
OPINION OF THE PUBLIC ACCESS COUNSELOR

GEORGE B. COFFEY,
Complainant,
v.
GREEN TOWNSHIP TRUSTEE,
Respondent.

Formal Complaint No.
25-FC-003

Jennifer G. Ruby
Public Access Counselor

RUBY, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Green Township Trustee violated the Open Door Law¹ (ODL). Jon Fletcher, Green Township Trustee (Trustee) filed a response to the complaint. In accordance with Indiana Code (IC) 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on January 9, 2025.

BACKGROUND

On January 9, 2025, George B. Coffey (Complainant) filed a formal complaint with the Office of the Public Access Counselor (OPAC) alleging that Green Township Trustee Jon Fletcher (Respondent) violated the ODL by mailing the notice and agenda for the Board meeting, providing improper notice, because it was received less than forty-eight (48) hours prior to the meeting. The meeting took place on December 19, 2024, and Complainant received the notice by U.S. mail on that same day. Complainant serves as the Board chair. Complainant explained that since 2022, when he was appointed to the Board, the Board and Trustee have sent notification of these meetings via email; however, the notice for the December 19, 2024, meeting was sent only by U.S. mail.

To be filed timely, a complaint must be filed with this office no later than thirty days after the denial. IC 5-14-5-7(a). This complaint was filed timely.

¹ Indiana Code (IC) 5-14-1.5-1 to 8.

The OPAC sent formal notice of this complaint to the Respondent on January 16, 2025. The Respondent responded on January 29, 2025, with a letter and attachments, which included a photo of Complainant's notice postmarked December 16, 2024, presumably taken at the local post office.

According to that response, Billy Abraham and Don Clark, two (2) of the three (3) Board members, called the December 19, 2024, meeting, and notifications to all Board members, including Complainant's, were mailed on December 16, 2024.

Respondent also wrote that Mr. Dale Coffey, Green Township Attorney, sent Complainant an email on December 18, 2024, midday, in response to Complainant's email asking if there was a meeting. According to Respondent, the email notified Complainant of the date and time of the meeting and gave Complainant time to make plans to attend the meeting that next evening. Respondent also noted that Green Township has not adopted any resolution that addresses the manner of notice to Board members. Respondent attached several documents, including the meeting notice, with his response. The meeting notice shows that Complainant serves as the Chairman of the Board, and the other two (2) individuals, who called the meeting, are the two (2) other members of the Board.

ANALYSIS

1. The Open Door Law (ODL)

The Open Door Law (ODL) requires the governing body of a public agency to conduct and take official action openly, unless otherwise expressly provided by statute, so the people may be fully informed. See IC 5-14-1.5-1. As a result, the ODL requires all meetings of the governing bodies of public agencies to be open at all times to allow members of the public to observe and record the proceedings. See IC 5-14-1.5-3(a).

Under the ODL, "meeting" means "a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business." IC 5-14-1.5-2(c). "Official action" means to: (1) receive information; (2) deliberate; (3) make recommendations; (4) establish policy; (5) make decisions; or (6) take final action. IC 5-14-1.5-2(d). The definition of "public agency" includes any township "exercising in a limited geographical area the executive, administrative, or legislative power of the state or a delegated local governmental power." IC 5-14-1.5-2(a)(2). It also includes "any advisory commission, committee, or body created by statute, ordinance, or executive order to advise the governing body of a public agency. . . ." IC 5-14-1.5-2(a)(5). The Green Township Trustee and the Green Township Board are subject to the ODL.

Generally, the ODL requires an agency to provide public notice of the date, time, and place of any meeting, executive session, or of any rescheduled or reconvened

meeting at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. The ODL requires agencies to post a copy of the notice of the agency's principal office or if there is no such office at the location of the meeting. *See* IC 5-14-1.5-5. The ODL also requires a public agency to deliver notice to all news media who deliver an annual written request for the notices by December 31st for the next year by either sending it via email, fax, or through the U.S. mail with postage prepaid.

The ODL is silent on how notice of a meeting should be provided to members of the governing body; it only speaks to notice of the meeting to the public and to the media. Presumably, as also members of the public, the members of a Board should have notice at least forty-eight (48) hours ahead of time, if they are to be present to perform the duties of the Board.

Furthermore, nothing in Complainant's complaint or Respondent's response alleges that the Township Trustee and Board failed to meet the requirements for notice to the public or media under the ODL.

2. Meetings of Township Legislative Bodies

The PAC has the authority to address any state statute governing access to public meetings. *See* IC 5-14-4-3 and IC 5-14-4-10(6). This includes IC 36-6-6-13.5, which provides that:

A special meeting may be held by the legislative body if the executive, the chair of the legislative body or a majority of the legislative body issue a written notice of the meeting to each member of the legislative body. The notice must state the time, place, and purpose of the meeting.

This does not specify a deadline for the notice prior to the meeting being held nor the method for providing the written notice to the members. This does appear to contemplate that all members of the Legislative body would receive similar notice in a manner to adequately prepare for and attend the meeting.

In this case, Respondent changed the regular method of notification for meetings from email to U.S. Postal mail. Respondent took a photo of the envelope with the notice and agenda to Complainant at the U.S. Postal facility after it had been postmarked December 16, 2024, as proof that it was being mailed. This leads our office to believe that Respondent knew that mailing the notice and agenda would be an issue.

Even if the notice and the agenda were postal mailed to all the Board members at the same time on December 16, 2025, Complainant was at a disadvantage because the other two (2) board members called the meeting and presumably knew the time and date of the meeting from the date they called the meeting. Meaning, the other two (2) board members and the Respondent all knew on or

before December 16, 2025, that the meeting was to take place at 6:30pm on December 19, 2025, leaving only Complainant in the dark.

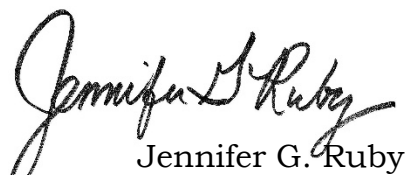
U.S. mail often takes three (3) or more days for delivery. By the day before the meeting, Complainant somehow learned of the meeting and contacted the Township Attorney to verify if there was a meeting and when it would be. Complainant did not receive the notification of the meeting by U.S. Postal Mail until the day of the meeting. Most busy people cannot adjust their schedules to accommodate a new meeting with such short notice. This is why statutorily IC 5-14-1.5-5 requires a minimum of forty-eight (48) hours' notice for the general public and the news media. Here, the Chair of the Board was not given the courtesy of those same forty-eight (48) hours of notice by email, call or postal mail.

Although IC 36-6-6-13.5 does not specify a deadline or method for delivering written notice of the meeting to each member of the legislative body, for the written notice to be meaningful, members of a legislative body must receive it in time for them to make plans to attend the meeting. Receiving the written notice on the same day as the meeting leaves little time for preparation to attend or participate fully. Therefore, it is unlikely that either the U.S. Postal mail or the email response from the Township Attorney were sufficient as written notice under IC 36-6-6-13.5.

As the statute is silent on the timeline and method of delivery for written notice under IC 36-6-6-13.5, I decline to define "sufficient written notice". Nonetheless, this complaint may have been avoided if Respondent, the other Board members, or the Township Attorney had provided Complainant notice via email on the day that they decided to hold the meeting, or even if they emailed or called on the date that the written notices were deposited in the U.S. Mail.

CONCLUSION

Based on the foregoing, it is the opinion of this office that Respondent, Trustee Fletcher, did not violate the ODL. However, the conduct demonstrated here violates the spirit of IC 36-6-6-13.5. I recommend that the Township Trustee and Township Board consider adopting a policy to ensure consistent notice, in time and manner, to all the Board members for meetings in the future.


Jennifer G. Ruby
Public Access Counselor

Issued: October 2, 2025