



# STATE OF INDIANA

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May 6, 2015

Ms. Gloria D. Terry  
C/o Trent McCain, Esq.  
McCain Law Offices, P.C.  
5655 Broadway  
Merrillville, IN 46410

*Re: Formal Complaint 15-FC-143 (Priority); Alleged Violation of the Open Door Law by the Gary Community School Corporation*

Dear Ms. Terry,

This advisory opinion is in response to your formal complaint alleging the Gary Community School Corporation ("GCSC") violated the Open Door Law (ODL), Ind. Code § 5-14-3-1 *et. seq.* The GCSC has responded via Corporation Counsel Tracy A. Coleman. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on April 23, 2015. Your complaint has been given priority status.

## BACKGROUND

Your complaint dated April 23, 2015, alleges the Gary Community School Corporation violated the Open Door Law by failing to draft proper minutes of an executive session.

On April 22, 2015, you received requested minutes from two executive sessions held on February 19 and February 23, 2015. You contest the minutes did not contain a statement to certify the subject matter discussed during the executive session pursuant to Ind. Code § 5-14-1.5-6.1(b)(4).

The response from GCSC did not address the issue of a certifying statement rather arguing the subject matter of the executive session was proper.

## ANALYSIS

It is the intent of the Open Door Law (ODL) the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. See Ind. Code § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. See Ind. Code § 5-14-1.5-3(a).

According to Ind. Code § 5-14-1.5-6.1(b)(4):

The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public are modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

It appears as if every other requirement of the executive session is in order. However, a critical element of a closed-door executive session is an affirmative declaration no other subject matter was discussed other than that which is allowed by law. Such is the purpose of subsection 6.1(b)(4). Without this affirmation, the executive session loses a bit of legitimacy as a legal closed-door session. Curiously the minutes contain a statement regarding subject matter, but it is not certified. Ratification of the minutes at the next public meeting is not sufficient; a certification must be included in the record of the executive session.

## CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Gary Community School Corporation has violated the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt  
Public Access Counselor

Cc: Tracy A. Coleman, Esq.