that are public; (ii) records that are otherwise available under State or local law; and (iii) records in which the requesting party is the individual identified, except as provided under Section 7(1)(d)(vi)." 5 ILCS 140/2.15(b); see Public Access Opinion 11-001 (available at . Compare 7. Victims Depends; closed if the victim's life or physical safety would be endangered, if the victim acts as a confidential source whose identity would unavoidably be disclosed, or if release of the victim's information would disclose unique or specialized investigative techniques and would result in demonstrable harm to the public body that is the recipient of the request. 5 ILCS 140/7(1)(d). Compare 8. Confessions Open, unless exempt by 5 ILCS 140/7(1)(d). Compare Closed, pursuant to 5 ILCS 140/7(1)(d)(v). Generic police techniques are open. Id.; Public Access Opinion 11-002 (available at (number of police officers assigned to districts is subject to disclosure). Compare 11. Mugshots Generally open. See National Ass'n of Criminal Defense Lawyers v. Chicago Police Dep't, 399 Ill. App. 3d 1, 13-14, 924 N.E.2d 564, 575, 338 Ill. Dec. 358, 369 (1st Dist. 2010) (ordering disclosure of faces in photographic police lineups after personal identifying information was removed from photos). Law enforcement may not publish mugshots on social networking sites in connection with "civil offenses, business interest, or a person wanted in relation to crimes other than those listed. 5 ILCS 140/2.15(e). Compare 12. Sex offender records Open and accessible via . See 730 ILCS 152/115 (a), (b). The Illinois Department of State Police maintains that statewide online sex offender database, which identifies persons who have been convicted of certain sex offenses and/or crimes against children. Id. Compare 13. Emergency medical services records Compare 14. Police video (e.g. body camera footage may obtain the recording through FOIA regardless of whether it has been flagged under 50 ILCS 406/10-1. Public Access Opinion 19-001 (available at . Compare Compare 16. Arrest/search warrants and supporting affidavits Compare P. Prison, parole and probation reports Open. See Etten v. Lane, 138 Ill. App. 3d 439, 485 N.E.2d 1177, 92 Ill. Dec. 934 (5th Dist. 1985). Compare Q. Professional licensing records are available, but subject to redaction for privacy exemptions. Compare R. Public utility records Consumers' public utility records are open. See 5 ILCS 140/2.5 (stating that records regarding the location or security of generation, transmission, distribution, storage, gathering, treatment, or switching facilities owned by a utility, by a power generator, or by the Illinois Power Agency; and (2) information contained in or related to proposals, bids, or negotiations related to electric power Agency; and (2) information contained in or related to be confidential and proprietary by the Illinois Power Agency or by the Illinois Commerce Commission. 5 ILCS 140/7(1)(x), (y). Compare S. Real estate appraisals, negotiations. With regard to a parcel involved in a pending or actually and reasonably contemplated eminent domain proceeding, records, documents and information relating to that parcel shall be exempt except as may be allowed under discovery rules. Records relating to a real estate sale shall be exempt except as may be allowed under discovery rules. Compare 2. Negotiations Available upon completion of transaction. Compare 5. Zoning records Open. Compare 5. Zoning records Op matters: (i) test questions, scoring keys and other examination data used to administer an academic examination; (ii) information received by a primary or secondary school, college, or university's adjudication of faculty members by their academic peers; (iii) information concerning a school or university's adjudication of faculty members by their academic peers; (iii) information concerning a school or university's adjudication of faculty members by their academic peers; (iii) information concerning a school or university's adjudication of faculty members by their academic peers; (iii) information concerning a school or university under its procedures for the evaluation of faculty members by their academic peers; (iii) information concerning a school or university's adjudication of faculty members by their academic peers; (iii) information concerning a school or university's adjudication of faculty members by their academic peers; (iii) information concerning a school or university's adjudication of faculty members by their academic peers; (iii) information concerning a school or university's adjudication of faculty members by their academic peers; (iii) information concerning a school or university's adjudication of faculty members by their academic peers; (iii) information concerning a school or university's adjudication of faculty members by their academic peers; (iii) information (if the school or university adjudication of faculty members) adjudication of faculty members by their academic peers; (iii) information (if the school or university adjudication of faculty members) adjudication of faculty members adjudication of faculty members adjudication of faculty members adjudication (if the school or university adjudication of faculty members) adjudication (if the school or university adjudication of faculty members) adjudication (if the school or university adjudication (if the school or university adjudication of faculty members) adjudication (if the school or university adjudication (if the school or uni student disciplinary cases, but only to the extent that disclosure would unavoidably reveal the identity of the student; and (iv) course materials used by faculty members. 5 ILCS 140/7(1)(j). While the Illinois School Student Records Act, 105 ILCS 140/7(1)(j). certain student records wherein students are individually identifiable, masked or de-identifiable, masked or de-identified student records and test scores are open. Bowie v. Evanston Community Consol. Sch. Dist. No. 65, 128 Ill.2d 373, 538 N.E.2d 557, 131 Ill. Dec. 182 (1989). Generally, while records pertaining to individually identifiable students are exempt, records pertaining to a school's or university's administration are not. Records concerning the work of the threat assessment team of a school district are closed. 5 ILCS 140/7(1)(kk). Compare 1. Athletic records, if in the possession of a public school, are probably treated the same as other records pertaining to students. See "School and university records." Compare 2. Trustee records Open, unless deliberative process exemption applies. See 5 ILCS 150/7(1)(f); see generally Stern v. Wheaton-Warrenville Cmty. Unit Sch. Dist. 200, 233 Ill. 2d 396, 910 N.E.2d 85 (2009) (superintendent's employment contract does not fall within FOIA's exemption for personnel files). Compare 3. Student records Student records held by a public school, excluding colleges or universities, are exempt from disclosure under Illinois School Student records are releasable. Bowie v. Evanston Cmty. Consol. Sch. Dist. No. 65, 128 Ill 2d 373, 379, 538 N.E.2d 557, 560 (1989) (ordering disclosure of masked standardized test scores for students from certain years, grades and addresses of S. Illinois Univ., 176 Ill. 2d 401, 403, 680 N.E.2d 374, 375 (1997) (Freedom of Information Act exemption did not apply to information regarding names and addresses of individuals who had been accepted to attend university); but see Local 1274, Illinois Fed'n of Teachers, AFT, AFL-CIO v. Niles Twp. High Sch., Dist. 219, 287 Ill. App. 3d 187, 678 N.E.2d 9 (1st Dist. 1997) (names and addresses of school district's enrolled students and their parents were exempt from disclosure under FOIA). Compare 4. School foundation/fundraising/donor records Compare 0. Other Com Marriage and divorce Closed pursuant to the Illinois Vital Records Act, 410 ILCS 535/1 et seq. and 5 ILCS 140/7(1)(a). Compare 4. Infectious disease and health epidemics Open if the data does not identify any specific patient or reveal medical information belonging to a specific person. See Southern Illinois Dept. of Pub. Health, 218 Ill. 2d 390, 844 N.E.2d 1 (2006). Compare IV. Procedure for obtaining records Compare A. How to start Compare 1. Who receives a request? A request for public records should be addressed to the relevant public body. 5 ILCS 140/3(c). A public body may not require that a request be submitted on a standard form or require the requester to specify the purpose for a request, exception and the relevant public body. 5 ILCS 140/3(c). to determine whether the records are requested for a commercial purpose or whether to grant a request for a fee waiver. 5 ILCS 140/3(c). 5 ILCS 140/3(c). 5 ILCS 140/3(c). following: (a) A brief description of itself, which will include, but not be limited to, a short summary of its purpose, and the identification and location of all of its separate offices, the approximate number of full and part-time employees, and the identification and membership of any board, commission, commission, committee, or council which operates in an advisory capacity relative to the public body is required to report and be answerable for its operations; and (b) A brief description of the methods whereby the public may request information and public records, a directory designating the Freedom of Information officers, the address where requests for public body that maintains a website shall also post this information on its website. See 5 ILCS 140/4. 5 ILCS 140/3(g) states that requests calling for all records falling within a category shall be compliance with the request would result in the following: (i) it would be unduly burdensome for the complying public body, (ii) there is no way to narrow the request, and (iii) the burden on the public body outweighs the public interest in the information. Before invoking this exemption, the public body must extend to the person making the request an opportunity to confer with it in an attempt to reduce the request by stating that compliance would unduly burden its operation and the conditions described above are met, it shall do so in writing, specifying the reasons why it would be unduly burdensome and the extent to which compliance will so burden the operations of the public body. Such a response shall be treated as a denial of the request for information. See Greer v. Board of Education of Chicago, 2021 IL App (1st) 200429, at ¶¶ 12-14 (undue burden is not grounds for exemption). Repeated requests from the same person for the same records that are unchanged or identical to records previously provided or properly denied under this Act shall be deemed unduly burdensome under this provision. See 5 ILCS 140/3(g). The Illinois Appellate Court, Fourth District, has held that the mere possession of records by a public body is not determinative of an agency's ability to release documents under the Act if another governmental entity has a substantial interest in asserting an exemption. See Twin-Cities Broad. Corp. v. Reynard, 277 Ill. App. 3d 777, 661 N.E.2d 401, 214 Ill. Dec. 547 (4th Dist. 1996). Where one public body holds records in which another public body has a substantial interest in asserting an exemption and the holder denies that the records are exempt from disclosure or decides not to assert an other public body, which may assert an exemption on its own behalf. See Twin-Cities (holding that a state's attorney possessing the minutes and transcript of a university board of regents closed meeting who was willing to disclose them to a FOIA requester could not unilaterally do so when he knew board would have asserted an exemption, and holding that board was entitled to assert FOIA exemption on its own behalf). The statute contains a separate provision for public records, each public body must maintain and make available for inspection and copying a reasonably current list of all the types or categories of records under its control. The list must be reasonably detailed in order to aid persons in obtaining access to public records. Each public records stored by means of electronic data processing may be obtained in a form comprehensible to persons lacking knowledge of computer language or printout format. See 5 ILCS 140/5. Compare 2. Does the law cover oral requests? The Act does not expressly prohibit oral requests in writing and directed to the public body." While a "public body may honor oral requests for inspection or copying," it is advisable to submit requests in writing. 5 ILCS 140/3(c) (emphasis added). A copy of the request is necessary to submit a request to the PAC, and to file suit in State court. As a practical matter, informal telephone inquiry as to the status of a request can reduce the chance of an agency taking an adversarial position regarding the request. The Act provides that a request reduce the chance of an agency taking an adversarial position regarding the request can reduce the chance of an agency taking an adversarial position regarding the request. or copy. The court in DesPain v. City of Collinsville, 382 Ill. App. 3d 572, 888 N.E.2d 163, 320 Ill. Dec. 946 (5th Dist. 2008), held that the term "public record," as used in the FOIA, referred to the original document, rather than a copy thereof. Thus, a requester who asked to listen to recordings of city council meetings was entitled to listen to the original recordings rather than pay for copies to be made; the fact that the city had no facility for the public body (and not a requester) should memorialize a denial in writing by sending a notice of denial. Requests for records should be in writing, because public bodies have no obligation to answer oral requests. See 5 ILCS 140/3(c). The failure to timely respond to a request operates as a denial of the request to writing. Compare 3. Required contents of a written request Although the Act makes no explicit nents for the contents of a written request, it should be as specific as possible and cite applicable provisions of the Act. See 5 ILCS 140/3(c). The scope of the requested records should be as specific as possible for the public body to determine the type of search necessary and the locations likely to hold the records. Better Gov't Ass'n v. City of Chicago, 2020 IL App (1st) 190038. The FOIA does not require public bodies to interpret or advise requesters as to the meaning or significance of the public records. 5 ILCS 140/6(c). As noted, for paper copies for the first 50 pages are free, and electronic records are available for the cost of the medium used to produce the request is large, and the request a 5 working day deadline for responses and the PAC has emphasized that public bodies should act expediently in releasing public records. 5 ILCS 140/1; see also 5 ILCS 140/3(e)(vii). Compare 4. Can the requester choose a format for receiving records, if producing the records in that format is reasonably feasible. The Act provides state "[w]hen a person requests a copy of a record maintained in an electronic format, the public body shall furnish it in the electronic format at the option of the requester, if feasible to furnish it in the format in which it is maintained by the public body, or in paper format at the option of the requester." 5 ILCS 140/6(a). Compare 5. Availability of expedited processing Compare B. How long to wait Compare 1. Statutory, regulatory or court-set time limits for agency response Each public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either comply with or deny a written reguest for public body must either compl Section may be extended by the public body for not more than 5 business days from the original due date for any of the following reasons: (i) the requested records; (ii) the requested records; (ii) the requested records; (iii) the requested records are stored in whole or in part at other locations than the office having charge of the requested records; (ii) the requested records; (iii) the requested records; (iiii) the requested records; (iiii) th (iii) the request is couched in categorical terms and requires an extensive search for the records responsive to it; (iv) the requested records responsive to it; (iv) the requested records require examination and evaluation by personnel having the necessary competence and discretion to determine if they are exempt from disclosure under 5 ILCS 140/7 or should be revealed only with appropriate deletions; (vi) the request for records cannot be complied with by the public body within the time limits prescribed by subsection (d) without unduly burdening or interfering with the operations of the public body; (vii) there is a need for consultation, which shall be conducted with all practicable speed, with another public body may agree in the determination or in the subject matter of the request. See 5 ILCS 140/3(e). The person making a request and the public body may agree in writing to extend the time for compliance for a period to be determined by the parties. If the requester and the public body agree to extend the previous deadlines shall not be treated as a denial of the request. 5 ILCS 140/3. Compare An informal telephone call to resolve any problems or differences should always be considered before initiating a request for review with the Public Access Counselor or before filing suit. Follow-up letters can also encourage a response. Compare 3. Is delay recognized as a denial for appeal purposes? Yes, a request is deemed denied if a public body fails to comply with a written request, extend the time for response, or deny a request within 5 business days after its receipt. 5 ILCS 140/3(d); see also 5 ILCS the requested public records may not impose a fee for such copies. 5 ILCS 140/3(d). A public body that fails to respond to a request as unduly burdensome under 5 ILCS 140/3(g). Procedure for denial. Denial must be in writing and state the reasons for the denial, including a detailed factual basis for the application of any exemption claimed, as well as the names and titles or positions of each person responsible for the denial. See 5 ILCS 140/9(a). Each notice of denial by a public Access Counselor, provide the address and phone number for the Public Access Counselor, and inform the requester of his right to judicial review under 5 ILCS 140/11. When a request for public records is denied on the grounds that the records are exempt under 5 ILCS 140/7, the notice of denial shall specify the exemption claimed to authorize the denial and the specific reasons for the denial, including a detailed factual basis and a citation to supporting legal authority. 5 ILCS 140/9(b). Copies of all notices of denial must be retained by each public body in a single central office file that is open to the extent feasible, according to the types of records requested. 5 ILCS 140/9(b); but cf. Duncan Public junc. v. City of Chicago, 304 Ill. App. 3d 778, 709 N.E.2d 1281, 237 Ill. Dec. 568 (1st Dist. 1999) (holding that individual departments of city were subsidiary public bodies and, thus, public bodies and, thus, public bodies and, thus, public bodies and, thus, public bodies and, thus a such, they could comply with the Act by each department of city were subsidiary public bodies and, thus a such a suc need not retain the notices in a single, central office file for the entire city). Compare 4. Any other recourse to encourage a response Compare 2. To whom is an appeal directed? A person who was denied access to public records, by a public body other than the General Assembly and its committees, commissions and agencies, may file a request for review with the Public Access Counselor established in the Office of the Illinois Attorney General. See 5 ILCS 140/9.5(a). A public body's denial of a FOIA request can be appealed either to the Public Access Counselor established in the Office of the Illinois Attorney General. General or to circuit court—not to the public body itself. The Public Access Counselor established in the Office of the Illinois Attorney General acts as the ombudsman deciding and, in some cases, mediating FOIA disputes. The procedures before the Public Access Counselor's office as well as relevant timeframes for submitting arguments are set forth in 5 ILCS 140/9.5. The request for review procedure should proceed as follows: "Upon receipt of a request for review, the Public Access Counselor determines that the alleged violation is unfounded, he or she shall so advise the requester and the public body and no further action shall be undertaken. In all other cases, the Public Access Counselor shall forward a copy of the request for review to the public body shall furnish to facilitate the review. Within 7 working days after receipt of the request for review, for review, and shall specify the records or other documents that the public body shall furnish to facilitate the review. Within 7 working days after receipt of the request for review, and shall specify the records or other documents that the public body shall furnish to facilitate the review. Within 7 working days after receipt of the request for review, and shall specify the records or other documents that the public body shall furnish to facilitate the review. Within 7 working days after receipt of the request for review, and shall specify the records or other documents that the public body shall furnish to facilitate the review. Within 7 working days after receipt of the request for review, and shall specify the records or other documents that the public body shall furnish to facilitate the review. Within 7 working days after receipt of the request for review, and shall specify the records or other documents that the public body shall furnish to facilitate the review. Within 7 working days after receipt of the request for review, and the review of the request for review. the public body shall provide copies of records requested and shall otherwise fully cooperate with the Public Access Counselor. If a public body fails to furnish specified records pursuant to this Section, or if otherwise necessary, the Attorney General may issue a subpoena to any person or public body having knowledge of or records pertaining to a request for review of a denial of access to records under the Act. To the extent that records or documents produced by a public body contain information that is claimed to be exempt from disclosure under Section 7 of this Act, the Public Access Counselor shall not further disclosure under the Act. request for review and request for production of records from the Public Access Counselor, the public body may, but is not required to, answer the allegations of the request for review. The answer the allegations of the request for review. for review, with any alleged confidential information to which the request pertains redacted from the copy. The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to the public body." See 5 ILCS 140/9.5(c)-(d). The requester may, but is not required to, respond in writing to the answer within 7 working days and shall provide a copy of the response to the public body." Public Access Counselor affidavits or records concerning any matter germane to the review. See 5 ILCS 140/9.5(e). The Public Access Counselor may issue a subpoena to any person or public body having knowledge of or records pertaining to a request for review of a denial of access to records under the Act. See 5 ILCS 140/9.5(c). The Attorney General may choose (1) to issue a binding opinion pertaining to a request for review; (2) to issue an advisory opinion pertaining to a request for review; (3) to mediate a dispute; or (4) otherwise address the matter without the issuance of a binding opinion. See 5 ILCS 140/9.5 (f). The Attorney General makes its binding opinion pertaining to a request for review; (3) to mediate a dispute; or (4) otherwise address the matter without the issuance of a binding opinion. at. Compare 3. Fee issues This same procedure is used where the requester believes that an onerous fee is being imposed in order to discourage the request. This is clear under 5 ILCS 140/6(d), which states that the purposeful imposition of a fee not consistent with the [fee provisions of the Act] shall be considered a denial of access to public records for the purposes of judicial review. 5 ILCS 140/6(d). Compare 4. Contents of appeal Compare 5. Waiting for a response The time frames for review before the Public Access Counselor are set forth in 5 ILCS 140/9.5(c), (d), (f). Compare There are no other administrative appeal procedures provided by the Act. Only a binding opinion is appealable—an advisory opinion is not. See 5 ILCS 140/9.5(f)-(h). Compare D. Additional dispute resolution procedures The Act provides that "any person" may request records. 5 ILCS 140/3(a). declaratory relief. 5 ILCS 140/11(a). Compare 1. Attorney General The Public Access Counselor established in the Office of the Illinois Attorney General has jurisdiction to resolve and mediate FOIA disputes. See 5 ILCS 140/7(1)(c) and 5 ILCS 140/7(1)(c), must, within the time periods provided for responding to a request, provide written notice to the requester and the Public Access Counselor will, then, decide whether those exemptions are properly invoked. Id. The Public Access Counselor may also issue binding opinions, which are considered final decisions of an administrative agency, for purposes of administrative review under the Administrative Review Law. 5 ILCS 140/11.5. The binding decisions of the PAC can be found on the Attorney General' above. Compare E. Court action Compare 1. Who may sue? Any person denied access to inspect or copy any public body may file a suit for injunctive or declaratory relief. See 5 ILCS 140/11.5. Compare 2. Priority Except as to causes the court considers to be of greater importance, proceedings arising under this Act must take precedence over all other causes and be assigned for hearing and trial at the earliest practicable date and expedited in every way. See 5 ILCS 140/11(h). Compare 3. Pro se Nothing about the Act prohibits requesters from proceeding prose, or "[f]or oneself; on one's own behalf; without a lawyer." Black's Law Dictionary 1236 (7th ed. 1999). Whether the requester or the policy of the news organization. If the question is crystal clear, one might consider proceeding without a lawyer, but only if one is certain of his or her abilities to draft a civil complaint and other pleadings. Though 5 ILCS 140/11(i) permits recovery of attorneys' fees, requesters who proceed pro se cannot collect attorneys' fees, r App. 3d 104, 682 N.E.2d 476, 224 Ill. Dec. 915 (2d Dist. 1997) (denying attorneys' fees to non-attorney proceeding pro se). Compare 4. Issues the question of the amount of fees the agency seeks to charge. Compare 4. Issues the court will address the question of the amount of fees the agency seeks to charge. withholding public records and to order the production of any public records improperly withheld from the person seeking access. If the public body can show that exceptional circumstances exist, and that the body is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. See 5 ILCS 140/11(d). In any action considered by the court, the court shall conduct such in camera examination of the requested records as it finds appropriate to determine if such records or any part thereof may be withheld under any provision of this Act. See 5 ILCS 140/11(f). The court shall order the public body to provide an index of the records, with a description of the document and the exemption claimed, to which access has been denied. 5 ILCS 140/6(a) & (b) constitutes a denial of access to public records for the purposes of judicial review. See 5 ILCS 140/6(d). Compare c. Delays A public body's failure to comply with a written request so as to trigger the requester's right to suit. See 5 ILCS 140/3(d); see 5 ILCS 140/11(a). A public body that fails to respond to a request within the requested public records may not impose a fee for such copies. See 5 ILCS 140/3(d); Varan v. White, 2019 IL App (2d) 180305-U, ¶ 25. Compare d. Patterns for future access (declaratory judgment) Compare 5. Pleading format There is no particular format prescribed by the statute: the pleading format should simply take the form of a civil complaint filed in that court, see Illinois Code of Civil Procedure, 735 ILCS 5/1-101 to 22-105, and allege a reguest and an improper denial. The praver for relief should include a request for attorneys' fees and costs. If the requester believes that the public body acted in bad faith in denying access to the records, a request for civil penalties may be added. 5 ILCS 140/11. Compare 6. Time limit for filing suit There are no time limits prescribed in the Act, but judicial review should be sought as soon as possible. (Illinois law provides that all civil actions not otherwise provided for shall be commenced within five years after the cause of action accrued. See 735 ILCS 5/13-205.) Compare 7. What court? If a state agency denies a request, suit may be filed either in the circuit court for the county where the public body has its principle office or where the requester resides. See 5 ILCS 140/11(b). If a non-state agency (such as a municipality) denies a request, suit may be filed in the circuit court for the county where the public body is located. See 5 ILCS 140/11(c). An action for administrative review of a binding opinion by the Attorney General must be filed in Cook or Sangamon County. See 5 ILCS 140/11.5. Compare 8. Burden of proof Compare 9. Judicial remedies available Compare 10. Litigation expenses Compare a. Attorneys' fees by requester who "prevails." See 5 ILCS 140/11(i). Under the prior version of the Act, courts had discretion to award attorneys' fees to requesters that "substantially prevailed." The language of the amended Act signals that courts no longer have much discretion in deciding whether or not to award fees and costs if they determine that the requester prevailed. See 5 ILCS 140/11(i). Also, the new FOIA's "prevail" standard differs from the old FOIA (and the federal FOIA)'s "substantially prevail" standard. See Uptown People's Law Center v. Dep't of Corr., 2014 IL App (1st) 130161, 7 N.E. 3d 102, 379 Ill. Dec. 676 ("if a plaintiff files a FOIA action with respect to five document, despite

having failed with respect to the remaining four.") A court order is not a prerequisite for the awarding of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. ¶ 21. The burden of proving that an award of attorney's fees. Id. § 20. [Il. Dec. 447, 453-54 (1st attorney's fees. Id. § 20. [Il. Dec. 447, 453-54 (1st attorney's fees. Id. § 20. [Il. Dec. 447, 453-54 (1st attorney's fees. Id. § 20. [Il. Dec. 447, 453-54 (1st attorney's fees. Id. § 20. [Il. Dec. 447, 453-54 (1st attorney's fees. Id. § 20. [Il. Dec. 447, 453-54 (1st attorney's fees. State attorney's fees. Id. § 20. [Il. Dec. 447, 453-54 (1st attorney's fees. State attorney's fees. State attorney's fees. Id. § 20. [Il. Dec. 447, 453-54 (1st attorney's fees. Id. § 20. [Il. Dec. 447, 453-54 (1 Dist. 1997). Also, requesters who bring suit without the aid of a lawyer are not entitled to attorneys' fees. See Court Action, "pro se," supra. Compare 1. Compare 1. Fines Compare 12. Other penalties If the court determines that a public body willfully and intentionally failed to comply with the Act, or otherwise acted in bad faith, the court may impose a civil penalty of \$1,000 per day the violation continues if: (1) the public body fails to comply with a court order for 30 days; (2) the court's order is not on appeal or stayed; and (3) the court does not grant the public body additional time to comply with its order. 5 ILCS 140/11(j); Williams v. Bruscato, 2021 IL App (2d) 190971, ¶ 15 (penalties may only be assessed upon showing the public body intentionally failed to comply with FOIA "deliberately, by design, and with a dishonest purpose"). Compare 1. Appeal of a denial by a circuit court of access to records is taken according to the Illinois Code of Civil Procedure, 735 ILCS 5/1-101 to 22-105, and the Illinois Supreme Court Rules. Compare 2. Time limits for filing appeals Rules require filing in the circuit court a notice of appeal within 30 days of the court's decision denying the Illinois Press Association, the Illinois Press Association, the Illinois Press Association or other media groups, which often intervene in FOIA cases. The Reporters Committee for Freedom of the Press frequently files amicus briefs in important press cases before a state's highest court. Compare G. Addressing government suits against disclosure Compare G. Addressing government suits against Open Meetings Act, 5 ILCS 120/1 to 6, makes no distinction between members of the news media and members of the general public. Compare The Act applies to meetings of state, county and local public bodies, with specified exceptions. The public bodies, with specified exceptions. and that the people have a right to be informed as to the conduct of their business. In order that the people shall be informed, the General Assembly finds and declares that it 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. Compare 1. State Compare 2. County Compare 3. Local or municipal Compare C. What bodies are covered by the law? The Act defines public bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of [Illinois], and any subsidiary bodies of any of the foregoing." 5 ILCS 120/1.02. Subsidiary bodies include (but are not limited to) committees and subcommittees and subcommittees that the term "public body" includes "tourism boards and convention or civic center boards located in counties that are contiguous to the Mississippi River with populations of more than 250,000 but less than 300,000," as well as the Health Facilities and Services Review Board. The term "public body," however, does not include a child death review team or the Illinois Child Death Review Teams Executive Council established under the Child Death Review Team Act or an ethics commission acting under the Statewide Youth Advisory Board or the Statewide Youth Advisory Board or the Statewide Youth Advisory Board established under the Child Death Review Teams Executive Council established under the Statewide Youth Advisory Board or the Statewide Youth Advisory Board established under the Statewide Youth Advisory Board establ Board Act, or the Illinois Independent Tax Tribunal. Inclusion within the definition of "public body" depends primarily upon organizational structure. See Board of Regents v. Reynard, 292 Ill. App. 3d 968, 977, 686 N.E.2d 1222, 1228, 227 Ill. Dec. 66, 72 (4th Dist. 1997). Factors to be considered in determining whether an entity is a public body" include: (1) who appoints the members of the entity's assigned duties, including duties reflected in the entity's assigned duties, including duties reflected in the entity's assigned duties, including duties reflected in the entity's assigned duties, including duties, including duties reflected in the entity's assigned duties, including duties reflected in the entity's assigned duties, including duties reflected in the entity's assigned duties, including dut whether the entity is subject to government control or otherwise accountable to any public body; (6) whether the group has a budget; (7) its place within the larger organization or institution of which it is a part; and (8) the impact of decisions or recommendations that the group makes. University Professionals v. Stukel, 344 Ill. App. 3d 856, 865, 801 N.E.2d 1054, 1062, 280 Ill. Dec. 109, 117 (1st Dist. 2003). Compare 1. Executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public body." See 5 ILCS 120/1.02. Compare b. Are certain executive branch agencies are included in the definition of "public bod functions covered? The Act does not exempt specific executive functions. Compare The Act does not specifically exclude any executive agencies perform such functions, such meetings might be closed. The Illinois Attorney General has opined that local ethics commissions are not per se exempt from the provisions of the Act. See Op. Att'y Gen. 007 (1999). However, an ethics commission "acting under the definition of a "public body," and as a result, does not fall under the purview of the Act. See 5 ILCS 120/1.02. Compare 2. Legislative bodies The Act specifically covers legislative bodies. See 5 ILCS 120/1.02. However, the Illinois General Assembly and its committees are not covered by the Act, but are subject to the state constitutional requirement of open meetings. See Ill. Const. art. IV, § 5(c) (providing that sessions of each house of Legislature, as well as committees joint committees and legislative commissions, are open to the public; sessions and committee meetings of a house may be closed if two-thirds of members elected to each house "determine that the public interest so requires," presumably by vote); see also Ill. Const. art. IV, § 7(a) and (b) (requiring "reasonable public notice of meetings, including a statement of subjects to be considered" by committees and legislative commissions, as well as the keeping of a journal of house proceedings and a transcript of debates, with the journal published and the transcript open to the public). Compare 3. Courts The definition of public body does not include judicial bodies. Since the judiciary is a separate branch of government, and the other two branches are specifically covered, it is likely that such meetings would not be subject to the Act. See Copley Press Inc. v. Admin. Office of the Cts., 271 Ill. App. 3d 548 (1995) (holding that the Administrative Office of the Courts, Nineteenth Judicial Circuit, was not covered, as the "judiciary is exempt" under the Act); see also Op. Att'y Gen. 005 (1999) (Illinois Attorney General opining, in response to inquiry from Illinois Supreme Court justice, that Illinois Courts Commission not covered by Act as lack of reference to courts or judiciary in Act's definition of "public body" indicates "an intent to exclude the judicial branch from the requirements of that Act"). Compare 4. Nongovernmental bodies receiving public funds or benefits There are many private agencies that receive government grants or some other type of funding, such as arts councils, alcohol abuse programs, women's shelters and other social service programs. It is doubtful that such bodies for the purposes of the Open Meetings Act. Whether a particular group's meetings would be subject to the Act would depend on whether the particular agency would be considered an "advisory" body, or a "subsidiary" body of a public body, including — but not limited to — committees and subcommittees members include governmental officials Depending on the function of the non-governmental group, membership of a government official in such a group could make it an "advisory" or "subsidiary" body subject to the provisions of the Act. Compare 6. Multi-state or regional bodies There is no case law in which the question of whether a multistate body is subject to the Act is addressed. A regional body operating entirely within the state is more than likely subject to the Act if it is composed of representatives of government. Compare 7. Advisory boards and commissions, quasi-governmental entities Advisory boards and commissions are specifically covered. See 5 ILCS 120/1.02; see also Board of Regents v. Reynard, 292 Ill. App. 3d 968, 977, 686 N.E.2d 1222, 1228, 227 Ill. Dec. 66, 72 (4th Dist. 1997). Whether a "quasi-governmental" entity is covered depends on its function and the composition of its members. While at least one court has said that the exceptions to the Act must be narrowly construed, Illinois News Broadcasters Ass'n v. City of Springfield, 22 Ill. App. 3d 226, 228, 317 N.E.2d 288, 290 (5th Dist. 1974), the nature of subsidiary or advisory bodies subject to the Act has been the subject of judicial interpretation. Although the Act's definition of "public body" specifically includes "advisory bodies" at all levels of government, see 5 ILCS 120/1.02, one Illinois court has ruled that a university advisory committee was not an advisory body under the Open Meetings Act. In Pope v. Parkinson, 48 Ill. App. 3d 797, 363 N.E.2d 438, 6 Ill. Dec. 756 (4th Dist. 1977) a reporter for a student newspaper sought access to meetings of the University of Illinois Assembly Hall Advisory Committee. The committee consisted of four faculty members and four student members appointed by the university chancellor. It advised the Assembly Hall director on "policy questions" concerning the administration of the Assembly Hall. The court reasoned that the committee was not formally appointed by, or accountable to, any public body of the state. It was, rather, an informal committee, the sole function of which was to advise university administrators on matters pertaining to internal business affairs. The committee was not created by statute and, if disbanded, would not affect the public tax burden. See 48 Ill. App. 363 N.E.2d at 440, 6 Ill. Dec. at 758. The court added that its opinion was restricted to the facts of the case, and it was not deciding whether every university committee was exempt from the requirements of the Act. See 48 Ill. App. 3d at 801, 363 N.E.2d at 441, 6 Ill. Dec. at 759. One court has set out criteria for determining in unclear cases whether a meeting of an advisory or subsidiary body must be open to the public. In Rockford Newspapers Inc. v. Northern Ill. Council on Alcoholism and Drug Dependence, 64 Ill. App. 3d 94, 380 N.E.2d 1192, 21 Ill. Dec. 16 (2d Dist. 1978), the court found that a private, not-for-profit organization (the NICADD), formed to administer drug and alcohol treatment programs, was not subject to the provisions of the Act, despite the fact that 90 percent of its funding came from governmental grants and contracts, and despite the fact that its programs were regulated and monitored by federal, state and local governmental grants and contracts. body that regulated it. (That is, it was a private, not-for-profit); and b) Its board of directors and employees were independent of such control. The court declared that general supervision by the government." 64 Ill. App. 3d at 95-97, N.E.2d at 1193-94, 21 Ill. Dec. at 17-18 The Illinois Appellate Court, First Judicial District, cited Rockford with approval in Hopf v. Topcorp Inc., 170 Ill. App. 3d 85, 527 N.E.2d 1, 122 Ill. Dec. 629 (1988). A divided court found that a "mixed" private-public entity was not subject to the Act. In Topcorp, two for-profit corporations entered into an agreement with a city and a university to develop a research park on 22 acres of downtown property owned principally by the city and the university. The city and the university owned all shares of capital stock in Topcorp and Topcorp's six-member board of directors included the mayor, an alderman and the city manager. The other for-profit corporation, Research Park Inc., was a wholly owned subsidiary of Topcorp. Citizens of Evanston sought copies of minutes of the Topcorp and RPI meetings, arguing that Topcorp was public in nature under the Rockford standards, noting, inter alia, that the city owned half of the stock, and public officials and appointees sat on the corporation boards. The appellate court ruled that the corporations were not sufficiently governmental to fall within the confines of the Open Meetings Act. It relied on the boards of directors. The court also found that the respective corporations' boards and employees were independent of direct governmental control, and that the private sector would provide the majority of funding for the actual development of the research park. The court also affirmed the trial court's finding that the city's supervision was general in nature, as was the university's. The Illinois Appellate Court, Fourth District, held in Board of Regents of the Regency University System v. Reynard, 292 Ill. App. 3d 968, 686 N.E.2d 1222, 227 Ill. Dec. 66 (1997), that subsidiaries of public bodies can themselves be public bodies can themselves be public bodies that, in turn, have subsidiaries of public bodies and the state of Illinois and the s governing body of ISU. As such, the ISU Senate was a subsidiary of the board, and "a subsidiary public body is itself a public body" under the Act. Board of Regents, 292 Ill. App. 3d at 978, 686 N.E.2d at 1229, 227 Ill. Dec. at 73. Consequently, a subsidiary of the ISU Senate was a public body is itself a public body that was required to comply with the Act. Id. Compare 8. Other bodies to which governmental or public functions are delegated Coroner's inquests. — The Illinois Attorney General has never issued a formal opinion whether coroner's hearings are open. However, according to Shawn Denney, First Assistant Attorney General, such hearings have traditionally been regarded as open. This is supported by a provision in 55 ILCS 5/3-3001 to -3044, which states that "[i]f a sufficient number of jurors [summon others from among the bystanders to make up the jury." 55 ILCS 5/3-3022 (emphasis added). In Denney's view, this supports an argument that the legislature intended that inquests be open. No cases have interpreted this provision. An informal opinion of the Illinois Attorney General, however, opined that a coroner's jury is not a public body subject to the Act and, therefore, a coroner is not required to abide by the Act's notice requirements. Informal Op. Att'y Gen. 007 (1998). Whether other bodies' meetings would be subject to the Act would depend on whether the particular body would be considered an "advisory" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a "committee" or "subsidiary" body of the state, or a aid committee" — an entity that hears appeals from decisions denying or terminating public assistance — is a public body under the Act, according to the Illinois Attorney General. See Op. Att'y Gen. 009 (1996). Compare 9. Appointed as well as elected bodies The definition of public body under the Act, according to the Illinois Attorney General. See Op. Att'y Gen. 009 (1996). appointed and elected bodies, so both are covered by the Act. However, the Act defines public office as "a position created by or under the constitution or laws of this State." 5 ILCS 120/2(d). The term includes "members of the public body, but it shall not include organizational positions filled by members thereof, whether established by law or by a public body itself, that exist to assist the body in the conduct of its business." Id. Compare 1. Number that must be present to constitute a "meeting"? The Act defines "meeting" as "any gathering of a majority of a quorum of the members of a public business." 5 ILCS 120/1.02. For example, in a village governed by a commissioner form of government in which the village council comprises a mayor and four commissioners, the Illinois Attorney General has opined that a quorum would be three members, and a majority of that quorum would be two. See Op. Att'y Gen. 005 (1996). Compare b. What effect does absence of a quorum have? The Illinois Attorney General has concluded that the Act applies to committees of a quorum have? that such committees are subsidiary bodies contemplated by the Act. See Op. Att'y Gen. 030 (1982). Compare Compare The Act applies to official as well as unofficial or informal meetings where public business is discussed. See People ex rel. Difanis v. Barr, 83 Ill. 2d 191, 414 N.E.2d 731, 46 Ill. Dec. 678 (Ill. 1980). Thus, information-gathering or factfinding sessions are covered. Compare b. Deliberation toward decisions The public policy provision of the Act states that it is the intent of the Act states that it i person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic chat, and instant messaging), or other means of contemporaneous interactive communication." 5 ILCS 120/1.02. The Illinois Appellate Court, Fourth District, has held that conducting a meeting by telephone conference does not, by itself, violate the Act. See Freedom Oil Co. v. Illinois Pollution Control Bd., 275 Ill. App. 3d 508, 655 N.E.2d 1184, 211 Ill. Dec. 801 (1995). Public bodies must fully comply with all requirements of the Act, whether their meetings are held in person or by telephone. Id. This simply means that the press and the public can attend conference call meetings. 2) Nature of discussion. The discussion of public business cannot be disguised by declaring that the meeting is for other purposes. For example, in People ex rel. Difanis v. Barr, 83 Ill. 2d 191, 414 N.E.2d 731, 46 Ill. Dec. 678 (1980), nine members of a 15-member city council met an hour and a half before a regularly scheduled meeting for the ostensible purpose of holding a party caucus prior to the council meeting. However, council business was discussed at the meeting. The court concluded that this violated the Act, which it found was intended to apply to more than official meetings of full bodies or duly constituted committees. See Difanis, 83 Ill. 2d at 200, 414 N.E.2d at 735, 46 Ill Dec. at 682. A meeting of a re-elected mayor, a re-elected commissioners to discuss appointments to city offices that could only be made after the new council members assumed office was a meeting subject to public notice requirements of the Act, in the opinion of the Illinois Attorney General. See Op. Att'y Gen. 005 (1996). As the public body was governed by a mayor and four commissioners, a quorum was three members. See id. The re-elected mayor and the re-elected mayor and the re-elected commissioners, a quorum was three members. Compare 3. Electronic meetings Compare a. Conference, telephone call, electronic means (such as, without limitation, electronic means of contemporaneous as "any gathering" as "any gath interactive communication." 5 ILCS 120/1.02. Additionally, both the Appellate Court of Illinois and the Illinois Attorney General have addressed conference does not, by itself, violate the Act. See People ex rel. Graf v. Village of Lake Bluff, 321 Ill. App. 3d 897, 907 08, 748 N.E.2d 801, 811, 255 Ill. Dec. 97, 107 (2d Dist. 2001), rev'd on other grounds, 206 Ill. 2d 541, 795 N.E.2d 281, 276 Ill. Dec. 801 (4th Dist. 1995). The Attorney General held the same view that conference calls are a permissible means to hold a meeting, so long as notice provisions of the act are met and the public can participate. See Op. Att'y Gen. 041 (1982). However, public bodies must fully comply with all requirements of the Act, whether their meetings are held in person or by telephone. This means that the press and the public can attend conference call meetings. The Act establishes the authority of a public body to set rules to allow for electronic attendance under certain limited circumstances. Participation must be by phone to allow voice identification of the absent member. 5 ILCS 120/7. Compare b. E-mail Electronic must be by phone to allow for electronic attendance under certain limited circumstances. Participation must be by phone to allow voice identification of the absent member. 5 ILCS 120/7. Compare b. E-mail Electronic must be by phone to allow for electronic attendance under certain limited circumstances. messages A text message qualifies as a "meeting" under the Act to the extent that it is a "contemporaneous interactive communication." See 5 ILCS 120/1.02. However, the quorum of the members of a public body held for the purpose of discussing public business," then the text message could fall within the definition of a "meeting." See id. Compare d. Instant messaging within the definition, electronic means (such as, without limitation, electronic chat, and instant, electronic chat, and instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." A meeting is "any gathering, whether in person or . . . electronic chat, and instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." A meeting is "any gathering, whether in person or . . . electronic chat, and instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the definition of a "meeting." See id. Compare d. Instant messaging within the defi messaging), or other means of contemporaneous interactive communication, of a majority of a quorum; (2) of a public body; (3) held for the purposes of discussing public body; (3) held for the purpose of discussing public body; (3) held for the purpose of discussing public body; (3) held for the purpose of discussing public body; (4) held for the purpose of discussing public body; (5) held for the purpose of discussing public body; (5) held for the purpose of discussing public body; (6) held for the purpose of discussing public body; (7) held for the purpose of discussing public body; (7) held for the purpose of discussing public body; (7) held for the purpose of discussing public body; (8) held for the purpose of discussing public body; (8) held for the purpose of discussing public body; (8) held for the purpose of discussing public body; (8) held for the purpose of discussing public body; (8) held for the purpose of discussing public body; (8) held for the purpose of discussing public body; (8) held for the purpose of disc discussing public business. Id. Compare Compare The Act states that it is the public policy of the state of Illinois "that its citizens shall be given . . . the right to attend all meetings at which any business of a public body is discussed or acted upon in any way." 5 ILCS 120/1. Public body is discussed or acted upon in any way." whether open or closed. See 5 ILCS 120/2.02. This right to attend is limited in circumstances where "the General Assembly has specifically determined that the public interest would be clearly endangered or the personal privacy or guaranteed rights of individuals would be clearly in danger of unwarranted invasion." 5 ILCS 120/1. How notice is given depends on the circumstances discussed below. All meetings covered by the Act to be public can be held at specified times and places that are convenient and open to the public. No meeting day falls on the holiday. See 5 ILCS 120/2.01. Note: The Illinois Act permits home rule units to enact, by ordinance, more stringent requirements than those set out in the Act "which would serve to give further notice to the public access to meetings." 5 ILCS 120/6. Local ordinances, therefore, should be checked for local open meetings provisions. (A home rule unit is defined by the Illinois Constitution as a county which has a chief executive officer elected by the electors of the county and any municipality which has a population of more than 25,000. Ill. Compare a. Definition The Act does not define the term "regular meeting." Compare b. Notice The Act declares that it is the public policy of the state of Illinois "that its citizens shall be given advance notice of . . . all meetings at which any business of a public body is discussed or acted upon in any way." 5 ILCS 120/2.02. This includes regularly scheduled meetings, special meetings and emergency meetings. See id. To satisfy the public notice requirement, a public body must post a copy of the notice at its principal office and at the location where the meeting is to be held 48 hours in advance of the meeting. See 5 ILCS 120/2.02(a). If the public body has a website, the agenda must also be posted until the regular meeting is concluded. Id. However, even if the public body fails to post the notice on its website, this will not invalidate any actions taken at the meetings as well. See 5 ILCS 120/2.02(a). However, the requirement of public notice of reconvened meetings does not apply if a meeting had been open to the public and either (1) it was to be reconvened within 24 hours or (2) an announcement of the time and place of the reconvened meeting agenda. See id. At the beginning of each calendar or fiscal year, public bodies must prepare and make available schedules of all of their regular meetings, stating the sequar meetings, stating the regular dates, times and places of those meetings. See 5 ILCS 120/2.03. Also, at the beginning of each calendar or fiscal year, public bodies must give public notice of their regular meetings, stating the regular dates, times and places for the meetings. See 5 ILCS 120/2.03. Also, at the beginning of each calendar or fiscal year, public bodies must give public notice of their regular meetings. See 5 ILCS 120/2.03. Also, at the beginning of each calendar or fiscal year, public bodies must give public notice of their regular meetings. See 5 ILCS 120/2.03. Also, at the beginning of each calendar or fiscal year, public bodies must give public notice of their regular meetings. If a change is made in regular meeting dates, at least ten days' notice of the change must be published in a newspaper of general circulation in the area where the public body functions. See 5 ILCS 120/2.03. However, if it functions in a population of less than 500 and if no newspaper is published there, notice may be given by posting notice of the Except for a meeting held in the event of a bona fide emergency, public notice of any special meeting, rescheduled regular meeting or reconvened meeting. See 5 ILCS 120/2.02(a). Notice must include the agenda for the meeting. See id. However, notice is not required of a reconvened meeting where the original meeting was open to the public and (1) it is to be reconvened within 24 hours, or (2) an announcement of the time and place of the reconvened meeting was made at the original meeting and there is no change in the agenda. See 5 ILCS 120/2.02(a). Notice of an emergency meeting must be given to any news medium having filed and annual request for notice under 5 ILCS 120/2.02(b). Notice must be made as soon as is practical, but in any event it must be given prior to the holding of the meetings with each public body, the agency is required to supply copies of the notice of its regular meetings, and of the notice of any special, emergency, rescheduled or reconvened meetings, to the requesting news medium. See 5 ILCS 120/2.02(b). Where a meeting is an emergency, rescheduled or reconvened meeting, notice must be given to the news media in the same manner as it is given to members of the public body. To affect this the news medium must give the public body an address or telephone number within the territorial jurisdiction of the public body where the notice at the principal office of the body holding the meeting. If no such office exists, the notice must be posted at the building where the meeting is to be held. See 5 ILCS 120/2.02(b). If the public body, notice of meetings must be posted on its website. See 5 ILCS 120/2.02(b). Any notice of meeting must remain on the website until the regular meeting is concluded. Id. An agenda for each regular meeting must be posted at the public body's principal office and at the location where the meeting. See 5 ILCS 120/2.02(a). If the public body has a website, they must also post the agenda on the website. Id. Notice of special, rescheduled or reconvened meetings must include the agenda as well. See id. However, the requirement of a regular meeting agenda shall not preclude the consideration of items not specifically set forth in the agenda, though. Rice v. Board of Trs., 326 Ill. App. 3d 1120, 762 N.E.2d 1205, 261 Ill. Dec. 278 (4th Dist. 2002). The Act does not specify any requirements for a proper agenda. The Appellate Court of Illinois, Fourth District, has held that an agenda stating "NEW BUSINESS" failed to provide sufficient advance notice to the public that a public body would take final action on a resolution providing for an alternative benefit program for elected county officers. Id. The notice of the schedule for regular meetings set out at the beginning of each calendar or fiscal year must state the regular dates, times and place of such meetings. See 5 ILCS 120/2.20(a). The Act specifies no other information to be placed in a notice other than the agenda of a regular, special, rescheduled or reconvened meeting. The State's Attorney — or any person — who believes the Act has not been compliance has occurred, or is about to occur, or in which the alleged noncompliance has occurred, or is about to occur, or in which the alleged noncompliance has occurred. filed prior to or within 60 days of the meeting alleged to be in violation by the State's Attorney. See 5 ILCS 120/3(a). A court may examine in camera (by the judge privately in the judge's chambers) any portion of the minutes of the meeting at which a violation of the Act is alleged to have occurred, and may take additional evidence as it deems appropriate." 5 ILCS 120/3(c). This includes requiring that a meeting be open to the public, granting an injunction against future violations of the Act, ordering the public body to make available to the public that portion of the minutes of the meeting in violation of the Act. The court may also assess against any party — except a state's attorney — reasonable. attorney fees and other litigation costs if the court determines that the action is malicious or frivolous. See 5 ILCS 120/3(d). Compare c. Minutes All public bodies must keep written minutes shall include, but need not be limited to: 1) the date, time and place of the meeting; 2) the members of the public body recorded as either present or absent and whether the members were physically present or decided, and a record of any votes taken. See 5 ILCS 120/2.06(a). The Act also requires that public bodies keep a verbatim record of all their closed meetings in the form of an audio or video recording. 5 ILCS 120/2.06(a). The Act specifies that minutes of meetings open to the public body; in addition, if the public body has a Web site maintained by its full-time staff, then beginning July 1, 2006 the minutes of the public body's regular meetings must be posted on the Web site must remain posted for at least 60 days after their initial posting. Id. Although a public body's regular meetings must be posted on the Web site must remain posted for at least 60 days after their initial posting. Id. Although a public body's regular meetings must be posted on the Web site must remain posted for at least 60 days after their initial posting. Id. Although a public body's regular meetings must be posted on the Web site must remain posted for at least 60 days after their initial posting. may consent to disclose the verbatim record of its closed meetings or may determine that the verbatim record no longer requires confidential treatment, the verbatim record no longer requires confidential treatment (the verbatim record no longer requires confidential treatment). Act does not define special or emergency meeting. Presumably, such a meeting is one that is not on the schedule of regular meeting. Notice of any special meeting shall be given "as soon as practicable, but in any event prior to the holding of such meeting, to any news medium which has filed an annual request for notice." 5 ILCS 120/2.02. Where a meeting, notice must be given to the news medium must given to the news medium must given to the news medium must given to the news medium which has filed an annual request for notice." the public body an address or telephone number within the territorial jurisdiction of the public body, and at the location of the public for the public body. entire 48 hours. Notices must also be posted on the website of the public body, if it has a website. Notice of special, rescheduled or reconvened meetings. The notice requirements supplement—but do not replace—any other notice required by law. See 5 ILCS 120/2.04. In addition, "failure of any news medium to receive a notice provided for by this Act shall not invalidate any meeting provided notice violation inconsequential, where the ordinance passed at a special meeting for which notice was challenged was a "reenactment" of an ordinance adopted at an earlier regular meeting attended by "hundreds of citizens." Williamson v. Doyle, 112 Ill. App. 3d 293, 298, 445 N.E.2d 385, 388, 67 Ill. Dec. 905, 908 (1st Dist. 1983). Compare c. Minutes Compare 3. Closed meetings or executive sessions Compare a. Definition A public, upon a majority vote of a quorum present, taken at a meeting open to the public, or close a portion of a meeting to the public, upon a majority vote of a quorum present, taken at a meeting open to the public for which notice has been given as required by the Act. See 5 ILCS 120/2a. The Act states that "[n]othing in . . [the] Act shall be construed to require that any meeting be closed to the public." 5 ILCS 120/2a. Compare b. Notice requirements If proper notice. See 5 ILCS 120/2a. However, "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 which authorizes the closing of the meeting." 5 ILCS 120/2a (emphasis added). There is no requirement that the notice or agendated and entered into the minutes of the meeting." 5 ILCS 120/2a (emphasis added). include a reference to a closed session. No agenda is required to be published for a closed meeting, but the provision of the Act authorizing the closed and be recorded and entered into the statutory subsection of the Act authorizing closure of the meeting is helpful, it is not required; a public body need only quote or call attention to the exception upon which it relies. Henry v. Anderson, 356 Ill. App. 3d 952, 955, 827 N.E.2d 522, 524, 292 Ill. Dec. 993, 995 (4th Dist. 2005). Compare c. Minutes must be kept at closed meetings. 5 ILCS 120/2.06. Public body need only quote or call attention to the exception upon which it relies. bodies must also keep a verbatim record of all their closed meetings in the form of an audio or video recording. 5 ILCS 120/2.06(a). Minutes of a meeting closed to the public interest or the privacy of an individual by keeping them confidential." 5 ILCS 120/2.06 (f). There is no case law in which access to minutes was sought under this provision. Each body must twice annually review all minutes of closed meetings to determine if they should be released. See 5 ILCS 120/2.06 (c)). Although a public body may consent to disclose the verbatim record of its closed meetings or may determine that the verbatim record is not otherwise open for public inspection. 5 ILCS 120/2.06(e). Further, the verbatim record is not subject to discovery in an administrative or judicial proceeding except to enforce the Act, the court, if it believes such an examination is necessary, must conduct an in camera examination of the verbatim record as is appropriate to determine whether there has been a violation of the quorum present at an open meeting for which notice has been given. The vote of each member shall be publicly disclosed at the time of the vote and must be recorded and entered into the minutes of the meeting. See 5 ILCS 120/2a. Compare f. Tape recording requirements The Act requires that public bodies keep a verbatim record of all their closed meetings in the form of an audio or video recording. 5 ILCS 120/2.06(a). However, this record of all their closed meetings in the form of an audio or video recording/broadcast of meetings Any person is permitted to record the proceedings of a meeting may prescribe reasonable rules to govern the making of such recordings. See 5 ILCS 120/2.05. There is one exception to this. Under 735 ILCS 5/8-701, no witness can be compelled to testify in any proceeding conducted by a court, commission, administrative agency or other tribunal if any portion of the testimony is to be broadcast or televised or if motion pictures are to be taken of the testimony is to be broadcast or televised or if motion pictures are to be taken of the testimony is to be broadcast or televised or if motion pictures are to be taken of the testimony. may refuse to testify on these grounds, and the authority holding the meeting may prohibit such recordings allowed Compare 2. Photographic recordings allowed Compare 3. Sound recordings allowed Compare 4. Sound recordings allowed Compare 4. Sound recordings allowed Compare 4. Photographic recordings allowed Compare 4. Sound recordings allowed Compare 5. See 5 ILCS 120/2.05. Compare 4. Sound recordings allowed Compare 5. See 5. ILCS 120/2.05. See 5 upon approval at subsequent meetings. Materials provided to board members may be available pursuant to a FOIA request. Compare H. Are there sanctions for noncompliance? The open meetings law gives courts broad discretion for punishing violations. 5 ILC 120/3. Parities can file suit for a future or past violation of the open meetings law. 5 ILC 120/3(a). The court may order a future meeting be open, order minutes of a closed meeting, and award attorney's fees to the party who prevails. 5 ILC 120/3(c), (d). Violators of the open meetings law are guilty of a misdemeanor. 5 ILC 120/4. Compare II. Exemptions and other legal limitations Compare A. Exemptions in the open meetings statute The Act states that it is the public policy of the state of Illinois "that its citizens shall be given . . . the right to attend exist only in those limited circumstances where the General Assembly has specifically determined that the public interest would be clearly in danger of unwarranted invasion." 5 ILCS 120/1. Compare 1. Character of exemptions The Act specifies that only those portions of any meeting. expressly enumerated as exceptions may be closed. See 5 ILCS 120/2a. The exceptions are to be strictly construed, and this "strict construction leaves no room for ambiguity in the announcement of exceptions." Henry v. Anderson, 356 Ill. App. 3d 952, 957, 827 N.E.2d 522, 526, 292 Ill. Dec. 993, 997 (4th Dist. 2005). No final action may be taken at a closed meeting. See 5 ILCS 120/2(e). All final action taken at an open meeting shall be preceded by a public recital of the nature of the matter being conducted. See 5 ILCS 120/2(e). But see the decision of the Supreme Court in which it approved 'preliminary' action in a closed session in which 6 of 7 board members signed a settlement agreement, and delayed 'final' action in any open session for weeks thereafter. Board of Educ. of Springfield Sch. Dist. 186 v. Att'y Gen. of Illinois, 2017 IL 120343, 77 N.E. 3d 625. Secret ballots, even if taken in a public meeting, are not permitted under Act. See WSDR Inc. v. Ogle County, 100 Ill. App. 3d 1008, 427 N.E.2d 603, 56 Ill. Dec. 408 (1981). In a representative democracy, voters are entitled to know how their elected officials are free to discuss publicly the issues raised in closed sessions. Public bodies may not impose such limitations on their members. See Op. Att'y. Gen. 001 (1991); Swanson v. Board of Police Comm'rs, 197 Ill. App. 3d 592, 555 N.E.2d 35, 144 Ill. Dec. 66, 71 (4th Dist. 1997). As balanced against the policy of openness. See Board of Regents v. Reynard, 292 Ill. App. 3d 968, 977, 686 N.E.2d 1222, 1227, 227 Ill. Dec. 66, 71 (4th Dist. 1997). As all exceptions go against the general requirement that public bodies meet in the open, "exceptions are to be strictly construed, extending only to subjects clearly within their scope." 5 ILCS 120/2(b). Where a specific statute requires a closed meeting, the statute prevails over the Open Meetings Act's general provisions. For example, a 1981 provision in the Election Code, 10 ILCS 5/9-21, provided that upon investigating and rendering judgments upon complaints filed under the administrative enforcement requirements for disclosure of political campaign contributions and expenditures, the state election board shall conduct a closed preliminary hearing. The Illinois Attorney General concluded that this specific provision prevailed over any apparently conflicting general provision of the Open Meetings Act. See Op. Att'y Gen. 041 (1982), at 124-25. Otherwise, the Act specifically states that "[n]othing in this Section or this Act shall be construed to require that any meeting be closed to the public." 5 ILCS 120/2a (emphasis added). Compare 2. Description of each exemption The specified exemptions to open meetings are: Collective bargaining. Collective bargaining. Collective bargaining. Collective bargaining. Collective bargaining. Collective bargaining. law, to a quasi-adjudicative body, as defined in the Open Meetings Act, provided that the body prepares and makes available for public inspection a written decision setting forth its determinative reasoning. See 5 ILCS 120/2(c)(4). A quasi-adjudicative body means an administrative body charged by law or ordinance with the responsibility to conduct hearings, receive evidence or testimony and make determinations based thereon, but does not include local electoral boards when such bodies are considering petition challenges. See 5 ILCS 120/2(d). Salaries. Deliberations concerning salary schedules for one or more classes of employees. See 5 ILCS 120/2(c)(2). Prisoner Review Board. Deliberations for decisions of the Prisoner Review Board. See 5 ILCS 120/2(c)(18). Real property. Meetings whether a particular parcel should be acquired—and the setting of a price for sale or lease of property. owned by the public body may be placed under closed session. See5 ILCS 120/2(c)(5) and (6). Note: The authority to close meetings to discuss the sale of real property was specifically eliminated by amendment in 1967. See Op. Att'y. Gen. 024 (1980). (Illinois Attorney General opining that meeting may not be closed when topic under consideration is sale of real property by a municipal corporation. See id. at 108). A public body may meet in closed session to set a sales price for real estate owned by the public body. See 5 ILCS 120/2(c)(6). Also, the annexation of property cannot be considered acquisition of real property. See, e.g., Op. Att'y. Gen. 026 (1983) (opining that discussion of merits of annexation should be open). Public Safety. Security procedures and the use of personnel and equipment to respond to an actual, a threatened, or a reasonably potential danger to the safety of employees, students. The sale or purchase of securities, investments or investments or investment contracts. See 5 ILCS 120/2(c)(7). Law enforcement agencies. 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. See 5 ILCS 120/2(c)(14). Litigation. Meetings held to discuss litigation: 1) when an action against, affecting or on behalf of the particular public body has been filed and is pending in a court or administrative tribunal; or 2) when the public body has been filed and entered into the minutes of the closed meeting. See 5 ILCS 120/2(c)(11); see alsoBoard of Regents v. Reynard, 292 Ill. App. 3d 968, 686 N.E.2d 1222, 227 Ill. Dec. 66 (4th Dist. 1997) (holding that, where there was no finding of probable or imminent litigation, Act was violated and trial court erred in failing to find so and to enter an injunction against public body for future violations). "[T]he legislature intended to prevent public bodies from using the distant possibility of litigation as a pretext for closing their meetings to the public." Henry v. Anderson, 356 Ill. App. 3d 952, 957, 827 N.E.2d 522, 525, 292 Ill. Dec. 993, 996 (4th Dist. 2005); Public Access Opinion 16-007 (available at (mere possibility of litigation) is not a sufficient basis to invoke section 2(c)(11) exemption); PAC Op. 21-003 (nor is resident stating he would retain an attorney). Where such litigation is pending, a public body may authorize the filing of a motion to enforce an order in the case during a meeting closed to the public. Allied Asphalt Paving Co. v. Village of Hillside, 314 Ill. App. 3d 138, 146-47, 731 N.E.2d 425, 431-32, 246 Ill. Dec. 897, 903-04 (1st Dist. 2000).Note: This provision is subject to potential abuse by a public body, which may invoke the litigation exception on the slimmest possible grounds. The court in People ex rel. Hopf v. Barger, 30 Ill. App. 3d 525, 332 N.E.2d 649 (2d Dist. 1975), concluded that the legislature did not intend that consultations between the governing body and its attorney must always be conducted openly where this could result in the public being placed at a litigious disadvantage: "This interpretation gives to legal consultation." Id. at 659-60. The Illinois Attorney General, in a 1983 opinion, expressed his views of the circumstances under which this exemption may properly be invoked: 1) The fact that the public body may become a party to a judicial proceeding because of the action it takes does not permit it to use the litigation exception to conduct its deliberations in closed sessions. 2) The presence of an attorney representing a client who opposes the contemplated action of the public body does not, in and of itself, constitute a reasonable ground for believing that litigation is forthcoming. 3) If there is a possibility of a lawsuit over the matter, this should be discussed in an open meeting, since it goes to the merits of the issue rather than to the litigation itself. 4) Consultations between the public body and its attorney concerning the potential legal impact and the legal ramification is the subject matter of the consultations. Once the litigation exception is properly invoked the only matters which may lawfully be disclosed at the closed meetings are the strategies, posture, theories and consequences of the litigation itself. See Op. Att'y Gen. 026 (1983). Employment matters. A meeting may be closed to consider information regarding appointment, employment, compensation, discipline, performance or dismissal of specific employees, specific individuals who serve as independent contractors in a park, recreational, or specific volunteers of the public body or legal counsel for the public body or legal counsel for the public body, including hearing testimony on a complaint lodged against an employee, a specific individual who serves as an independent contractor in a park, recreational or education setting, or a volunteer of the public body or against legal counsel for the public body to determine its validity. See 5 ILCS 120/2(d). Student disciplinary cases or to discuss matters are specifically excluded from this exemption. See 5 ILCS 120/2(d). relating to the placement of individual students in special education programs and on other matters relating to individual students. See 5 ILCS 120/2(c)(9) and (10). Professional ethics or performance. A meeting by an advisory body's field of competence. Meetings may also be closed when meeting with a representative of a statewide association of which the public body is a member with regards to self-evaluations, practices and procedures of professional ethics. See 5 ILCS 120/2(c)(15) and (16). Discrimination complaints may be closed for conciliating complaints may be closed for conciliating complaints. in the sale or rental of housing when closed meetings are authorized by the law or ordinance prescribing fair housing practices and creating a commission or administrative agency for their enforcement. See 5 ILCS 120/2(c)(13). Appointments to fill vacancies on public bodies. The selection of a person to fill a public office, as defined in the Open Meetings Act, including a vacancy in a public office, when the public is given power to appoint under law or ordinance, or the discipline, performance or removal of the occupant of a public office, when the public is given power to removal of the occupant of a public office, when the public body is given power to removal of the occupant of a public office, when the public is given power to remove the occupant under law or ordinance or removal of the occupant of a public office, when the public is given power to removal of the occupant of a public office, when the public body is given power to removal of the occupant of a public office, when the public is given power to removal of the occupant of a public office, when the public office, when the public is given power to removal of the occupant of a public office, when the public office settle claims. A local public entity subject to this Act may meet in closed session to establish reserves or settle claims as provided in the Local Governmental Employees Tort Immunity Act if otherwise the disposition of a claim or potential claim might be prejudiced. 5 ILCS 120/2(c)(12). Review or discuss claims. A public body subject to this Act may meet in closed session to review or discuss claims, loss or risk management information, records, data, advice or communications from or with respect to any intergovernmental risk management association or self-insurance pool of which public body is a member. See 5 ILCS 120/2(c)(12) Illinois Experimental Organ Transplantation Procedures Board. The review or discussion of applications received under the Experimental Organ Transplantation Procedures Act. See 5 ILCS 120/2(c)(19). Health care professionals for a hospital, or other institution providing medical care, that is operated by the public body. See 5 ILCS 120/2(c)(17). State Employees Suggestion Award Board. The classification and discussion of matters classified as confidential or continued confidential by the State Government Suggestion Award Board. See 5 ILCS 120/2(c)(20). Closed meeting minutes. Discussion of minutes of meetings lawfully closed under this Act, whether for purposes of approval by the body of the minutes as mandated by Section 2.06 of the Open Meetings Act. See 5 ILCS 120/2(c)(21). State Emergency Medical Services Disciplinary Review Board. Deliberations for decisions of the State Emergency Medical Services Disciplinary Review Board. See 5 ILCS 120/2(c)(22). Municipal utility. The operation by a municipal utility or the operation by a municipal utility or the operation by a municipal utility or the operation by a municipal utility. (ii) the results or conclusions of load forecast studies. See 5 ILCS 120/2(c)(23). Death review team, executive council, residential health care facility resident sexual assault and death review team or the Executive Council under the Abuse Prevention Review Team Act. See 5 ILCS 120/2(c) (24). Team of experts under Brian's law. Meetings of a mortality review team appointed under the Department of Juvenile Justice Mortality Review Team Act. 5 ILCS 120/2(c)(26). Correspondence and records. Correspondence and records (i) that may not be disclosed under Section 11-9 of the Illinois Public Aid Code or (ii) that pertain to appeals under Section 11-8 of the Illinois Public Aid Code. 5 ILCS 120/2(c)(28). Government audit and finance committees, and their equivalents, when the discussion involves internal control weaknesses, identification of potential fraud risk areas, known or suspected frauds, and fraud interviews conducted in accordance with generally accepted auditing standards of the United States of America. 5 ILCS 120/2(c)(29). Illinois Fatality Review Team Advisory Council. Meetings or portions of meetings of a fatality review team or the Illinois Fatality Review Team Advisory Council during which a review of the death of an eligible adult in which abuse or neglect is suspected, alleged, or substantiated is conducted pursuant to Section 15 of the Adult Protective Services Act. 5 ILCS 120/2 (c)(30). Concealed carry licensing Review Board. Meetings and deliberations for decisions of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act. 5 ILCS 120/2(c)(31). Regional Transportation Authority Board and its Service Boards when the discussion involves review by the Regional Transportation Authority Board of employment contracts under Section 28d of the Metropolitan Transit Authority Act. 5 ILCS 120/(c)(32). Illinois Controlled Substances Committees. Meetings or portions of meetings of the advisory committee and peer review subcommittee created under Section 320 of the Illinois Controlled Substances Act during which specific controlled substance prescriber, dispenser, or patient information is discussed. 5 ILCS 120/(c)(33). Tax Increment Financing Reform Task Force. Meetings of the Tax Increment Financing Reform Task Force under Section 2505-800 of the Department of Revenue Law of the Civil Administrative Code of Illinois. 5 ILCS 120/2(c)(34). Medicaid discussion group. Meetings of the group established to discuss Medicaid capitations or portions of deliberations for decisions of the Illinois Gaming Board in which there is discussed any of the following: (i) personal, commercial, financial, or other information obtained from the disclosure by federal or State law. 5 ILCS 120/(c)(36). Note: Employment matters subject to a closed meeting, regarding the appointment, compensation, discipline, performance or dismissal, does not apply to general categories of employees as it is too broad to point to specific employees as it is too broad to point to specific employees as it is too broad to point to specific employees. members to receive training on compliance with this Act. Each public body must submit a list of designated employees, officers, or members to the Public Access Counselor. Within 6 months after the effective date of this amendatory Act of the 96th General Assembly, the designated employees, officers, and members must successfully complete an electronic training curriculum, developed and administered by the Public Access Counselor, and thereafter must successfully complete an annual training program. Thereafter, whenever a public body designates an additional employee, officer, or member to receive this training, that person must successfully complete the electronic training curriculum within 30 days after that designation and file a copy of the certificate of completion with the public body. 5 ILCS 120/1.05. The General Assembly are specifically exempt from the definition of "public body," but other state and local legislative bodies are covered by the definition. See 5 ILCS 120/1.02. The policy of openness is the same regarding the General Assembly, but the Illinois Constitution provides that sections of each house determine that the public interest requires a closed meeting. Joint committee and legislative commission meetings may also be closed if two-thirds of the members elected to each house so determine. See Ill. Const. art. IV, § 5(c)). One court has noted that this provision actually places greater restrictions on the General Assembly than on bodies covered by the Act, since the General Assembly must have the concurrence of two-thirds of the members involved, while the Act allows closed meetings on certain topics without member concurrence. See People ex. rel. Hopf v. Barger, 30 Ill. App. 3d 525, 534-35, 332 N.E.2d 649, 657 (2d Dist. 1975). Additionally, the Open Meetings Act does not apply to a child death review team, the Illinois Child Death Review Teams Executive Council, and the meetings of the Executive Ethics Commission. See 5 ILCS 120/1.02. Compare There are no provisions in the Act for court mandated opening or closing of meetings, aside from court-ordered relief upon challenge to a public body's decision to close a meeting. Compare III. Meeting categories - open or closed Compare A. Adjudications by administrative bodies are explicitly covered by the Act and their meetings are generally open. However, their adjudications of the Illinois Gaming Board if any of the following is discussed: (i) personal, commercial, financial, or other information obtained from any source that is privileged, proprietary, confidential, or a trade secret. 5 ILCS 120/(c)(36). Deliberations for decisions of the Concealed Carry Licensing Review Board under the Firearm Concealed Carry Act. 5 ILCS 120/2(c)(31). Compare 2. Only certain adjudications closed, i.e. under certain statutes Compare B. Budget sessions Would be generally covered by the Act and would be gene leased. Compare D. Federal programs Generally, no exemption under the Act. If the nature of a discussion of a federal program fell within one of the exemptions, the meeting could be closed. See 5 ILCS 120/2. Compare E. Financial data of public bodies This could encompass a variety of topics, so whether a meeting discussing financial data is open depends on whether one of the exemptions applies. Compare F. Financial data, trade secrets, or proprietary data of private corporations and individuals Not addresses these topics specifically, so they are presumably open. Compare H. Grand jury testimony by public employees This is a matter of constitutional law. Grand jury testimony is secret. Compare I. Licensing examination would be open to the public. A meeting to discuss the contents of an examination most surely is justifiably closed under personnel exemptions, since test questions, scoring keys and other examination data used to administer an academic examination or determine the qualifications of an applicant for a license or employment are exempt from public disclosure under 5 ILCS 140/7(j) of the FOI Act. Compare J. Litigation, pending litigation or other attorney-client privileges Closed under certain conditions. See 5 ILCS 120/2(c). Compare L. Parole board meetings, or meetings involving parole board decisions The Act exempts only deliberations for decisions of the Illinois Prisoner Review Board. See 5 ILCS 120/2(c)(1). Compare 1. Interviews for public employment Compare 2. Disciplinary matters, performance or ethics of public employees Open. Unless the following apply: Closed if it involves a specific employee, specific individuals who serve as independent contractors in a park, recreational, or specific employee, specific employee, specific employees of the public body or against legal counsel for a public body. 5 ILCS 120/2(c)(1). Closed regarding the discipline or formal peer review of physicians or other health care professional. 5 ILCS 120/2(c)(17). Closed: Professional ethics or performance when considered by an advisory body appointed to advise a licensing or regulatory agency on matters germane to its field of competence. 5 ILCS 120/2(c)(16). Compare Presumably open unless it involves a specific employee, specific individuals who serve as independent contractors in a park, recreational, or specific volunteers of the public body or against legal counsel for a public body. 5 ILCS 120/2(c)(1). Compare O. Real estate negotiations Closed under 5 ILCS 120/2(c)(5)-(6). Compare P. Security, national and/or state, of buildings, personnel or other A meeting may be closed to discuss security procedures and the use of personnel and equipment to respond to an actual, a threatened or a reasonably potential danger to the safety of employees, students, staff, general public, or public property. See 5 ILCS 120/2(c)(8). Compare Q. Students, discussions on individual students A meeting may be closed to hear student disciplinary cases or to discuss matters relating to the placement of individual students. See 5 ILCS 120/2(c)(9) and (10). Compare IV. Procedure for asserting right of access Compare A. When to challenge Compare 1. Does the law provide expedited procedure for reviewing request to attend upcoming meetings? Unlike the Freedom of Information Act, the Open Meetings a court to expedite proceedings brought under the Act. It may be advisable to call a court's attention to the expediting provision in the Freedom of Information Act, 5 ILCS 140/11(h) (1987), and suggest that the same policy should apply to proceedings brought under the Open Meetings Act. Compare 2. When barred from attending Any person, including the State's Attorney, may bring a civil action in circuit court for the judicial circuit in which the alleged noncompliance has occurred or is about to occur. See 5 ILCS 120/3(a). The action must be brought prior to or within 60 days of the meeting alleged to be in violation. See 5 ILCS 120/3(a). There is a split in authority among the districts of the Illinois Appellate Court as to who may bring an action when the facts concerning the meeting, then "within 60 days after the meeting, then "within 60 days of the discovered within by the State's Attorney." Id. The First District, for example, only allows the State's Attorney to bring such an action, see Paxon v. Board of Educ., 276 Ill. App. 3d 912, 658 N.E.2d 1309, 213 Ill. Dec. 288 (1995), whereas the Second District allows anyone to bring such an action, as long as they do so within 60 days of the discovery of a violation by the State's Attorney. If the State's Attorney has not discovered the violation yet, the time period has not begun to toll. See Safanda v. Zoning Bd. of Appeals, 203 Ill. App. 3d 687, 561 N.E.2d 412, 149 Ill. Dec. 134 (1990). The Second District, however, is in the minority, and the majority's restrictive reading of the Act means that, unless you can get your State's Attorney on board, you are limited to bringing an Open Meetings Act suit within 60 days of the violative meeting. It also means that, if you learn of a violation 60 days or more after the meetings, it will be too late to do anything about it. Compare 4. For ruling on future meetings Act suit within 60 days of the violative meetings are limited to bringing and the violative meetings. It also means that, if you learn of a violation 60 days or more after the meetings are limited to bringing and the violative meetings. It also means that, if you learn of a violation 60 days or more after the meetings are limited to bringing and the violative meetings. action may be brought within 60 days prior to a challenged meeting. See 5 ILCS 120/3(a). Compare 5. Other Co established in the Office of the Attorney General. This, too, should be filed within sixty days of the alleged violation. See 5 ILCS 120/3.5. The Attorney General may exercise their discretion, choosing mediation or other means of resolving the dispute rather than a binding opinion. 5 ILCS 120/3.5. The Attorney General may exercise their discretion, choosing mediation or other means of resolving the dispute rather than a binding opinion. 5 ILCS 120/3.5. under section 3.5 results in a review of the alleged violation. Then the Attorney General shall issue an opinion to the requester and public body within sixty days after initiating review. Id. The Attorney General shall issue advisory opinions to public body within sixty days after initiating review. Id. The Attorney General shall issue advisory opinions to public body within sixty days after initiated upon receipt of a written request from the head of the public body or its attorney. See 5 ILCS 120/3.5(e) and (h). A public body that relies in good faith on an advisory opinion of the Attorney General in complying with the requirements of this Act is not liable for penalties under this Act. so long as the facts upon which the opinion is based have been fully and fairly disclosed to the Public Access Counselor. See 5 ILCS 120/3.5(h). Note: Under section 3.5, the Attorney General can void final actions taken in open meetings as well as closed meetings. Public Access Opinion 16-015 (available at (original vote voided after determination that proper public notice was not provided). Compare a. Administrative forum Redress is sought by filing a request with the Public Access Counselor, or directly in circuit court. Thus, this section is inapplicable in Illinois. Compare b. State attorney General Lisa Madigan established the position of Public Access Counselor within the Public Access Counselor, or directly in circuit court. enforce compliance with the Open Meetings Act. A person who believes that a violation of the Open Meetings Act has occurred may file a request for review with the Public Access Counselor has issued a binding opinion, the process is over. Either party may, however, seek administrative review of the Public Access Counselor's opinion. The officials, offers training on the Act to public officials, and takes action to resolve disputes arising under the Act. The telephone number of the Public Access Counselor is (877) 299-3642, and the correspondence may be sent to the Public Access Counselor at the Attorney General's Springfield, Illinois 62706. The present acting Public Access Counselor is Sarah Pratt, an attorney who is a former investigative reporter for The Associated Press. More information may be found at: . Compare c. Court Redress is sought directly in circuit court. Compare 2. Applicable time limits Civil action must be brought within sixty days of the alleged violation, or within sixty days of the discovery of the alleged violation. See 5 ILCS 120/3(a). Compare 3. Contents of request for ruling Compare 4. How long should you wait for a response Compare C. Court review of administrative decision Compare 1. Who may sue? A civil action may be brought either by a private party (such as a news organization) or the State's Attorney. See 5 ILCS 120/3(a). Compare 2. Will the court give priority to the pleading? The Open Meetings Act contains no provision directing a court to expedite proceedings brought under the Act. It may be advisable to call a court's attention to the expediting provision in the Freedom of Information Act, 5 ILCS 140/11(h), and suggest that the same policy should apply to proceedings brought under the Act. It may be advisable to call a court's attention to the expediting provision in the Freedom of Information Act, 5 ILCS 140/11(h), and suggest that the same policy should apply to proceedings brought under the Act. Illinois process involves drafting a complaint in circuit court, service of process, the potential necessity of drafting affidavits and preparing witnesses, it is probably inadvisable to proceed pro se. Compare 4. What issues will the court address? These are governed by Section 3(c) of the Act. The court may grant appropriate relief, including but not

limited to a mandamus order to open a meeting, an injunction against future violations, or declare null and void any final actions taken at a closed meeting in violation of the Act, 5 ILCS 120/3(c), such actions are not necessarily void. People ex rel. Graf v. Village of Lake Bluff, 321 Ill. App. 3d 897, 907, 748 N.E.2d 801, 811, 255 Ill. Dec. 97, 107 (2d Dist. 2001), rev'd on other grounds, 206 Ill. 2d 541, 795 N.E.2d 281, 276 Ill. Dec. 928 (2003). Relief under the Act is discretionary, see id., and minimal violations have been held not to support nullification of actions taken at such meetings. See Graf. Compare a. Open the meeting Compare Compare c. Order future meetings open Compare 5. Pleading format These are governed by Section 3(c) of the Act. The court may grant appropriate relief, including but not limited to a mandamus order to open a meeting, an injunction against future violations, or declaring null and void any final action taken at a closed meeting. Although courts are authorized to declare null and void any final actions taken at a closed meeting in violation of the Act, 5 ILCS 120/3(c), such actions are not necessarily void. People ex rel. Graf v. Village of Lake Bluff, 321 Ill. App. 3d 897, 907, 748 N.E.2d 801, 811, 255 Ill. Dec. 97, 107 (2d Dist. 2001), rev'd on other grounds, 206 Ill. 2d 541, 795 N.E.2d 281, 276 Ill. Dec. 928 (2003). Relief under the Act is discretionary, see id., and minimal violations have been held not to support nullification of actions taken at such meetings. See Graf. Compare 6. Time limit for filing suit An action must be brought 60 days before or after the meeting alleged to be in violation. See 5 ILCS 120/3(a). If facts concerning the meeting are not discovered within the 60-day period, then the State's Attorney must bring an action within 60 days of the discovery of a violation. Id. Compare 7. What court? The action may be brought in the circuit court for the judicial circuit in which the alleged violation occurred (or is about to occur), or in which the affected public body has its principal office. See 5 ILCS 120/3(a). Compare 8. Judicial remedies available The court may grant relief in the form of ordering a meeting to be opened to the public, and/or granting an injunction of the minutes of the meeting that are not authorized to be kept confidential. The court also has the option of declaring null and void any final action taken at a meeting held in violation of the Act. See 5 ILCS 120/3(c)); People ex rel. Graf v. Village of Lake Bluff, 321 Ill. App. 3d 897, 908, 748 N.E.2d 801, 811, 255 Ill. Dec. 97, 107 (2d Dist. 2001), rev'd on other grounds, 206 Ill. 2d 541, 795 N.E.2d 281, 276 Ill. Dec. 928 (2003). Compare 9. Availability of court costs and attorney's fees The court may assess against any party, except a state's attorney, reasonable attorney fees and other litigation costs incurred by any party who substantially prevails in an action brought in accordance with the Act. Costs may be assessed against a private party or parties bringing an action pursuant to this section only if the court determines that the action was malicious or frivolous. See 5 ILCS 120/3(d). Factors to assess attorney's fees include: (1) the skill and standing of the attorney; (2) the nature of the case; (3) the novelty or difficulty of the issues and work involved; (4) the importance of the matter; (5) the degree of responsibility required; (6) the usual and customary charges for comparable services; (7) the benefit to the client; and (8) whether there was a reasonable connection between the fees charged and the amount involved in the litigation. Kaiser v. MEPC American Properties, Inc., 164 Ill. App. 3d 978, 984, 518 N.E.2d 424, 428 (1987). Compare 10. Fines The Illinois Open Meetings Act provides for civil remedies as well as criminal penalties for violations or impending violations of the Act. If a complaint has been filed by the State's Attorney, the court may impose penalties. Violation of the Illinois Open Meetings Act is a Class C misdemeanor, which is punishable by a fine of not more than \$1,500 or by imprisonment for \$1,500 or by imprisonment for \$1,500 or by imprisonment for \$1,500 or by imprisonmen court's order can be appealed to the Illinois Appellate Court. After the issuance of a binding opinion of the Public Access Counselor, either party may seek administrative review subject to § 7.5 of the Open Meetings Act. See 5 ILCS 120/3.5(e). An action for administrative review of a binding opinion of the Attorney General shall be commenced in Cook or Sangamon County. An advisory opinion issued to a public body is not considered a final decision of the Attorney General for purposes of Section 7.5 of the Attorney General, is considered a final decision of an administrative review under the Administrative Review Law (735 ILCS 5/Art. III). Id. Note. The decision not to issue a binding opinion shall not be reviewable. See 5 ILCS 120/3.5(e). The Public Access Counselor may resolve a dispute through mediation. Id. Compare 2. Time limits for filing appeals The losing party has 30 days from the day the circuit court's order is entered to appeal the decision. See Ill. S. Ct. Rule 303(a). Compare The appellant might consider notifying the Illinois Press Association, which might be interested in appearing as amicus briefs in important press cases before a state's highest court. Compare A. Is there a right to participate in public meetings? The Illinois Act does not specifically provide a right to participate in a public meeting. See People ex rel. Graf v. Village of Lake Bluff, 321 Ill. App. 3d 897, 907, 748 N.E.2d 801, 811, 255 Ill. Dec. 97, 107 (2d Dist. 2001), rev'd on other grounds, 206 Ill. 2d 541, 795 N.E.2d 281, 276 Ill. Dec. 928 (2003). The Act does, however, require "any person . . . an opportunity to address public officials under the rules established and recorded by the public body." 5 ILCS 120/2(g) (emphasis added). In addition, the Act requires that public meetings at public meetings at inconvenient times and places. Id.; see also Gerwin v. Livingston County Board, 345 Ill. App. 3d 352, 802 N.E.2d 410, 280 Ill. Dec. 485 (4th Dist. 2003). Convenience is determined by what is reasonable: It would be unreasonable to hold meetings in a small room because those wishing to attend would have difficulty gaining admittance, while it would also be unreasonable to require a public body to hold its meetings in a football stadium to accommodate all those who wish to attend. Id. at 362. Further, a meeting location. Id. Many public body's typical meeting location. Id. Many public body is the public b limiting the number of speakers on a particular issue. However, a public body cannot prohibit a person from commenting on the basis that they are not a city resident. Public Access Opinion 19-009 (available at . Compare Many public bodies limit the number of speakers on an issue, or limit each speaker to 5 or 10 minutes. Compare C. Can a public body limit comment? Many public bodies limit the number of speakers on an issue, or limit each speaker to 5 or 10 minutes. Compare Review and comply ask to speak during the public comment period. Compare Disruptive behavior may result in expulsion from a meeting, or even arrest, depending on the precise nature of the behavior. Compare Appendix Compare

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