



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ILLINOIS

KWAME RAOUL  
ATTORNEY GENERAL

August 13, 2019

*Via electronic mail*

The Honorable Ken Keefe  
Board Member  
Board of Education of Mahomet-Seymour  
Community Unit School District No. 3  
1301 South Bulldog Drive  
Mahomet, Illinois 61853  
kjkeefe@gmail.com

*Via electronic mail*

The Honorable Max McComb  
President  
Board of Education of Mahomet-Seymour  
Community Unit School District No. 3  
1301 South Bulldog Drive  
Mahomet, Illinois 61853  
mmccomb@mscusc.org

RE: OMA Request for Review – 2019 PAC 58617

Dear Mr. Keefe and Mr. McComb:

On June 17, 2019, Mr. Ken Keefe submitted the above-captioned Request for Review alleging that the Board of Education of Mahomet-Seymour Community Unit School District No. 3 (Board) violated the Open Meetings Act (OMA) (5 ILCS 120/1 *et seq.* (West 2018)) on numerous dates between April 17, 2017, and April 15, 2019.<sup>1</sup> For the reasons that follow, this office will not take further action with respect to Mr. Keefe's allegations, but offers advice with respect to OMA compliance.

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<sup>1</sup>A copy of Mr. Keefe's Request for Review is attached.

In his submission, Mr. Keefe informed this office that he is a recently elected member of the Board, and, in order to understand past Board decisions and gain useful context, he has reviewed Board closed session minutes and verbatim recordings, as allowed by OMA. Mr. Keefe stated that on May 8, 2019, he reviewed the Board-approved closed session minutes of all forty-five meetings held from April 17, 2017, until May 8, 2019. He also stated that between May 16, 2019, and June 14, 2019, he listened to at least nine closed session verbatim recordings of meetings held between October 16, 2017, and April 15, 2019. Based on his review, he alleged the following OMA violations:

1) The minutes of forty-four closed sessions held between April 17, 2017, and March 11, 2019, did not provide a sufficient summary of the matters discussed;

(2) Verbatim recordings of the Board's November 20, 2017, and August 6, 2018, closed session meetings are missing, as are portions of the verbatim recordings of eight closed sessions between February 12, 2018, and March 11, 2019;

3) During eight meetings between April 17, 2017, and December 17, 2018, the Board discussed matters in closed session that were not covered by the exception cited to enter closed session;

4) During the closed session portions of several specified meetings, the Board discussed matters outside of any closed session exceptions.

Section 3.5(a) of OMA (5 ILCS 120/3.5(a) (West 2018) provides, in pertinent part:

A person who believes that a violation of this Act by a public body has occurred may file a request for review with the Public Access Counselor established in the Office of the Attorney General not later 60 days after the alleged OMA violation. **If facts concerning the violation are not discovered within the 60-day period, but are discovered at a later date, not exceeding 2 years after the alleged violation, by a person utilizing reasonable diligence, the request for review may be made within 60 days of the discovery of the alleged violation.** (Emphasis added.)

Under the plain language of section 3.5(a), a person must submit a Request for Review within 60 days after an alleged violation unless the person did not discover facts concerning the alleged violation within those 60 days, despite utilizing reasonable diligence. All of the violations alleged by Mr. Keefe occurred more than 60 days before he submitted his Request for Review.

Here, however, it does not appear that a person using "reasonable diligence" could have discovered the alleged violations earlier, because they were discovered only after review of closed session recordings, which are generally never released, and closed session minutes, which are available to the public only if the public body votes to release them.

It appears that Mr. Keefe was allowed to review closed session verbatim recordings pursuant to section 2.06(e) of OMA (5 ILCS 120/2.06(e) (West 2018)), which provides that "[a]ccess to verbatim recordings shall be provided to duly elected officials[.]" under specified circumstances. Similarly, section 2.06(f) of OMA (5 ILCS 120/2.06(f) (West 2018)) provides that "duly elected officials \* \* \* shall be provided access to minutes of meetings closed to the public[.]" again with certain safeguards. These provisions for review of closed session recordings and minutes by new public body members were added to section 2.06 of OMA by Public Act 99-515, effective June 30, 2016, presumably to allow newly elected or appointed members to familiarize themselves with the business of the public body so as to capably perform their duties. Under these circumstances, this office declines to review the late discovery of alleged violations going back over two years and involving more than forty closed sessions.

Although this office declines to review the specific allegations of OMA violations presented by Mr. Keefe, the Public Access Counselor is also tasked with providing "advice and education with respect to the interpretation and implementation" of OMA (15 ILCS 205/7(a) (West 2018)). First, section 2.06(a) of OMA **requires** that public bodies keep verbatim recordings of closed sessions, and that section 2.06(c) of OMA (5 ILCS 120/2.06(c) (West 2016)) allows those recordings to be destroyed after eighteen months only if "(1) the public body approves the destruction of a particular recording; and (2) the public body approves minutes of the closed meeting **that meet the written minutes requirements of subsection (a) of this Section.**" (Emphasis added.)

Section 2.06(a)(3) requires minutes of meetings, whether open or closed, to include "a **summary** of discussion on all matters proposed, deliberated, or decided[.]" (Emphasis added.) OMA does not define the term "summary," but the Merriam-Webster Online Dictionary defines "summary" as "an abstract, abridgment, or compendium especially of a preceding discourse."<sup>2</sup> OMA does not require a public body to provide a detailed summary of any matter that was merely *discussed* by a public body if the discussion did not rise to the level of deliberating upon or considering a decision. Ill. Att'y Gen. PAC Req. Rev. Ltr. 40718, issued January 9, 2017, at 3. Further, OMA does not specify the level of detail that is required in the summary. However, consistent with the ordinary dictionary meaning of "summary," this office has consistently stated that minutes are insufficient if they merely list topics with no details of

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<sup>2</sup>Merriam-Webster Online Dictionary, <https://www.merriam-webster.com/dictionary/summary> (last visited July 17, 2019). When a term is undefined in a statute, it is appropriate to use a dictionary to help determine its meaning. *Lacey v. Village of Palatine*, 232 Ill. 2d 349, 363, 904 N.E.2d 18, 26 (2009).

The Honorable Ken Keefe  
The Honorable Max McComb  
August 13, 2019  
Page 4

the content of the public body's discussion of the topics.<sup>3</sup> This office requests that the Board examine its method of keeping closed session minutes and make sure those minutes have sufficient detail to comply with OMA.

This office also notes that OMA is intended "to ensure that the actions of public bodies be taken openly and that their deliberations be conducted openly." 5 ILCS 120/1 (West 2016). Accordingly, section 2(a) of OMA provides that "[a]ll meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." Correspondingly, section 2a of OMA provides:

[A] citation to the specific exception contained in Section 2 of this Act which authorizes the closing of the meeting to the public shall be publicly disclosed at the time of the vote and shall be recorded and entered into the minutes of the meeting. \* \* \*

\* \* \* Only topics specified in the vote to close under this Section may be considered during the closed meeting.

In addition, section 2(b) of OMA (5 ILCS 120/2(b) (West 2018)) provides that the exceptions listed in section 2(c) of OMA "are in derogation of the requirement that public bodies meet in the open, and therefore, the exceptions are to be strictly construed, extending only to subjects clearly within their scope." The Board may wish to review the verbatim recordings in question to ascertain whether the closed session discussions documented in those recordings were authorized by exceptions in section 2(c) of OMA. If any of the discussions fall outside of those exceptions, the Board may wish to consider voting to release any portions of the recordings that are not in compliance with OMA. The Board also should be mindful of its obligation to publicly cite and identify all exceptions that pertain to its closed session discussions before entering closed session.

Finally, this office reminds the Board of the requirement for its members to successfully complete the Public Access Counselor's electronic training curriculum or alternative training for elected school board members as specified in section 1.05(c) of OMA (5 ILCS 120.1.05(c) (West 2018)).

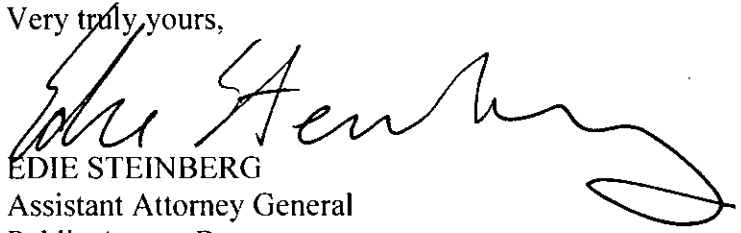
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<sup>3</sup>See Ill. Att'y Gen. PAC Req. Rev. Ltr. 51987, issued April 18, 2019, at 7 (general, vague sentences, which essentially listed the text of the closed session exceptions insufficient); Ill. Att'y Gen. PAC Req. Rev. Ltr. 50635, issued February 15, 2018, at 3 (minutes merely identifying the topics of the closed-session discussion insufficient); Ill. Att'y Gen. PAC Req. Rev. Ltr. 40309, issued May 20, 2016, at 4 ("brief, very general minutes are insufficient").

The Honorable Ken Keefe  
The Honorable Max McComb  
August 13, 2019  
Page 5

This letter serves to close this matter. Please contact me at (312) 814-5201 or the Chicago address listed on the first page of this letter if you have questions.

Very truly yours,



EDIE STEINBERG  
Assistant Attorney General  
Public Access Bureau

58617 o 60 days sd

Attachment

cc: *Via electronic mail*  
Dr. Lindsey Hall  
Superintendent  
Mahomet-Seymour Community Unit School District No. 3  
1301 South Bulldog Drive  
Mahomet, Illinois 61853  
lhall@mscusd.org

**Sanchez, Lidia**

initial docs

**From:** Ken Keefe <kjkeefe@gmail.com>  
**Sent:** Monday, June 17, 2019 10:56 PM  
**To:** Public Access  
**Subject:** OMA Request for Review - Mahomet-Seymour CUSD #3 Board of Education  
**Attachments:** OMA Request for Review Letter.pdf

Please see my attached request for review letter. If you have any trouble viewing the attachment, please let me know.

Ken

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Forti et Fordeli nihil difficile – Nothing is difficult to the brave and faithful.

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**Ken Keefe**

354 County Road 2650 North  
Mahomet, IL 61853  
(217) 246-0888  
kjkkeefe@gmail.com

17th June 2019

**Sarah Pratt**

Public Access Counselor, Office of the Attorney General  
500 South 2nd Street  
Springfield, IL 62701

Dear Ms. Pratt,

I am a recently elected member of the Mahomet-Seymour CUSD #3 Board of Education. In order to understand past decisions of the board and gain a useful context as I consider future board decisions, I have recently undertaken the task of reviewing closed session minutes and verbatim recordings as allowed by the Open Meetings Act. During this work, I have encountered many instances where I believe the Board of Education has seriously violated the terms of the Illinois Open Meetings Act. I am writing to bring these concerns to your attention and request guidance from your office.

Included with this letter is a list of dozens of potential OMA violations organized into 12 sections. I believe that there may be more violations in the recordings and minutes that I have reviewed so far. However, I am bringing the clearest or most concerning to your attention. I ask that your office evaluate these concerns to determine if violations have occurred and provide direction to the Mahomet-Seymour Board of Education for how to remedy any concerns you determine are violations.

I ask that the Office of the Attorney General notify the Mahomet-Seymour CUSD #3 of this request for review as soon as possible since the **Board of Education will meet on June 24, 2019 and may consider whether to destroy verbatim recordings from October, November, and December of 2017.**

Sincerely,



**Ken Keefe**

# **1. Closed Session Minutes - April 17, 2017 --- March 11, 2019**

Per 5 ILCS 120/2.06(a)(3), minutes of all meetings, open or closed must include "a summary of discussion on all matters proposed, deliberated, or decided, and a record of any votes taken." On May 8th, 2019, I reviewed all 45 written board-approved closed-session minutes from April 17, 2017 to the present. I believe 44 of these minutes violate the Illinois Open Meetings Act because they include a brief list of items discussed, but do not include a summary of the discussion.

While the minutes from the 6pm closed session on January 14, 2019 does provide a significant summarization of some of the 86 minute closed session discussion over the course of 5 single-spaced pages, the other 44 closed session minutes are extremely brief. For example, the closed session meeting on April 16, 2018 was 116 minutes long and the summary of discussion in the approved minutes is 3 words long. Additionally, after hearing the verbatim recordings for April 16, 2018, the discussion actually consisted of 7 different topics, so the list of topics is inaccurate. Another closed session meeting on December 17, 2018 was 77 minutes long and the summary of discussion in the board-approved minutes is a single word, "Personnel."

The Office of the Attorney General has determined in previous requests for review that "brief, very general minutes are insufficient to satisfy the requirements of section 2.06(a) of OMA." I ask that your office finds that these 44 written minutes do not satisfy the requirements of OMA.

The Mahomet-Seymour Board of Education has partial or full verbatim recordings for the meetings on the following dates.

- |                     |                      |                     |
|---------------------|----------------------|---------------------|
| • October 2, 2017   | • April 2, 2018      | • October 1, 2018   |
| • October 16, 2017  | • April 16, 2018     | • October 15, 2018  |
| • October 26, 2017  | • April 30, 2018     | • November 19, 2018 |
| • November 6, 2017  | • May 7, 2018        | • December 17, 2018 |
| • November 13, 2017 | • May 21, 2018       | • December 19, 2018 |
| • December 18, 2017 | • June 4, 2018       | • January 14, 2019  |
| • January 22, 2018  | • June 18, 2018      | • January 29, 2019  |
| • February 5, 2018  | • June 25, 2018      | • February 11, 2019 |
| • February 12, 2018 | • July 16, 2018      | • March 6, 2019     |
| • February 26, 2018 | • August 20, 2018    | • March 11, 2019    |
| • March 12, 2018    | • September 17, 2018 |                     |

I suggest your office instructs the Board of Education to use these verbatim recordings to draft new closed session minutes that satisfy the requirements of OMA and approve them in open session at their earliest opportunity.

For the following dates, the verbatim recordings have either been destroyed pursuant to section 2.06(c) or the verbatim recordings are missing. However, some of these recordings may still exist on backup media or other storage locations.



- April 17, 2017
- May 1, 2017
- May 15, 2017
- May 25, 2017
- June 26, 2017
- July 17, 2017
- August 7, 2017
- August 21, 2017
- August 24, 2017
- September 18, 2017
- November 20, 2017
- August 6, 2018

I suggest your office instructs the Board of Education to first attempt to recover verbatim recordings of these meetings and draft new closed session minutes that satisfy the requirements of OMA and approve them in open session at their earliest opportunity. The Board of Education is in possession of detailed notes of these closed session meetings. If the verbatim recordings cannot be recovered, I suggest your office instructs the board to use these notes as minutes without altering them.

## **2. Missing Closed Session Verbatim Recordings**

Per 5 ILCS 120/2.06(a), "All public bodies shall keep written minutes of all their meetings, whether open or closed, and a verbatim record of all their closed meetings in the form of an audio or video recording." and other subsections of 2.06, public bodies are required to maintain 18 months of verbatim recordings of closed session meetings.

The Mahomet-Seymour Board of Education has informed me that they are missing the entire verbatim recordings for the following closed session meeting dates. The backups also appear to be missing.

- November 20, 2017
- August 6, 2018

The verbatim recordings from the following dates are partially missing

- February 12, 2018
- April 30, 2018
- May 7, 2018
- May 21, 2018
- June 18, 2018
- January 14, 2019
- January 29, 2019
- March 11, 2019

I suggest the Office of the Attorney General educates the board about its duty to maintain verbatim recordings of closed session meetings in accordance with the terms of 5 ILCS 120/2.06.

### **3. Stated OMA Exception in Motion**

Per 5 ILCS 120/2a, paragraph 2, "Only topics specified in the vote to close under this Section may be considered during the closed meeting." On multiple occasions, the stated topics in the motion to move to closed session did not include topics that were discussed according to the closed session minutes or verbatim recordings. This occurred at least on the following dates.

- April 17, 2017
- May 1, 2017
- July 17, 2017
- August 7, 2017
- October 16, 2017
- November 13, 2017
- December 18, 2017
- April 16, 2018

I suggest your office educates the board about its duty to accurately state the topics of closed session discussion in an open session meeting. Further, the board should review the closed session minutes and publish a memo stating a correct list of topics for any meetings that the topics were inaccurately identified.

#### **4. Closed Session Discussion With No OMA Exception - October 16, 2017**

Per 5 ILCS 120/2(a), "Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." and the subsequent listing of 35 allowed exceptions in subsection (c), a public body may only discuss closed session topics that are in the list of OMA exceptions.

On May 16, 2019, I listened to the closed session verbatim recordings of the closed session from October 16, 2017. The closed session begins with a discussion of setting a price for the Sangamon Elementary school building. This is allowed by exception #6. However, at time 1:30 in audio file MZ000015.mp3, the discussion shifts to a potential intergovernmental agreement dealing with road construction and railroad crossings. This discussion continues until time 4:20 in audio file MZ000017.mp3, where discussion shifts back to contract negotiations with the teacher's union (allowed by exception #2).

The discussion relating to intergovernmental agreements, road construction, and railroad crossings is not a topic covered by any exception stated in 5 ILCS 120/2(c). I suggest the Office of the Attorney General educates the board about its duty to only discuss topics in closed session that have a corresponding exception defined in OMA. Furthermore, in order to correct the board discussion that should not have occurred in private, I suggest that the Office of the Attorney General instructs the Mahomet-Seymour Board of Education to release the verbatim recording starting at time 1:30 of file MZ000015.mp3, ending at time 4:20 of the file MZ000017.mp3, and the 1 intermediary files that contain the discussion.

### **5. Closed Session Discussion With No OMA Exception - December 18, 2017**

Per 5 ILCS 120/2(a), "Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." and the subsequent listing of 35 allowed exceptions in subsection (c), a public body may only discuss closed session topics that are in the list of OMA exceptions.

On May 20, 2019, I listened to the closed session verbatim recordings of the closed session from December 18, 2017. The closed session begins at time 2:05 in file MZ000025.mp3 with a discussion of contract negotiations with the teacher's union (allowed by exception #2). The discussion then moves on to a student due process hearing update (allowed by exception #10 and #11). However, at time 2:45 in audio file MZ000030.mp3, the discussion shifts away from individual students or litigation and moves to board plans for how to manage communication and public relations for student behavior issues. The board and the district superintendent discuss district-wide policy and planning for disruptive students. The board discusses behavior problems and staffing needs for behavior intervention. The board discusses possible drug possession at Lincoln Trail Elementary. None of these topics are covered by an OMA exception because they are not in respect to a case of litigation or can be used to identify a specific student. The discussion is general and about district wide policies, planning, and public relations. The discussion shifts to staffing related to school building construction. This discussion is not covered by an OMA exception. The discussion shifts to board membership planning and how a specific board member is not resigning. This final piece of discussion is not allowed by any exception in OMA. Closed-session ends at 2:51 in file MZ000035.mp3.

The discussions relating to public relations, general student behavior policy, student behavior problems (not for a specific student), staffing needs for behavior intervention, drug use in schools, general planning, and board membership planning are not topics covered by any exception stated in 5 ILCS 120/2(c). I suggest that the Office of the Attorney General educates the board about its duty to only discuss topics in closed session that have a corresponding exception defined in OMA. Furthermore, in order to correct the board discussion that should not have occurred in private, I suggest that the Office of the Attorney General instructs the Mahomet-Seymour Board of Education to release the verbatim recording starting at time 2:45 of file MZ000030.mp3, ending at time 2:51 of the file MZ000035.mp3, including the 4 intermediary files.

## **6. Closed Session Discussion With No OMA Exception - February 5, 2018**

Per 5 ILCS 120/2(a), "Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." and the subsequent listing of 35 allowed exceptions in subsection (c), a public body may only discuss closed session topics that are in the list of OMA exceptions.

On May 23, 2019, I listened to the closed session verbatim recordings of the closed session from February 5, 2018. The closed session begins at time 3:30 of audio file MZ000025.mp3 with a discussion (Discussion A) of the Illinois Evidenced Based Funding Model, plans for raising taxes and tax policy, class sizes in the district, and staffing needs. None of these topics are covered by an OMA exception. The discussion then shifts to district goals. The board members state that they are going to discuss employee goals for the superintendent, however the discussion is clearly about general goals for the district, not an employee. This topic is not covered by an OMA exception. There are a few occasions where a specific employee is brought up and discussed during this part of the discussion and those occasions are likely covered by exception #1. However, these are brief and mixed in with a larger discussion about general district goals. At time 0:16 in audio file MZ000040.mp3, the board discusses press relations with a local journalist identified as "Dani." The board discusses how to manage press relations, community relations, and they discuss demographics. None of these topics are covered by an OMA exception. At time 2:30 of audio file MZ000041.mp3, a board member mentions that they are really talking about district goal planning even though the closed session topic is goals for the superintendent. This is a clear attempt to work around OMA. The discussion continues regarding press relations and district goal planning. The discussion moves on to a discussion of pornography on student phones. No specific students are identified. The discussion moves on to plans to build temporary classrooms and push for a referendum to construct a new school. Discussion moves on to an inter-governmental agreement with the village of Mahomet and how the village is interested in purchasing the current junior high school. The board discusses commercial real estate development in Mahomet and ways that the board can support them. None of the topics listed so far have a corresponding exception in OMA. At time 3:00 in audio file MZ000053.mp3, the discussion shifts to school facilities security. This topic is allowed by exception #8. At time 2:30 in audio file MZ000056.mp3, discussion (Discussion B) shifts to community engagement and communication plans. This is not a topic covered by an OMA exception. At time 0:15 in audio file MZ000058.mp3, discussion shifts to a due process case (allowed by exception #11).

The discussions of the Illinois Evidenced Based Funding Model, tax policy plans, class sizes, staffing needs, district goals, press relations, community relations, demographics, pornography and cell phone use, temporary facilities planning, inter-governmental agreements, sale of a building (not setting a price), commercial real estate development, community engagement, and communication plans are not topics covered by any exception stated in 5 ILCS 120/2(c). I suggest the Office of the Attorney General educates

the board about its duty to only discuss topics in closed session that have a corresponding exception defined in OMA. Furthermore, in order to correct the board discussion that should not have occurred in private, I suggest that the Office of the Attorney General instructs the Mahomet-Seymour Board of Education to release the verbatim recording starting at time 3:30 of audio file MZ000025.mp3, ending at time 3:00 in audio file MZ000053.mp3, and the 27 intermediary files that contain Discussion A. Some brief moments may need to be redacted from this discussion under exception #1. For example, at time 2:05 of audio file MZ000039.mp3. The board should also release the verbatim recording starting at time 2:30 in audio file MZ000056.mp3, ending at time 0:15 in audio file MZ000058.mp3, and the 1 intermediary file that contain Discussion B.

## **7. Closed Session Discussion With No OMA Exception - April 16, 2018**

Per 5 ILCS 120/2(a), "Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." and the subsequent listing of 35 allowed exceptions in subsection (c), a public body may only discuss closed session topics that are in the list of OMA exceptions.

On June 14, 2019, I listened to the closed session verbatim recordings of the closed session from April 16, 2018. The closed session begins at time 0:00 in file MZ000014.mp3 with a discussion of IMRF. This discussion is general and not covered by an OMA exception. At time 4:20 of audio file MZ000014.mp3, the discussion shifts to retirement plans of specific employees and ends at 5:00 of audio file MZ000014.mp3. This 40 second part of the discussion is probably covered by exception #1. At the start of MZ000015.mp3, the discussion again shifts to general topics related to IMRF. This is not covered by any exception in OMA. The chief school business officer describes budgets and projected savings from the IMRF. The board discusses tax policy and possible tax increases. This is not covered by an exception in OMA. At time 0:00 of audio file MZ000018.mp3, discussion again returns to retirement plans of specific employees and this part is likely covered by exception #1. At 3:45 in audio file MZ000020.mp3 discussion shifts to plans for adding a student resource officer and this is likely covered by exception #8. At time 1:00 in audio file MZ000022.mp3, the board discusses plans for how to manage the hearings for the reassignment of an administrator. The discussion is not about the performance of the administrator or any arguments of the case. The discussion is only about how to schedule the hearings, what involvement the community can have, and how the board can manage the public relations. At 1:59 - 3:42 of MZ000023.mp3, the board discusses a report of a staff member providing information pertaining to the reassignment of the administrator. This 1 minute 43 second segment is likely covered by exception #1 of OMA. At 3:42 of MZ000023.mp3, the discussion returns to general planning for the hearings, whether to allow public comment, and other random items that are not covered by an exception under OMA. At 2:00 of audio file MZ000026.mp3, discussion moves on to personnel matters and is covered under exception #1.

The discussions of the IMRF program, budgets, tax policy, hearings planning, community engagement, and public relations are not topics covered by any exception stated in 5 ILCS 120/2(c). I suggest the Office of the Attorney General educates the board about its duty to only discuss topics in closed session that have a corresponding exception defined in OMA. Furthermore, in order to correct the board discussion that should not have occurred in private, I suggest that the Office of the Attorney General instructs the Mahomet-Seymour Board of Education to release these 4 verbatim recording segments: (1) from 0:00 in file MZ000014.mp3 to time 4:20 of file MZ000014.mp3, (2) from 0:00 in file MZ000015.mp3 to 5:00 in file MZ000017.mp3, (3) from 1:00 in file MZ000022.mp3 to 1:59 in file MZ000023.mp3, (4) from 3:42 of file MZ000023.mp3 to 2:00 of file MZ000026.mp3.



### **8. Closed Session Discussion With No OMA Exception - June 4, 2018**

Per 5 ILCS 120/2(a), "Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." and the subsequent listing of 35 allowed exceptions in subsection (c), a public body may only discuss closed session topics that are in the list of OMA exceptions.

On June 14, 2019, I listened to the closed session verbatim recordings of the closed session from June 4, 2018. The closed session starts discussion starts at 0:00 of file MZ000004.mp3 with a discussion (Discussion A) about the recent state budget that was signed by the governor. This discussion is not covered by any exception in OMA. The discussion then moves to negotiations with the Mahomet-Seymour teacher's union at 2:12 of audio file MZ000005.mp3. This discussion is covered by exception #2 of OMA. At 0:40 of audio file MZ000013.mp3, the discussion (Discussion B) shifts to a 5 year plan for the school district and facilities. The board states that the discussion is to set goals for the superintendent, but later the superintendent directly says the discussion is about "broad district Board of Education plans or goals." This discussion is clearly not covered by exception #1 as the board is trying to use. The discussion goes through staff planning, facilities planning, moving to a new building. None of this discussion is covered by an exception in OMA. At 1:30 of MZ000018.mp3, the board discusses the performance of a specific employee and this can be covered by exception #1. At 2:35 of audio file MZ000018.mp3, the discussion (Discussion C) returns to general goals and liability insurance and tort budgets. At 4:08 of MZ000018.mp3, the discussion shifts to plans for moving equipment from the old building to the new one. A board member even states that they don't think this is covered by an OMA exception. It is not. At 0:30 in audio file MZ000019.mp3, the discussion moves to community engagement planning and board agenda planning. This is not covered by an OMA exception. The closed session end at 5:00 in audio file MZ000019.mp3.

The discussions of Illinois state politics, 5 year plans, facilities, staff planning, new building transitions, community engagement, communication, and board agenda planning are not topics covered by any exception stated in 5 ILCS 120/2(c). I suggest the Office of the Attorney General educates the board about its duty to only discuss topics in closed session that have a corresponding exception defined in OMA. Furthermore, in order to correct the board discussion that should not have occurred in private, I suggest that the Office of the Attorney General instructs the Mahomet-Seymour Board of Education to release verbatim recordings starting at 0:00 of audio file MZ000004.mp3 to 2:12 of audio file MZ000005.mp3 (Discussion A), starting at 0:40 of file MZ000013.mp3 to 1:30 of audio file MZ000018.mp3 (Discussion B), including 4 intermediary files, and starting at 2:35 of audio file MZ000018.mp3 to 5:00 of audio file MZ000019.mp3 (Discussion C).

### **9. Closed Session Discussion With No OMA Exception - December 17, 2018**

Per 5 ILCS 120/2(a), "Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." and the subsequent listing of 35 allowed exceptions in subsection (c), a public body may only discuss closed session topics that are in the list of OMA exceptions.

On June 14, 2019, I listened to the closed session verbatim recordings of the closed session from December 17, 2018. The closed session starts discussion with contracts for specific employees. This discussion is covered by exception #1 of OMA. At time 1:15 in audio file MZ000028.mp3, the board discusses the process of upcoming negotiations and the board's strategy. This discussion is not covered under exception #2 of OMA because neither the employees nor their representatives are present and negotiations have not started. This discussion is planning for how to handle the negotiation process. This discussion is not the actual negotiation. This discussion continues through the remainder of the meeting at time 5:00 in audio file MZ000040.mp3.

The discussions of the plan and process for negotiations with the teacher's union are not topics covered by any exception stated in 5 ILCS 120/2(c). I suggest the Office of the Attorney General educates the board about its duty to only discuss topics in closed session that have a corresponding exception defined in OMA. Furthermore, in order to correct the board discussion that should not have occurred in private, I suggest that the Office of the Attorney General instructs the Mahomet-Seymour Board of Education to release the verbatim recording starting at 1:15 in audio file MZ000028.mp3 through time 5:00 in audio file MZ000040.mp3, including the 11 intermediary audio files.

#### **10. Closed Session Discussion With No OMA Exception - April 1, 2019**

Per 5 ILCS 120/2(a), "Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." and the subsequent listing of 35 allowed exceptions in subsection (c), a public body may only discuss closed session topics that are in the list of OMA exceptions.

On May 16, 2019, I listened to the closed session verbatim recordings of the closed session from April 1, 2019. The closed session starts at 0:00 of a single 57 minute audio file and begins with a discussion of an ongoing lawsuit (allowed by exception #11). Discussion then moves to contract negotiations with a specific employee (allowed by exception #1). At time 22:22, the superintendent discusses contingency plans for outcomes of the election that is happening the next day. This discussion is not an allowed closed session topic. At time 23:20, discussion moves to individual employee position planning (probably covered by exception #1). At 42:15, the superintendent discusses plans to add additional classes at the elementary school and how this can be paid for with the Evidence Based Funding Model. The board discusses how to expand Pre-K offerings. These topics are not covered by an OMA exception.

The discussions about election outcome plans, expanding classroom offerings, and Pre-K offerings are not topics covered by any exception stated in 5 ILCS 120/2(c). I suggest the Office of the Attorney General educates the board about its duty to only discuss topics in closed session that have a corresponding exception defined in OMA. Furthermore, in order to correct the board discussion that should not have occurred in private, I suggest that the Office of the Attorney General instructs the Mahomet-Seymour Board of Education to release the verbatim recording starting at time 22:22 ending at time 23:20 and the verbatim recording starting at 42:15 through the end of the file (57:17).

**11. Closed Session Discussion With No OMA Exception - April 10, 2019**

Per 5 ILCS 120/2(a), "Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." and the subsequent listing of 35 allowed exceptions in subsection (c), a public body may only discuss closed session topics that are in the list of OMA exceptions.

On May 16, 2019, I listened to the closed session verbatim recordings of the closed session from April 10, 2019. The closed session is brief (6 minutes). In the closed session, the superintendent asks the board to quickly fill out an evaluation form for her performance so that she can be evaluated by the current board before the newly elected board members are seated. This entire discussion is not covered by an OMA exception.

I suggest the Office of the Attorney General educates the board about its duty to only discuss topics in closed session that have a corresponding exception defined in OMA. Furthermore, in order to correct the board discussion that should not have occurred in private, I suggest that the Office of the Attorney General instructs the Mahomet-Seymour Board of Education to release the entire verbatim recording from this meeting.

## **12. Closed Session Discussion With No OMA Exception - April 15, 2019**

Per 5 ILCS 120/2(a), "Openness required. All meetings of public bodies shall be open to the public unless excepted in subsection (c) and closed in accordance with Section 2a." and the subsequent listing of 35 allowed exceptions in subsection (c), a public body may only discuss closed session topics that are in the list of OMA exceptions.

On May 16, 2019, I listened to the closed session verbatim recordings of the closed session from April 15, 2019. The closed session recording starts at 0:00 of audio file MZ000027.mp3 and begins with a discussion of an ongoing lawsuit (allowed by exception #11). The discussion then moves on to an evaluation of the superintendent (allowed by exception #1). Starting at time 2:08 in audio file MZ000033.mp3, discussion moves to facilities issues with the junior high locker rooms. This topic is not covered by an OMA exception. The board then discusses the schedule for when the board will evaluate the superintendent again and why the evaluation is happening in April when it should happen in October. This discussion is not the actual evaluation, but planning the timing for when the board will do its evaluation. So, this discussion is not covered by exception #1. The discussion moves on to how newly elected board members will participate in future evaluations, what the purpose of the evaluation is, and strategies for how to circumvent the power of the new board members.

The discussions about school facilities, evaluation purpose and planning, new board membership, future evaluation planning, and how to circumvent the power of the new board members are all topics not covered by an exception in OMA. I suggest the Office of the Attorney General educates the board about its duty to only discuss topics in closed session that have a corresponding exception defined in OMA. Furthermore, in order to correct the board discussion that should not have occurred in private, I suggest that the Office of the Attorney General instructs the Mahomet-Seymour Board of Education to release the verbatim recording from this meeting beginning at time 2:08 of audio file MZ000033.mp3 through the end of the meeting (2:15 of file MZ000037.mp3), including the 3 intermediary files that comprise the discussion.