



# STATE OF INDIANA

MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR  
ANDREW J. KOSSACK

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

December 7, 2010

Mr. Joseph L. Weingarten  
14066 Deer Stone Ln.  
Fortville, IN 46040

*Re: Formal Complaint 10-FC-303; Alleged Violation of the Open Door Law by Fall Creek Township*

Dear Mr. Weingarten:

This advisory opinion is in response to your formal complaint alleging Fall Creek Township (the "Township") violated the Open Door Law ("ODL"), Ind. Code § 5-14-1.5-1 *et seq.* I note that I granted your request for priority status under 62 Ind. Admin. Code 1-1-3(3).

## BACKGROUND

In your complaint, you allege that the Township failed to post official notice of a meeting of the Township Board. The meeting occurred on November 29, 2010, at Hamilton Southeastern High School.

My office forwarded a copy of your complaint to the Township. In response, Township Trustee Terry Michael acknowledges that the Township did not post notice of the meeting. Mr. Michael states that no Township board member informed him that the meeting was to occur, so he was unaware that notice was required.

## ANALYSIS

It is the intent of the ODL that, unless otherwise permitted by statute, governing bodies of public agencies conduct business and take official action openly so that the people may be fully informed. I.C. § 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. I.C. § 5-14-1.5-3(a).

The ODL requires that public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. I.C. § 5-14-1.5-5(a). In addition to providing notice to any news media who by January 1 of the year have requested notice, the agency must post notice at the principal office of the agency or, if there is no office, at the building where the meeting will be held:

(b) Public notice shall be given by the governing body of a public agency by:

1. posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held; and
2. depositing in the United States mail with postage prepaid or by delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency.

I.C. § 5-14-1.5-5(b). Thus, if the Township did not post any notice of its November 29th meeting or deliver such notice to any news media that requested it under subsection 5(b), the Township violated the ODL.

#### CONCLUSION

For the foregoing reasons, it is my opinion that the Township violated the ODL. I encourage the board members to notify the Trustee of any future meetings in order to ensure that public notice is provided in accordance with section 5.

Best regards,



Andrew J. Kossack  
Public Access Counselor

cc: Terry Michael