



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

**PUBLIC ACCESS COUNSELOR  
LUKE H. BRITT**

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-0906  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

September 9, 2015

Angela Nickoli  
1416 North Buckeye  
Muncie, IN 47304

*Re: Formal Complaint 15-FC-222; Alleged Violation of the Open Door Law by Ball State University*

Dear Ms. Nickoli,

This advisory opinion is in response to your formal complaint alleging Ball State University ("BSU") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et seq.* BSU has responded to your complaint via counsel, Mr. Jon Moll, Esq.. His response is enclosed for your review. 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 August 3, 2015.

## **BACKGROUND**

Your complaint dated alleges that BSU violated the Open Door Law by restricting notice of department faculty and committee meetings to only tenure track professors. You contend that this is a violation of the ODL and anyone should be allowed to attend.

On August 13, counsel responded. Counsel contends that because the meetings of the Department of Criminology and Criminal Justice are not meetings of a governing body, as defined by Ind. Code 5-14-1.5-2(b)(3). Rather the meetings are of committees that are not directly appointed by the school's governing body – the Board of Trustees.

## **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).



# STATE OF INDIANA

**MICHAEL R. PENCE, Governor**

**PUBLIC ACCESS COUNSELOR  
LUKE H. BRITT**

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-0906  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

Ind. Code § 5-14-1.5-2(b) states that a "Governing body" means two (2) or more individuals who are:

(3) Any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated.

The instant case is substantially similar to *Robinson v. Ind. Univ.*, 638 N.E.2d 435 (1994). The *Robinson* court opined that a committee established by the University's Department heads was not subject to the Open Door Law as it was not directly appointed by the University's governing body or its presiding officers.

So it is with Ball State's Departmental Committees. They are not governing bodies as contemplated by the Open Door Law. They are not committees which derive their authority directly from BSU's Board of Trustees and are therefore not a board of the University. Similar to *Robinson*, the delegation of authority to take official action is interrupted by several steps. As such, the committees are not bound by its obligations and the public (or any other non-invited individuals) do not have the expectation to attend, observe and record the meeting.

## CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor that Ball State University did not violate the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to read "LH Britt", written over a horizontal line.

Luke H. Britt  
Public Access Counselor

Cc: Jon Moll, Esq.