



STATE OF INDIANA

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February 28, 2014

Olive Township Concerned Citizens
New Carlisle, IN 46552
Distributed via email

Re: Formal Complaint 14-FC-11; Alleged Violation of the Access to Public Records Act by the New Carlisle - Olive Township Public Library Board of Trustees

Dear Concerned Citizens,

This advisory opinion is in response to your formal complaint alleging the New Carlisle - Olive Township Library Board of Trustees ("Trustees") violated the Open Door Law (ODL), Ind. Code § 5-14-3-1 *et. seq.* The Trustees responded via Ms. Andrea Halpin, Esq., Attorney for the Library Board of Trustees. 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 January 29, 2014.

BACKGROUND

Your complaint dated January 29, 2014, alleges the New Carlisle - Olive Township Library Board of Trustees violated the Open Door Law by providing improper notice of their executive meetings.

You allege January 27, 2014 at 7:00 p.m.; the Library Board of Trustees President placed a 48-hour meeting notice on the Library door. A travel advisory was in effect for St. Joseph County during that time restricting traffic. The Library Public Meeting was scheduled for January 29, 2014 at 8:00 p.m. You also mention on January 30, 2014, a New Prairie School Board Hearing would be held to determine if certain Library Board Members would be voted off the board.

The Trustees responded by arguing the Library Board of Trustees clearly gave in excess of 48-hour notice and the January 30 school board meeting was subsequently rescheduled to February 4, 2014.

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). Notice of the date, time and place for a meeting or executive session of a governing body must be provided at least forty-eight (48) hours in advance, not including Saturdays, Sundays or legal holidays. See Ind. Code §5-14-1.5-5(a).

Since the filing of your complaint, I have received several emails from you and other concerned citizens raising questions over the conduct of the Library Board of Trustees. As it was not in your formal complaint (and therefore the Trustees had no notice in order to respond); I must decline to include any of that information and limit this Opinion to the facts stated in the four corners of your complaint.

As written, the complaint states the Library Board of Trustees gave 49-hours notice to the meeting which would be proper under the Open Door Law. Additionally, it is difficult for me to contextualize the portion of your complaint regarding the removal of Library board members at the subsequent school board hearing and why that would violate open access laws. It appears as if your complaint is one of local governance and not of Open Door Law violations. Please note the Office of the Public Access Counselor does not have statutory authority to comment on local governance issues or the procedures of removal of local board members.

It is also important to note, however, potential attendees of the meeting on January 29, 2014 may have encountered travel advisory issues due to weather. I was recently in the St. Joseph County area giving a presentation and an audience member asked about weather issues as it relates to Open Door notice. I stated unequivocally meetings held under travel advisories should only involve essential business, as it becomes difficult or even impossible for the public to observe during those times. I also stated it was prudent to delay votes on important issues until a board reconvenes during better weather conditions. The purpose of the Open Door Law is to provide the public an opportunity to be present during official actions of public agencies. Winter weather of such severe nature can prevent citizens to attend. While not technically illegal to hold a meeting under a travel advisory, it is certainly poor practice. It is my expectation that meetings be postponed until travel advisories are lifted, or at the very least, only essential business be conducted.

CONCLUSION

For the foregoing reasons, it is the opinion of the Public Access Counselor the New Carlisle - Olive Township Library Board of Trustees did not violate the Open Door Law.

Regards,

A handwritten signature in black ink, appearing to be 'LHB', written in a cursive style.

Luke H. Britt
Public Access Counselor

Cc: Ms. Andrea Halpin, Esq.