
OPINION OF THE PUBLIC ACCESS COUNSELOR

CHAD M. LIEBERMAN,
Complainant,
v.
WESTERN WAYNE SCHOOLS BOARD OF TRUSTEES,
Respondent.

Formal Complaint No.
25-FC-030

Jennifer G. Ruby
Public Access Counselor

RUBY, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Western Wayne Schools Board of Trustees (Board) violated the Open Door Law¹ (ODL). Attorney Andrew J. Sickmann filed a response on behalf of the Board. In accordance with (IC) 5-14-1.5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on March 11, 2025.

BACKGROUND

The issue in this case is whether the Western Wayne Schools Board of Trustees (Board) held an executive session in accordance with the Open Door Law (ODL).

On February 28, 2025, at 3:00 p.m., the Board held an executive session. The notice for the session, posted at the office of the school board attorney, stated the purpose of the meeting was to “discuss a job performance evaluation of individual employees” pursuant to IC 5-14-1.5-6.1(b)(9). Complainant Chad M. Liebermann alleges that the Board failed to file proper notice of the executive session and the executive session was held outside the school district at the office of the school’s legal counsel.

On April 11, 2025, Attorney Andrew J. Sickmann of Boston Bever Forrest Cross & Sickmann submitted a response on behalf of the Board. In response,

¹ Indiana Code (IC) 5-14-1.5-1-1 to 8.

Sickmann stated that the notice was properly posted at the office where the executive session was to be held. It was the desire of the Board to hold the executive session away from the administrative offices to avoid the staff from overhearing the discussions during the executive session.

ANALYSIS

1. The Open Door Law

The Open Door Law (ODL) requires public agencies to conduct and take official action openly, unless otherwise provided by statute, so the public may be fully informed. 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 Western Wayne Schools Board of Trustees is a public agency for purposes of the ODL and thus subject to the law's requirements. IC 5-14-1.5-2(a)(2).

As a result, unless an exception applies, all meetings of the Board must be open at all times to allow members of the public to observe and record.

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).

"[O]fficial action" means to:

- (1) receive information;
- (2) deliberate;
- (3) make recommendations;
- (4) establish policy;
- (5) make decisions;
- (6) or take final action.

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

Additionally, "public business" means "any business function upon which the public agency is empowered or authorized to take official action. IC 5-14-1.5-2(e).

2. Executive Sessions

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)(1-15).

The reason for specifically referencing the statutory justification for the executive session is to give the public assurance that no other topic is discussed other than that which is allowed by law. The list of enumerated subject matters is narrow and specific.

The purpose of the executive session as set forth in the notice of the meeting was to discuss the job performance of employees. This is permissible under the statute. IC 5-14-1.5-6.1(b)(9). A review of the notice of the meeting, as attached to the formal response of the Board, finds that the notice content complied with the statute.

3. Posting of Notice of Executive Session

The ODL requires that public notice be given of the meetings for a public agency, including the executive session, at least 48 hours in advance of the meeting. The statute further requires that notice shall be given by the governing body of the public agency by posting at the principal office of the public agency holding the meeting, or if no office exists, at the building where the meeting is to be held. IC 5-14-1.5-5(b)(1).

The response received from the Board agreed that no notice was posted at the administrative offices of the School Corporation as the principal office of the Board. The response stated that notice of the executive session was given at the building where the meeting was to be held in compliance with IC 5-14-1.5-5(b)(1). The response also stated that the notice was adequate due to the lack of a formal address for the schools Board of Trustees. This argument fails to meet the intent of the statute.

The law does not support the concept of limited notice. IC 5-14-1.5 -2(b)(1) unequivocally requires posting of the notice at the principal office of the public agency. The Board has a principal address of the administration office for the school corporation. The Board meets at the school for regular monthly meetings. Notice of all regularly held Board meetings is posted at the administrative offices. It is also assumed that the Board receives and dispenses mail from and through the administrative offices of the school. Therefore, this office determines that the public notice should have been posted at the principal office of the Board at the school corporation.

The Attorney for the School Board stated that future notices of executive sessions would be posted at both the high school offices and the location of the executive session.

4. Certification of Meeting

The complaint takes issue with the lack of records to confirm that other topics, than the stated purpose of the meeting, were not discussed. Complainant has requested minutes of the meeting and justification from the School Board regarding the topics discussed.

IC 5-14-1.5-6.1(d) provides an exception to the general rules regarding meeting minutes and disclosure for executive sessions. This section provides that the memorandum of the executive session must identify the subject matter considered at the executive session by specific reference to the enumerated purpose of the meeting as set forth in the notice of the meeting. This provision also requires a certification by the governing body that no other subject matter was discussed other than that which was specified in the notice.

The response by the Attorney for the School Board states that a memorandum (minutes) of the executive session was approved by the School Board at its regular meeting of March 12, 2025. The information set forth in the response appears to comply with the statutory requirements.

It should be noted that the complaint was filed on March 11, 2025, prior to the regular School Board meeting and approval of the memorandum on March 12, 2025. The record requested did not formally exist at the time of the request.

5. Location of Meeting

Complainant takes exception to the location of the executive session since the meeting place was outside the boundaries of the school district. For reasons of transparency the complainant suggests that the meeting should be held within the school district boundaries.

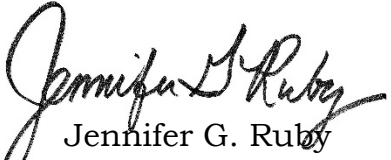
The ODL does not require the meeting to be held within the jurisdictional boundaries of the public agency. The meeting was noticed properly as to date, time, and place of executive session even though not properly posted. The executive session was not open to the public.

Conclusion

Based upon the foregoing, it is the opinion of this office that the Western Wayne Schools Board of Trustees violated the Open Door Law by failing to post notice of the executive session at the offices of the Western Wayne Schools. This office also recognizes that the School Board has committed to posting future notices of executive sessions at both the high school administrative offices and the location of the meeting.

The School Board did not violate any provision of the Open Door Law by holding its executive session at a location other than school property or a location outside of the school district's boundaries.

Furthermore, this office determined that no violation resulted from the School Board's failure to allow members of the public to attend the executive session to affirm that no other topics were discussed other than that which was stated in the notice of the executive session.


Jennifer G. Ruby
Public Access Counselor

Issued: November 4, 2025