



STATE OF INDIANA

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December 29, 2025

Re: Complaint 25-FC-018B
Maria Flora (Complainant) v.
Boone County Commissioners (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed February 18, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 9, 2025, requesting a formal response by November 7, 2025. Respondent requested an extension of the deadline to respond and was granted until November 14, 2025. A formal response, submitted by Beth Copeland, Boone County Attorney, on behalf of Respondent, was received in this office on November 14, 2025.

The complaint alleges that Respondent violated the Open Door Law (ODL) by, among other things, taking actions or ratifying actions taken outside of open public meetings.

ANALYSIS

The original complaint included Access to Public Records Act (APRA) issues, which were resolved by March 7, 2025, which is why this complaint was broken into parts A and B, with part A resolved. Respondent's answer consisted of an eleven (11) page letter and an additional 79 pages of exhibits including meeting notices and minutes. This opinion seeks to cover the most relevant issues.

ODL requires public agencies to conduct and take official action openly, unless otherwise expressly provided by statute, so the people may be fully informed. Indiana Code (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. IC 5-14-1.5-3(a).

The complaint took issue with a) the signature by a commissioner on a contract for information technology (IT) services, b) a stop work order by a commissioner for a project while it was under review, c) email by the county auditor about potential employment and d) a request by a commissioner for county insurance information. These are different internal process issues, and not matters for ODL consideration

since the actions were by individuals outside the public meeting process. Therefore, this office does not have jurisdiction.

Another issue was the ratification of a contract at a January meeting of the Board of Commissioners. That contract was approved at the December 16, 2024 meeting, subject to legal review, and then ratified at a meeting in January 2025. Both meetings were open public meetings. The issue of ratification of the contract is a question for the county attorney. Therefore, this office does not have jurisdiction.

The next issue alleges that the ODL was violated when discussions were held in an executive session regarding the possibility of hiring and terminating county employees, both contractual and in-house.

Under the ODL, “executive session” means a “meeting from which the public is excluded, except the governing body may admit those persons necessary to carry out its purpose”. The ODL authorizes executive sessions in limited, specific circumstances, which must be properly and specifically noticed by reference. IC 5-14-1.5-6.1(b)

Respondent states the notice of executive session for the meeting at issue complied with the statute by identifying the statutory provisions for the meeting as IC 5-14-1.5-6(b)(5), (6), and (9), which are:

(5) To receive information about and interview prospective employees.

(6) With respect to any individual over whom the governing body has jurisdiction:

(A) to receive information concerning the individuals alleged misconduct; and

(B) to discuss, before a determination, the individual’s status as an employee, a student, or an independent contractor who is:

(i) a physician; or

(ii) a school bus driver.

...

(9) To discuss a job performance evaluation of individual employees.

This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during the budget process.

Respondent states further that the only topics discussed were the possibility of hiring and terminating employees, both contractual and in-house, and that no official action was taken. The statute does not distinguish between “in-house” and “contractual” employees. The relevance is that these are employees are hired by and report directly to the Respondent.

Complainant and Respondent differ on what actions took place at the regular meeting that followed the executive session but some authorization of the pursuit of a new contract with a new county attorney took place at the open meeting. We

concur that the actions were consistent with the specific purposes of an executive session.

Complainant also alleges violation of the ODL when the Commissioners discussed board appointments at the executive session. Respondent denies that discussions regarding appointments were held at the executive session but rather were discussed at an administrative meeting.

The executive of a county can, without notice, hold a meeting if the meeting is held solely to carry out the administrative functions related to the county executive. "Administrative functions" means only routine activities that are reasonably related to the everyday internal management of the county, including conferring with, receiving information from, and making recommendations to staff members and other county officials or employees. Administrative functions do not include:

- (A) Taking final action on public business;
- (B) the exercise of legislative powers; or
- (C) awarding of or entering into contracts, or any other actions creating an obligation or otherwise binding the county.

IC 5-14-1.5-5(f)(2).

Respondent cites this section as authority to discuss board appointments at an administrative meeting as exempt from the ODL. Section 5(d) merely exempts the meeting from public notice and not from public access. Further, while appointments might be discussed at an administrative meeting, final action should take place at a regular or special meeting that is noticed and eligible for final action. We concur that discussion of appointments might qualify for an administrative meeting, however, we are unable to determine when and where the actual appointments took place.

CONCLUSION

This office finds that Respondent did not violate the ODL because it states that it did not discuss non-qualifying topics at an executive session. This office also finds that Respondent also did not violate ODL by discussing appointments at an administrative meeting, so long as the meeting was open to the public.



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