



OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS

KWAME RAOUL
ATTORNEY GENERAL

July 28, 2020

Via electronic mail

Dr. Susan Kalter
Chair, Academic Senate
Illinois State University
Campus Box 1830
Normal, Illinois 61790-1830
smkalte@ilstu.edu

RE: OMA Request for Review – 2020 PAC 63926

Dear Dr. Kalter:

The Public Access Bureau has received a Request for Review in which Ms. Diane Benjamin alleges that the Illinois State University Academic Senate (Academic Senate) violated the Open Meetings Act (OMA) (5 ILCS 120/1 *et seq.* (West 2018)). A copy of the Request for Review is enclosed.

In her Request for Review, Ms. Benjamin alleges that on July 16, 2020, you, as Chair of the Academic Senate, convened an all-faculty meeting that was not open to the public. Given the number of members of the Academic Senate who are faculty, we construe the Request for Review as alleging that the participating faculty members who are members of the Academic Senate held an Academic Senate "meeting" by attending and participating in the all-faculty meeting.

Section 1.02 of OMA (West 2018)) defines "meeting" as:

any gathering, whether in person or by video or audio conference, telephone call, electronic means (such as, without limitation, electronic mail, electronic chat, and instant messaging), or other means of contemporaneous interactive communication, of a majority of a quorum of the members of a public body held for the purpose of discussing public business[.]

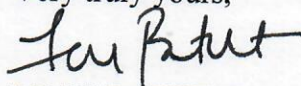
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We have determined that further action is warranted. In order to further evaluate this matter, we request that the Academic Senate or its representative provide a written response to the allegation that the all-faculty meeting constituted an Academic Senate meeting due to the attendance and participation of faculty members who are also members of the Academic Senate. In your response, please specify how many Academic Senate members attended the all-faculty meeting, describe the matters that were discussed at the all-faculty meeting, and address whether the Academic Senate members in attendance discussed and deliberated public business. Please provide for this office's confidential review any minutes, transcripts, or recordings of the July 16, 2020, all-faculty meeting. Finally, please explain whether the all-faculty meeting was open to the public.

As required by section 3.5(b) of OMA (5 ILCS 120/3.5(b) (West 2018)), please provide this information to our office within seven (7) business days **after your receipt of this letter**. As we review this matter, we will advise you if we require additional information. Under OMA, "[t]he Public Access Counselor shall forward a copy of the answer or redacted answer, if furnished, to the person submitting the request for review. The requester may, but is not required to, respond in writing[.]" 5 ILCS 120/3.5(d) (West 2018). **If you claim that any portion of your written response is confidential, please send two versions of your response letter: a complete copy for this office's confidential review and a redacted version suitable for this office to forward to the requester.**

If you prefer, you may provide the written response by e-mail to lbartelt@atg.state.il.us or publicaccess@atg.state.il.us. Please contact me at (312) 814-6437 if you have questions or would like to discuss this matter. Thank you.

Very truly yours,



LEAH BARTELT
Deputy Public Access Counselor
Public Access Bureau

Attachment

cc: *Via electronic mail*
Ms. Diane Benjamin
blnnews.com
blnnews@yahoo.com

63926
RECEIVED
ATTORNEY GENERAL

Dunham, Lorraine

From: Bloomington Normal News <blnnews@yahoo.com>
Sent: Friday, July 17, 2020 10:39 AM
To: Public Access
Subject: Request for Review
Attachments: 07-13-20 Ground Rules email 2.pdf; 0 - All faculty meeting agenda2020-07-16 2.pdf; kalter 1.JPG; kalter 2.JPG; kalter 3.JPG; Opening comment Kalter July 16.pdf

JUL 17 2020

FOIA/OMA

A meeting was called by the Chair of the Academic Senate, Susan Kalter, on July 16, 2020. In the documentation for this meeting she declared it was not subject to the Open Meetings Act. All of the documents for this meeting can be found here: <https://academicsenate.illinoisstate.edu/documents/>

I've attached some of the same documents.

The statement about OMA not applying is on page 3 of the Ground Rules document attached

The agenda posted on the above link is also attached.

I emailed Susan Kalter I wanted to attend, both as media and an alum. She denied my request. Emails are attached.

A member of the media was able to sneak into the meeting and wrote this story about it: https://www.wgl.t.org/post/isu-faculty-look-more-course-control-reopening-nears?fbclid=IwAR11NHKeFg7qgQjfYBjhIyVRFihZh0_YGLL-1uDJMrOGflnYUX9nISuVOQY#stream/0

Also attached is Kalter's opening statement, it states no media is allowed and attendees should not talk about what happens.

I ask you to decide if this meeting was legally held and if I was legally blocked from attending. It appears Dr. Kalter made all the decisions on her own and should have been subject to the Open Meetings Act because she is the chair of the Academic Senate. Anything less gives the appearance of conspiring behind the backs of administration, faculty that didn't attend, and the general public.

If you find this meeting was illegally held, I also ask you to hold Dr. Kalter accountable to the fullest extent of the law because in my opinion this was a blatant violation. If no penalties exist ignoring OMA will continue.

Sincerely,

Diane Benjamin
BlnNews.com

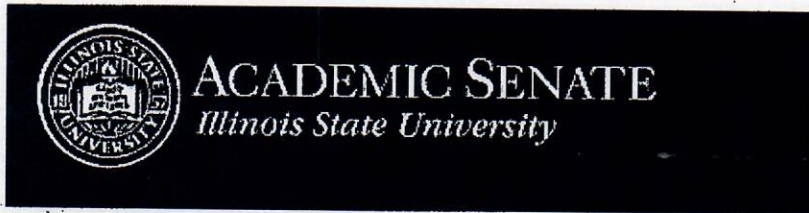
From: fac-l Faculty list <FAC-L@LISTSERV.ILSTU.EDU> on behalf of Academic Senate - Illinois State University <MassEmail@ILLINOISSTATE.EDU>

Sent: Monday, July 13, 2020 1:55 PM

To: fac-l <fac-l@ilstu.edu>

Subject: [FAC-L] Reminder: All-faculty meeting announcement

Reminder:



Dear Faculty,

I wish to convey to all of you a set of ground rules for our upcoming all-faculty meeting, which will be held at 6 p.m. on Thursday, July 16, 2020 by Zoom. These rules will, I hope, ensure that all faculty who wish to will have a chance to speak, and also ensure that all shared information is accessible to those with disabilities. I wish to thank you in advance for adhering to these rules so that we may have as effective and efficient a meeting as possible.

Zoom capacity: The Office of Technology Solutions (formerly Administrative Technologies) is currently looking into boosting our Zoom capacity so that all faculty and guests who wish to attend may do so. The current cap is 300. We ask your patience with the unusual and restrictive forced-online circumstances of this first all-faculty meeting since 2002-03 and we encourage participants who are not speaking to mute their video at their discretion to preserve bandwidth, balancing that--also at their own discretion--with preference for visual presence and mutual visual recognition.

Tech support: Persons having trouble with technology before or during the meeting should contact the Technology Support Center at 309-438-4357 for assistance rather than contacting the Chair or Zoom meeting co-hosts.

Who may attend: Persons who are listed by Human Resources as occupying a tenure-line faculty role (Assistant Professor, Associate Professor, Professor) and whose current essential duties when on contract are teaching, scholarly and creative activities, and service (including those on sabbatical); persons who occupy or will occupy in fall 2020 a non-tenure-line faculty role, including staff who teach under an official non-tenure-line classification; invited representatives of the civil service and administrative/professional staff and of the graduate teaching assistants. Please note: any persons who were hired on the tenure-line and retain their departmental privileges but are currently serving in an AP capacity (e.g. Provost's office, Dean's offices, Department Chairs/School Directors) wherein their principal duties are not primarily teaching and scholarly/creative activities will be admitted only at the discretion of the meeting Chair or the vote of the faculty attending the meeting.

How to attend: The Zoom link for the meeting will be sent to FAC-L and invited participants as soon as capacity logistics have been worked out. All participants must log in using their ULID and password.

Attendance and quorum: Attendance at an all-faculty meeting is not mandatory. According to the ISU Constitution, ten percent of the members of the faculty constitutes a quorum for a faculty meeting.

Recording: The all-faculty meeting will be recorded.

Who may speak and vote: All faculty--whether tenure-line or instructional/clinical and including AP/CS who teach under an official non-tenure-line faculty classification--may participate in discussion and deliberations. Additional expert witnesses may be called upon at the Chair's discretion, but do not have voting privileges.

Order of speakers: The first speakers called on during the meeting will be those who previously signed up to speak with Martha Horst, Secretary of the Academic Senate, who serves as Secretary for this all-faculty meeting. Interested speakers should contact her via email (mchorst@ilstu.edu) between July 10th and July 16th at 1:00 pm. Faculty speakers will be prioritized. Expert witness speakers will be called upon at the Chair's discretion.

Muting Function: The Academic Senate Chair or meeting coordinators/Zoom co-hosts will unmute participants after they have been recognized by the Chair to speak. All other participants will be muted throughout the course of the meeting.

Chat: The chat function will be enabled but will not be closely monitored by the Chair. During any voting, it will be monitored by the Secretary as outlined below.

Hand-raising: Participants should use the Zoom hand-raising function to be recognized. Should their hand-raising function not be working, they may email mchorst@ilstu.edu during the meeting to be placed on the list of speakers.

Sharing material: Speakers who wish for materials to be shared in the share screen function of Zoom must submit those materials to the Chair for her or the Zoom co-hosts to share in that manner while the speaker has the floor. Such sharing will be permitted on a case-by-case basis as controlled by the Chair. For accommodation purposes, however, all those who wish to display material electronically must contact the Chair via email (smkalte@ilstu.edu) and submit such material to her by 6 p.m. on July 14th to allow time for distribution as needed.

Timing restrictions: Faculty speakers will have one minute during the first round. They should clearly announce their name for the record. They should clearly indicate which, if any, pre-set agenda item(s) they are speaking to. If faculty speakers are representing several people, they should clearly announce the names of all they are representing. Faculty speakers representing a group of people will be given 1 minute per individual they are representing, up to five minutes. Non-faculty speakers will have a minimum of two minutes per speaker. When the Chair recognizes a non-faculty speaker, she will indicate whether that time restriction will be expanded. Speakers who go past their time may be muted by the Chair at her discretion so that subsequent speakers may be called upon.

Further discussion and deliberation: After the first round of speakers has concluded, additional people interested in speaking may signal the Chair via the raise-hand icon available via Zoom software. The Chair shall use her discretion in determining the appropriate amount of time to allot to each second round speaker.

Motions: Faculty may convey motions to the group after the first round of speakers has concluded. People interested in making or seconding a motion should signal the Chair through the raise-hand icon available via Zoom software. Any motions conveyed during the first round will be held until the first round has concluded.

Voting: All faculty (not including tenure-line faculty currently serving in an AP role as described above) may vote for motions according to procedures delineated in Robert's Rules of Order. These votes will be made using the hand-raise icons available in the Zoom software. Only in cases where the hand-raise icon is not available may members vote via chat. The chair has also enabled polls for the purpose of voting, so these might be used in lieu of hand-raising for some motions; some members may still need to vote by chat.

Approved motions: All items approved at the all-faculty meeting are advisory to one or more of the following: 1) any committee of the University, 2) the Academic Senate, 3) the President, OR 4) the Board of Trustees. Legislative authority shall be exercised or delegated only by the Academic Senate.

Open Meetings Act: This meeting does not fall under the requirements of the Open Meetings Act.

Possibility of a meeting continuation: Should the faculty not be able due to time constraints to conclude voting on any motions, the meeting will be recessed and then continued at 6 p.m. on Monday, July 20th.

Unvoiced Motions/Statements: Faculty who are unable to attend the July 16th meeting or do not wish to attend the July 16th meeting may send their written comment tomchorst@ilstu.edu. If faculty did not have a chance to voice their opinion or make a motion at the July 16th meeting and the July 16th meeting is continued to July 20th, they may send their written comments or motions to mchorst@ilstu.edu by July 18th for consideration on the 20th. If faculty members are not able to attend this subsequent all-faculty meeting, if the meeting is needed, their opinions and/or motions may still be entered into the record at the July 20th meeting, if so desired.

These rules are subject to modification. Any modifications will be announced as soon as possible on the Senate website Documents page.

Thank you,

Susan Kalter
Chair, Academic Senate

Academic Senate
Illinois State University
Campus Box 1830
Normal, IL 61790-1830
(309) 438-8735
acsenate@IllinoisState.edu