



STATE OF INDIANA

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March 2, 2016

Mr. John Coleman
6693 West 225 South
Lyons, Indiana 47443

Re: Formal Complaint 16-FC-18; Alleged Violation of the Open Door Law by the White River Valley School District

Dear Mr. Coleman:

This advisory opinion is in response to your formal complaint alleging the White River Valley School District ("District") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 et. seq. The Corporation has responded via Mr. Bob Hacker, Superintendent. 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 February 1, 2016.

BACKGROUND

Your complaint dated February 2, 2016 alleges the White River Valley School District violated the Open Door Law by failing to keep minutes or memoranda of their meetings.

On January 20, 2016 you requested copies of the District's minutes from an executive session. Superintendent Hacker informed you the District does not keep minutes from executive sessions. You also contend the District has been using the executive session to discuss matters not approved under the Open Door Law.

On February 3, 2016 the District responded. The District acknowledged its deficiencies in preparing memoranda and has stated it is taking remedial measures. The District rejects any allegation it is meeting improperly.

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).

Under Ind. Code § 5-14-1.5, memoranda from any meeting must be kept and made available to the public. Minutes, if any, must also be available for the public. The district acknowledges it has been deficient in this manner. However, it does not appear the district's failure was a malicious attempt to deny the public information, but rather a misunderstanding of the scope of the Open Door Law. The District has recently been made aware of the scope of the law and has promised to be compliant.

The certification process ensures that conversations held behind closed doors are appropriate pursuant to the Open Door Law. It is my expectation these certifying signatures will be a reminder to the District of the importance of staying on topic during executive sessions. I do indeed recommend the District revisit prior executive session meetings, if possible, and recreate the certifications. Going forward, it appears as if the District is intending to comply in good faith with the requirement.

As you are aware, I recently had the opportunity to attend one of the District's board meetings to speak with the Board about the Open Door Law and the Access to Public Records Act. I was pleased with the invitation and the willingness to address some perceived deficiencies in the Board's practices. I am confident the District was receptive to my remarks and suggestions and will address any shortcomings accordingly.

While I certainly do not take your complaint lightly, it is my hope the District will correct any mistakes it may have made in the past regarding the Open Door Law and meet and exceed the statutory expectations for transparency.

CONCLUSION

Based on the foregoing, it is the Opinion of the White River Valley School District has violated the Open Door Law by not keeping memoranda of its executive sessions; however, the District has conceded this point and has taken steps to fix this issue going forward.

Regards,

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a large, sweeping flourish underneath.

Luke H. Britt
Public Access Counselor

Cc: Mr. Bob Hacker, Superintendent