

Township High School District 214 Board of Education
2121 South Goebbert Road
Arlington Heights, Illinois 60005

Re: Objections to September 3, 2026 Investigative Report

Members of the Board:

I submit these objections to the September 3, 2026 investigative report concerning District 214's use of public resources for referendum-related polling, voter surveying, messaging, and consulting services.

The report does not support its conclusion that there was "no evidence" of a violation. It confirms that the District used public funds to conduct two scientific telephone surveys, test specific funding amounts and tax impacts, measure support and opposition, evaluate the viability of referendum options, refine proposed funding levels, and obtain services that included development of a ballot question.

The report's conclusion rests primarily on an interpretation that Board Policy 2:105 applies only after a referendum question has formally been placed on the ballot. That limitation appears neither in the district policy nor in the applicable state law. It creates an unwritten loophole under which a public body could conduct referendum polling and option testing so long as it had not yet finalized or certified the question.

District 214 does not have the power to rewrite state law, create exceptions that the legislature did not enact, or narrow the scope of the governing prohibitions through its own interpretation. The Ethics Act's no-less-restrictive provision does not give local governments authority to rewrite the law in a way that makes its restrictions less protective or creates exceptions the legislature did not enact.

Policy 2:105 prohibits planning, conducting, or participating in a public-opinion poll "for or against any referendum question." It also prohibits gathering information from potential voters to determine the probable vote outcome "for or against any referendum question." Neither provision requires a referendum to have been certified for the ballot, an exact ballot question to have been drafted, or the survey itself to contain express advocacy.

The report repeatedly relies on the absence of advocacy in the survey questions. That may be relevant to whether public funds were used to "urge" electors under 10 ILCS 5/9-25.1, but it does not resolve whether the District conducted public-opinion polling or gathered information from potential voters to determine the probable outcome of a referendum under Policy 2:105. A neutrally worded survey can still produce referendum strategy and probable-outcome information.

The District's June 25 board materials demonstrate the connection between the polling and a contemplated referendum. They describe EO Sullivan's process as designed to build community "understanding and support" and identify key influencers, messaging development, scientific polling, "Testing and Plan Refinement," and a final public-education phase.

The Phase 3 report states that the scientific telephone survey was conducted "to gauge support for each potential option." It calculates net favorability, identifies options the District could pursue successfully, states that negative favorability could be overcome through District educational efforts, recommends a hybrid option of approximately \$400 million, and concludes that the community was ready for a November 2026 referendum. These are the District's and its consultant's descriptions of the work, not merely allegations made by the complainants. See District 214 Board of Education, June 25, 2026 Board Materials, "Phase 3: Testing and Plan Refinement," <https://go.boarddocs.com/il/d214/Board.nsf/Public>.

The subsequent timeline reinforces that connection. On August 6, 2026, the Board placed a \$295 million bond question on the November ballot. The selected amount was approximately the lowest funding level tested through the taxpayer-funded polling process.

The investigation was also incomplete. The report identifies interviews with only Superintendent Scott Rowe, Patrick Mogge, and me. It does not identify interviews with Ed Sullivan, Collin Corbett, the telephone survey vendor, the individuals who drafted the surveys or selected the samples, or Board members who received and relied upon the findings.

Likewise, the report does not establish that the investigator reviewed the complete survey instruments and introductions, crosstabs, raw and weighted data, sample-selection materials, invoices, draft presentations, internal communications, strategy memoranda, or records showing how the polling affected the amount and content of the eventual \$295 million ballot question. Purpose and use cannot be determined solely from final public presentations and interviews with two District administrators.

The authorities cited in the report do not resolve these issues. *Ryan v. Warren Township High School District No. 121* concerned public relations surrounding a decision to raze and rebuild a school shortly before school-board elections. It did not involve referendum polling, testing tax increases, measuring probable voter behavior, or applying the polling prohibitions later enacted through the State Officials and Employees Ethics Act.

Markham Park District v. Tressler LLP involved legal advice concerning a referendum and the absence of evidence that attorneys urged electors to vote a particular way. It did not

involve public-opinion polling or referendum-option testing. Moreover, Markham was a pre-2021 nonprecedential Rule 23 order and should not be treated as established precedent resolving this question.

The report also relies on the assertion that other school districts have engaged in similar practices without apparent prosecution. The absence of known enforcement is not evidence that the conduct is lawful. The report identifies no Attorney General opinion, State Board of Elections determination, judicial decision, or other authoritative ruling approving taxpayer-funded referendum polling of this kind.

The absence of an Attorney General opinion was a central reason for filing this complaint, not a justification for dismissing it. Before filing the District 214 complaint, I wrote to the Illinois Attorney General requesting guidance on whether school-district polling related to a ballot referendum constitutes prohibited political activity, whether polling data may be used to shape referendum messaging or strategy, what distinguishes lawful public engagement from political polling, and what enforcement mechanisms apply.

In a January 26, 2026 letter, Assistant Attorney General Julia K. Morrison explained that the Attorney General could not advise me because section 4 of the Attorney General Act authorizes the office to provide opinions only to State's Attorneys, State officers, and State agencies, not private persons or entities. The Attorney General did not reject my legal position or determine that the polling was lawful. The office stated that it had reviewed its files and found no previously issued opinion directly addressing these questions. It also notified the Public Integrity Bureau of my inquiry and advised me that I could pursue the matter through the relevant State's Attorney. A copy of that letter is attached.

During my interview with the investigator, I explained that my two principal objectives were:

1. To obtain an authoritative interpretation of Illinois law concerning taxpayer-funded referendum polling. I encouraged the District to forward the matter through an official legally authorized to request a formal Attorney General opinion.
2. Once that interpretation is obtained, to have the law enforced consistently with it.

This material testimony does not appear in the investigative report. Instead, the report acknowledges the absence of controlling judicial or Attorney General guidance and resolves that uncertainty in the District's favor without pursuing an authoritative interpretation.

The remedy is to present the issue through a public official authorized to request an Attorney General opinion. Because the District itself is not among the Attorney General's statutory advisees, the Board should forward the complaint, investigative report, January

26 Attorney General letter, and supporting records to the Cook County State's Attorney and request that the State's Attorney seek a formal opinion from the Attorney General's Opinions Bureau. The District should also transmit the materials to the Attorney General's Public Integrity Bureau for appropriate review and coordination.

This process could provide consistent guidance for District 214 and other Illinois school districts confronting the same issue, rather than leaving individual districts and their privately retained investigators to adopt differing interpretations of a statewide ethics requirement.

For these reasons, I respectfully request that the Board:

1. Decline to adopt the report's conclusion that there was no evidence of a violation.
2. Return the matter for a supplemental investigation applying the actual language of Board Policy 2:105 without adding a formal ballot-placement or express-advocacy requirement, and require separate findings on the public-opinion-polling and probable-vote-outcome prohibitions.
3. Require interviews of EO Sullivan personnel, the telephone survey vendor, relevant Board members, and District personnel responsible for the surveys, messaging, sample selection, and referendum planning.
4. Require review of the complete survey instruments, scripts, crosstabs, raw and weighted results, sample-selection materials, invoices, drafts, internal communications, strategy documents, and records showing how the results affected the eventual \$295 million ballot question.
5. Preserve all relevant District, Board-member, employee, consultant, and vendor records pending a final decision and any review by outside authorities.
6. Forward the complaint, investigative report, January 26 Attorney General letter, and supporting records to the Cook County State's Attorney, requesting that the State's Attorney seek a formal Attorney General opinion concerning the meaning and application of the referendum-polling provisions, and transmit the same materials to the Attorney General's Public Integrity Bureau.
7. Withhold any final determination that the District's conduct was lawful until the supplemental investigation is complete and the unresolved legal questions have been presented to the appropriate state authorities.
8. Adopt interim safeguards prohibiting the use of District funds or resources for polling designed to measure probable referendum outcomes unless the Board

receives a written, publicly available legal opinion establishing that the proposed activity complies with Policy 2:105.

The issue is not whether District 214 may assess its buildings, explain infrastructure needs, calculate costs, or solicit general public input. It plainly may. The issue is whether it may use taxpayer funds to test specific tax-increase amounts, measure voter support and opposition, identify politically viable referendum options, refine an option based on the results, and develop messaging intended to overcome opposition.

The September 3 report does not adequately answer that question. It adds requirements not found in the governing policy, omits my express request for authoritative state guidance, and fails to investigate the witnesses and records most likely to establish the polling's purpose and use.

I therefore request that the Board reject the report's recommendation or, at minimum, withhold any final exoneration until a complete supplemental investigation has been conducted and the unresolved legal questions have been formally presented through an authorized public official.

Respectfully submitted,

Brian Costin
Deputy State Director
Americans for Prosperity-Illinois
bcostin@afphq.org