

March \_\_\_\_, 2014

**VIA facsimile: 217-782-1396  
and U.S. Mail**

Public Access Counselor  
Office of the Illinois Attorney General  
500 S. 2nd Street  
Springfield, Illinois 62706

**Re: Request for Advisory Opinion – Open Meetings Act and Freedom of Information Act**

Dear Public Access Counselor:

I am writing to request an advisory opinion on behalf of my client, Cooperative Computer Service (“CCS”), pursuant to Section 3.5(h) of the Open Meetings Act (“OMA”), 5 ILCS 120/3.5(h) and Section 9.5(h) of the Freedom of Information Act (“FOIA”), 5 ILCS 140/9.5(h). CCS is an intergovernmental entity that was established by contracting boards of library trustees and public library districts to provide library automation and library computer services for its members.

It is established pursuant to the intergovernmental cooperation clause in Article VII, Section 10 of the Illinois Constitution and the statutory provisions set forth in 5 ILCS 220/1 *et seq.* CCS currently operates in accordance with OMA and FOIA. It has discovered, however, that other intergovernmental entities do not comply with OMA or FOIA based on the definitions of “public body” in those statutes.

OMA defines public body as:

"Public body" includes all legislative, executive, administrative or advisory bodies of the State, counties, townships, cities, villages, incorporated towns, school districts and all other municipal corporations, boards, bureaus, committees or commissions of this State, and any subsidiary bodies of any of the foregoing including but not limited to committees and subcommittees which are supported in whole or in part by tax revenue, or which expend tax revenue, except the General Assembly and committees or commissions thereof. "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. "Public body" includes the Health Facilities and Services Review

Board. "Public body" 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, an ethics commission acting under the State Officials and Employees Ethics Act or the Illinois Independent Tax Tribunal. 5 ILCS 120/1.02.

CCS is not a legislative, executive, administrative or advisory body of the State, nor is it a part of any county, township, city, village, incorporated town, school district or any other municipal corporation, board, or bureau. It is not a committee or commission of this State, nor is it a subsidiary body of any of the foregoing. Finally, CCS is not a committee or subcommittee supported in whole or in part by tax revenue, nor does it have taxing powers or expend tax revenue. Rather, it is an intergovernmental entity whose members are public libraries and library districts.

FOIA is also applicable to "public bodies," and FOIA defines "public body" as follows:

"Public body" means all legislative, executive, administrative, or advisory bodies of the State, state universities and colleges, counties, townships, cities, villages, 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. "Public body" 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. 5 ILCS 140/2(a).

As set forth above, CCS is not a governmental entity. It is not a legislative, executive, administrative or advisory body of the State within the meaning of FOIA, nor is it a state university or college, county, township, city, village, incorporated town, school district or any other municipal corporation, board, or bureau. It is not a committee or commission of this State, nor is it a subsidiary body of any of the foregoing. As stated above, it is an intergovernmental entity whose members are public libraries and library districts.

Although CCS has operated in the past as if it was a public body, subject to the Open Meetings Act and Freedom of Information Act, we do not believe that it is a public body. It does not fall within the definitions set forth above. We are aware of the consequences for violating OMA and FOIA and, as a result, we are asking for an advisory opinion that determines whether CCS is a public body as defined by the Open Meetings Act or Freedom of Information Act and is, therefore, subject to those Acts.

We also represent the following intergovernmental entities that provide library automation and library computer services for their members: System Wide Automated

Network (“SWAN”), Multitype Automation Group in Cooperation (“MAGIC”) and PrairieCat. In addition, we represent LIMRiCC, an intergovernmental entity that was established by contracting library systems, boards of library trustees and public library districts to provide several types of insurance for its members. LIMRiCC currently has an unemployment compensation claim program, joint self-insurance program, and joint purchase of health insurance program.

There are many intergovernmental entities established throughout the state of Illinois. It appears that some of them, including some intergovernmental risk pools, do not operate in accordance with the Illinois Open Meetings Act or with FOIA. We are seeking an advisory opinion so that it is clear to all such intergovernmental entities whether OMA and FOIA apply to them.

Please acknowledge receipt of this request for an advisory opinion and, if possible, provide us with a time when an advisory opinion will be issued. Please contact me if you have any questions or would like any additional information.

Sincerely,

KLEIN, THORPE AND JENKINS, LTD.

Kathleen T. Henn

KTH/an

cc: Richard Shurman, Administrator, Cooperative Computer Services  
Gerard E. Dempsey