

March 11, 2015

VIA EMAIL

Dr. Steven M. Baule
Superintendent
North Boone Community Unit School District 200
6248 North Boone School Road
Poplar Grove, IL 61065

Re: Open Meetings Act

Dear Dr. Baule:

To be in accord with the requirements of the Illinois Open Meetings Act (the "Act"), the Board of North Boone Community Unit School District 200 should carry on planned open meetings only when a quorum of Board members is present. Where the Board is comprised of seven members, a quorum of the public body is four (4) members, and a majority of the quorum is three (3) members. If three (3) members of the Board meet (in person or electronically) for the purpose of discussing District business, that meeting is subject to the Act – and may subject the Board to violation of the Act if not properly noticed, etc. However, a meeting of three (3) members does not satisfy the open meeting requirements calling for a quorum of the Board (4 members) to be physically present to carry on official business of the Board.

The Act mandates, "A **quorum of members of a public body must be physically present** at the location of an open meeting." In short, if you do not have a quorum you cannot hold a meeting and you cannot discuss public business. To do so will be a violation of the Act.

The definition of "meeting," at section 120/1.02 of the Act, clarifies when the requirements of the Act are applicable and when a violation of the Act may occur. The Open Meetings Act defines a meeting as a, "gathering...of a majority of a quorum of the members of a public body held for the purpose of discussing public business..." 5 ILCS 120/1.02.A violation of the Open Meetings Act occurs when a majority of a quorum of a public body contemporaneously and interactively communicates, for the purpose of discussing public business, without complying with the notice and open meeting requirements of the Act. So, a gathering of a majority of a quorum of the Board, for the purpose of discussing District business, is subject to the Act, but does not satisfy the open meeting requirements of the Act.

A quorum of Board members must be physically present to transact business at open meetings. As one example, in *Lawrence v. Williams*, the Appellate court found a violation of the

Building on the Barger Tradition

Dr. Steven M. Baule

March 11, 2015

Page 2

Open Meetings Act when an electoral board met with less than a quorum of members present and issued its written decisions. 2013 IL App (1st) 130757, ¶¶ 20-21. The court's holding in *Lawrence*, is in accord with section 120/2.01 of the Act. The statutory law of the Act is in accord with common-law that requires a quorum of board members to be present to transact business. "... A 'quorum' is the number of assembled members that is necessary for a decision-making body to be legally competent to transact business...—a majority of a body constitutes a quorum and, if a quorum is in attendance, a vote of a majority of those present is sufficient for valid action..." *Vill. of Oak Park v. Vill. of Oak Park Firefighters Pension Bd.*, 362 Ill. App. 3d 357, 367-68 (2005) (internal citations omitted).

Very truly yours,

HINSHAW & CULBERTSON LLP

/s/ Yashekia Simpkins

Yashekia T. Simpkins

815-490-4942

ysimpkins@hinshawlaw.com

YTS:arl