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CONFIDENTIAL INVESTIGATIVE REPORT

TO:	Township High School District #214 Board of Education Brian Costin, Complainant
FROM:	Elizabeth Kelly Fagen, Friedman & Fulfroast LLP – Investigator
DATE:	September 3, 2026
SUBJECT:	Investigative report into ethics complaint and request for investigation submitted by B. Costin of Americans for Prosperity Illinois.

I. Procedural History and Background:

On July 20, 2026, Brian Costin ("Complainant") submitted a formal complaint to District 214 requesting an investigation into the district's use of public resources. Specifically, he raised concerns about the district's contract with the consulting firm EO Sullivan ("EOS") and the district's alleged use of public resources for alleged referendum polling, voter surveying, and campaign-related activity.

The district retained Fagen, Friedman, & Fulfroast (F3 Law) to conduct an independent, third-party investigation into the complaint. This investigator was assigned on July 29, 2026. On Tuesday, August 4, 2026, this investigator initiated the investigation.

II. Issue and Applicable Policy:

This investigation was conducted pursuant to the district's Uniform Grievance Procedure (Board Policy 2:260). Board Policy 2:260 applies to complaints raised by students, parents/guardians, employees, or community members alleging, among other things, a violation of board policy or state law. The goal of the investigation was to determine whether the district had engaged in conduct violating board policy or state law related to government and public official ethics. Therefore, the Uniform Grievance Procedure in Board Policy 2:260 appropriately applied.

Board Policy 2:105 – *Ethics and Gift Ban* directs that "[n]o Board member or employee shall intentionally use any District property or resources in connection with any political activity." The policy further defines "political activity" to include "[p]lanning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question." The language in Board Policy 2:105 mirrors the requirements of the State Officials and Employees Ethics Act prohibition on political activities (5 ILCS 430/5-15) and is mandated by Section 70-5 of the Act. (5 ILCS 430/70-5).

Relatedly, the Illinois Election Code, which applies to local government entities, including school districts, prohibits the use of public funds to encourage the public to vote for or against a particular candidate or proposition. It also prohibits the use of public funds for campaign purposes or to support a political organization or candidate. 10 ILCS 5/9-25.1.

Determinations under Board Policy 2:260 apply a preponderance of the evidence standard. In other words, if the evidence shows it was more likely than not that the allegations raised were true, the district may take steps to address the matter, including disciplinary actions deemed necessary and appropriate.

III. Scope of Investigation:

The investigation consisted of witness interviews and a review of documents provided by district personnel and Complainant. The following individuals were interviewed:

- Scott Rowe, Superintendent at District 214
- Patrick Mogge, Director of Community Engagement and Outreach at District 214
- Brian Costin, Complainant, Deputy State Director at Americans for Prosperity, Illinois

I also contacted the listed Co-Complainants to request an interview to discuss the complaint. One of the three responded to my outreach. After back-and-forth communication, it was determined they did not have anything related to the underlying complaint to add. Each witness I spoke with heard the same opening remarks outlining my role in the matter, the allegations raised, and the importance of confidentiality consistent with district policies. I found each witness to be credible.

In addition to witness interviews, I reviewed the following documents:

- District's contract with EO Sullivan Consulting
- District Board Policies
- Cease and Desist correspondence from Complainant to the district dated May 19, 2026
- June 25, 2026, Board Memo regarding Community Engagement Agreement with EO Sullivan
- EO Sullivan Phase 3 Community Engagement Report
- June 25, 2026, Board agenda and minutes from meeting
- District's RFP for Community Engagement Services
- EO Sullivan's Response to RFP
- Communication from the Complainant
- Related statutory provisions
- Attorney General Guidance

IV. Findings Based on Collected Evidence:

In his complaint, Mr. Costin identified several concerns related to the district's relationship with EO Sullivan and its use of public funds. Below, each of those concerns is addressed.

A. Did the district's use of EO Sullivan to conduct phone surveys of its residents constitute "public opinion polling" in violation of the ethics policy?

Likely, no. Complainant alleges that the district, through EOS, conducted phone surveys of its residents to evaluate support for or opposition to additional funding for district infrastructure projects. He notes that, at a Board meeting, the district and EOS presented findings from phone surveys showing where the public support was. He also provided documentation that he felt indicated the goal of the survey was to determine what funding level the community would support in a potential referendum. His position is that the phone surveys constituted public opinion polling in violation of the Ethics Act (5 ILCS 430/5-15) and district policy.

Notably, the Ethics Act's rules regarding political activities does not directly apply to the district; however, pursuant to Section 70-5 of the Act, local school districts are required to adopt ethics policies that are no less restrictive than Section 5-15 of the Ethics Act. Board Policy 2:105 is the district's ethics policy. It states that public employees and Board members are prohibited from intentionally using any district property or resources in connection with any "political activities." "Political Activity" is defined in the Policy to include:

"Planning, conducting, or participating in a public opinion poll in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question."

The district does not dispute that it contracted with EOS to provide community engagement services. The contract between the district and EOS indicates that, over the course of four (4) phases, EOS would develop community engagement messaging; execute a menu survey of potential projects, infrastructure solutions, funding levels, and funding mechanisms; hold public engagement sessions; execute an options survey; report survey results to the Board; and develop a ballot question. The contract further listed past successes of EOS in assisting public school districts in passing referendum. Notably, however, the request for proposal issued by the district specifically states that "[w]hile no final decision has been made regarding pursuing a referendum, the district aims to engage the community in an inclusive and transparent manner throughout the process."

Specific to the phone surveys, EOS conducted two – one during Phase 2 of the project and another during Phase 3. The Phase 2 survey took place between October 15th and October 20th, 2025. Participants were asked to answer twenty-two questions related to their interest in investing in various infrastructure needs of the district. The results were shared publicly with the Board at its November 13, 2025, meeting. Per EOS, the survey indicated that the community was open to providing additional funding to support aging

district infrastructure, but it was not interested in funding all the infrastructure needs. EOS's report also noted that the timeline for considering a referendum was likely November 2026.

The Phase 3 survey took place between May 6th and May 13th, 2026. It was referred to as an "options" survey because it provided funding options for participants to consider and weigh-in on. Participants were called and asked to provide their opinion on ten different questions related to District 214 and how much they would personally be willing to support in additional school funding. Included in the options survey were questions gauging interest in three different funding levels. These questions and the proposed funding levels were developed by EOS based on the feedback received in the Phase 2 surveys. The results from the Phase 3 phone survey were shared with the Board at a meeting on June 25, 2026. EOS reported that any of the three funding levels presented during Phase 3 were viable options for the Board to consider but the lowest funding option received the most support. It also noted that "the community is willing and ready to move forward with a referendum as soon as the November 2026 election if the district desires."

There are no judicial opinions or Attorney General opinions applying the provisions of the Ethics Act related to public opinion polls. Looking at the plain language of the Code, it is notable that the language contemplates the activity taking place "for or against any referendum question." Here, although the district did clearly engage EOS to assist in conducting phone surveys of its community members, the phone surveys were not asking people if they were "for or against any referendum question." Rather, the questions were aimed at weighing the community's interest in supplying additional funding to the district. There was no advocacy in the questions nor were any of the questions asking people, "will you support a referendum." Instead, the questions sought to determine what the community was willing to provide additional support towards as infrastructure projects. Relatedly, there was no active referendum question pending when the surveys were conducted. Thus, it cannot be that the surveys were looking to get someone's position on being for or against a referendum question.

Notably, this interpretation seems consistent with the current accepted practice in Illinois. Several school districts in Illinois have contracted with EOS and competitor community engagement firms to help them engage their communities and to gain an understanding of what, if any, projects the community would be willing to provide additional financial support for. These practices have not seemingly been shut down, discouraged, or prosecuted by any local state's attorney or the Attorney General, which suggests a consensus that the conduct is not violative of any Act of policy.

Therefore, while the evidence does indicate that the district engaged EOS to conduct phone surveys of its residents to determine the interest level of the community in providing additional funding to support infrastructure needs, it is not clear that such was polling in violation of the District's ethics policy.

B. Were the surveys conducted by EO Sullivan on behalf of the district a prohibited political activity?

Likely, no. Similar to the allegations above, Complainant asserted that the district's use of EOS to conduct phone surveys gathering information from potential voters on funding level interest constituted a prohibited political activity. Specifically, he asserted that the conduct of gauging the public's interest in

funding options, including getting information from prospective voters on what was "not going to work," constituted an illegal gathering of information.

Board Policy 2:105 further notes that the following is a prohibited political activity:

"Surveying or gathering information from potential or actual voters in an election to determine probable vote outcome in connection with a campaign for elective office or on behalf of a political organization for political purposes or for or against any referendum question."

As discussed above, the district does not deny that it engaged EOS to conduct community engagement activities to help determine whether there was any public support for increased funding for district infrastructure projects. Part of the engagement activities included two phone surveys. Therefore, the question is whether the activity of seeking community input on whether to pursue funding for additional infrastructure projects is akin to "[s]urveying or gathering information from potential or actual voters in an election to determine probable vote outcomes."

Again, there is no case law addressing this nor were there any Attorney General opinions on-point. As with the question addressed above regarding surveys being public interest polls, here, the district's conduct appears to fall outside of the conduct deemed prohibited. First, the language specifically requires the surveying to occur "in an election." Because the surveys in question were posed prior to any referendum being placed on the ballot, the actions of the district appear to fall outside the scope of the prohibited conduct. Further, the policy prohibits gathering information to determine probable vote outcome; however, here, the questions were not aimed at getting individuals to indicate "yes" or "no" to a ballot question. Instead, they were aimed at understanding what the community was willing to fund as infrastructure improvements to district facilities. This is further supported by the fact that the options provided in the questions posed to survey respondents specifically outlined the projects that each funding level would fund. They were not asked merely whether they would support a referendum or not.

Finally, as indicated above, this position is supported by the fact school districts across Illinois have contracted with EOS and competitor community engagement firms to help them understand what, if any, projects the community would be willing to provide additional financial support for. The fact that these practices have not previously been discouraged or shutdown suggests that they are not considered illegal or in violation of any ethics policy.

C. Did the district use public funds or resources to shape a referendum campaign in violation of the Election Code?

Likely, no. Complainant alleges that the work done by EOS for the district was more akin to campaigning than neutral government information sharing. He alleges that, by using public funds to pay for the EOS contract, the district violated the Election Code, which prohibits the use of public funds to encourage the public to vote for or against a particular candidate or proposition. 10 ILCS 5/9-25.1.

At issue here is whether the work conducted by EOS encouraged the public to vote for or against a proposition. Per Complainant, the fact that EOS tested different funding options through its questions and then made recommendations to the Board based on the results of the surveys shows that the work was more akin to campaigning than it was to neutral government fact sharing. Complainant cites the district's contract with EOS for further support, noting that the contract explicitly states that EOS is committed to "passing a referendum."

The limited decisions interpreting the Election Code's prohibition on the use of public funds indicate that public funds cannot be spent to urge an elector to vote yes or no for a matter; however, they can be spent on advice regarding a public body's options with respect to a ballot initiative. See *Markham Park District v. Tressler L.L.P.*, 2019 IL App. 18-2408-U (1st Dist. Sept. 24, 2014) (unreported). Further, in *Ryan v. Warren Tp. High School Dist. No. 21*, an Illinois Appellate Court found that a district's use of funds to hire a public relations consultant to promote its plans for razing a school was not a violation of the Act where the firm was not expressing support for any particular board candidate. 155 Ill.App.3d 203, 207 (2d Dist. 1987).

Similar to the scenario in *Ryan*, here, the district contracted with EOS to engage with the community on funding options for addressing infrastructure needs. EOS was not campaigning for or promoting a certain funding level. Instead, they were communicating with the public about what infrastructure projects were important to them so the Board could then decide whether a referendum would be appropriate. In other words, EOS was not doing anything to encourage the public to support one option over another. They were merely on a fact-finding mission. Moreover, as noted above, because no referendum or proposition was on the ballot at the time these funds were expended, it cannot be that the district spent funds to get a proposition passed.

Therefore, because no public funds were used to encourage voters on a pending referendum, the district's contract with EOS did not violate the Election Code.

D. Did the district violate any rules, policies, or procedures when it presented and acted upon polling results after receiving a cease and desist notice from the Complainant?

No. The District did not dispute receiving a cease and desist letter from Complainant. Dr. Rowe recalled receiving the email with the cease-and-desist demand and then consulting Ed Sullivan on what to do with it. In Illinois, there is no rule, law, or policy which requires public bodies to comply with a private citizen's cease and desist letter. Cease and desist letters have no formal legal authority nor do they have any binding effect on a party. Therefore, the district was under no legal authority to comply with the demand and no rule, policy, or procedure was violated when the district presented findings on the Phase 3 survey after receiving the letter.

E. Did the district misappropriate public property, resources, or employee services by presenting the EO Sullivan report at a Board meeting?

Likely, no. Complainant alleges that the district violated its ethics policy when it used resources and employee time to place on the agenda, present, and discuss EOS's Phase 3 report. The district does not

deny that the report was made at a public meeting and that it was listed on the meeting agenda. Board Policy 2:105, which enforces the Ethics Act against the district, states that "[n]o Board member or employee shall intentionally use any District property or resources in connection with any political activity," and that "[a]t no time shall any Board member or employee intentionally require any other Board member or employee to perform any political activity...." Because it has been determined that the surveys and work the district contracted EOS to conduct was not "political activity," the work done by employees to prepare for and present the findings of the work to the Board was also not political activity. Moreover, the information presented by EOS was not promotional or persuasive towards voters to get them to vote on any matter. Instead, it was factual information gathered to help the district determine what steps it needed to make moving forward to support the community's interests for addressing infrastructure needs. Similarly, because there was no ballot measure at the time of EOS's surveying and their presentation of the survey results, their work and subsequent presentation of findings does not meet the definition of "political activity" under the policy. Thus, it cannot be that public funds committed through the contract with EOS were misappropriated.

F. Did the district prepare, review, or distribute campaign related materials in violation of Illinois law?

Likely, no. Complainant alleges that the information presented to the public at the Board's June 25, 2026, meeting, including funding options, tax impacts, support/opposition levels of the different funding levels, and a "Preferred Potential Option" table constituted the distribution of campaign materials. He argued that this information could be used to shape campaign decisions, decide ballot language, identify politically viable tax asks, and determine what infrastructure projects to include or omit in their plans.

Board Policy 2:105 prohibits "[d]istributing, preparing for distribution, or mailing campaign literature, campaign signs, or other campaign material on behalf of any candidate for elective office or for or against any referendum question." The question here, then, is whether the presentation at the June 25, 2026, meeting constituted "campaign materials."

The term "campaign materials" is not defined in policy or Illinois law as it relates to ethics or political activities. Further, there are no court decisions or attorney general decisions defining the term. Notably, reading the Ethics Act and the controlling Board Policy, they seem to contemplate "campaigning" to include advocating for, promoting, or getting someone to vote for or against a candidate or a referendum. Here, that was not what District 214 was doing.

As previously noted, the fact that no referendum was on the ballot on June 25, 2026, when EOS presented its findings suggests that anything the district was producing or distributing could not be campaign materials. Notably, if there is not an issue on the ballot or no question submitted to be on the ballot, the public body cannot be seen to be campaigning. Further, in reviewing the materials that were distributed and presented at the June 25, 2026, meeting, there is no language attempting to get the public to vote for or against any district proposal. Instead, the information presented was factual, informative data collected for purposes of analyzing public sentiment around what infrastructure projects they were willing to fund and how much money they were willing to contribute to the district's infrastructure needs. Even

the questions asked were not advocating for any particular position. The Ethics Act nor Board Policy 2:105 prohibit the district from distributing informational materials to the public. Because what was presented was not promotional and was not advocating for any particular position, the district did not appear to violate Illinois law or its Ethics Policy.

Again, it is worth noting that the conduct the district engaged in here was not unique. School Districts throughout the state have utilized services of community engagement firms like EOS to gather data and present their findings to the Board. It is notable that these practices have not previously been determined to violate the Election Law, the Ethics Act, or board policy.

G. Did any district personnel engage in official misconduct for their involvement in the work with EO Sullivan?

There is no evidence that any District personnel engaged in official misconduct through their collaboration with EOS. Complainant notes that the Election Code prohibits the use of public funds to urge electors to vote for or against a proposition and the Ethics Act prohibits the misuse of public resources and the use of compensated time for engaging in political activities. Based on this, he alleges that the creation of the Board agenda and the June 25, 2026, presentation showing the option survey findings constituted activities and products that violated the Ethics Act and the Election Code.

The agenda for the June 25, 2026, board meeting nor the EOS presentation to the Board constituted campaign materials; therefore, the creation of them and distribution of them were not political activities. Moreover, because the materials were permissible, any employee time spent working on them did not violate the ethics policy. Moreover, as noted above, none of the activities by the district constituted "political activities" nor is there any evidence that funds were spent on a political activity. As a result, there is nothing to suggest that any District 214 personnel engaged in official misconduct.

V. Conclusion:

Based on a review of the actions taken by the district, its agreement with EOS, the work conducted by EOS, established precedent, and additional records provided by the Complainant related to this matter, there is no evidence that the District violated the Election Code, its ethics policy (Board Policy 2:105), or any Ethics Act, nor is there evidence that District officials engaged in any official misconduct.

Pursuant to Board Policy 2:260, the Board has 30 school business days to review this report and provide its written decision to the Complaint and the accused.