



STATE OF INDIANA

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June 23, 2026

Re: Complaint 25-FC-285
Warren A. Auxier (Complainant) v.
Our Southern Indiana Regional Development Authority (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed on October 9, 2025.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 22, 2025, requesting a formal response by November 20, 2025. A formal response, submitted by Attorney Daniel Shackle of Frost Brown Todd on behalf of Respondent, was received in this office, after an approved extension to respond, on December 8, 2025.

The complaint alleges that Respondent violated the Open Door Law (ODL) when an executive session was improperly held.

ANALYSIS

The Open Door Law (ODL) requires public agencies to conduct and take official actions 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).

Respondent is a public agency and governing body for purposes of the ODL, and thus, is subject to the law's requirements. IC 5-14-1.5-2. As a result, unless an exception applies, all meetings of the Respondent must be open to the public at all times to allow the members of the public to observe and record.

Complainant alleges that an executive session of the Respondent's board was held on September 15, 2025, but was not solely for the purpose of the specific statutory exceptions as provided in the notice of the executive meeting. Complainant asserts that the meeting was held for the purpose of previewing a public response to a community concern over the application and acceptance of a READI 2.0 grant.

ODL provides certain exceptions to the open public meeting through the provisions for executive sessions. IC 5-14-1.5-6.1(b). Executive sessions may be held only in limited circumstances and must provide public notice of the executive session. The public notice is required to specifically state the specific statutory exceptions provided for the executive session and cite the exceptions in the notice. Both Complainant and Respondent acknowledged that a notice of the executive was posted and referred to specific statutory authority for the meeting.

The notice stated that:

This executive session will be held for the consideration of confidential pending investment requests made to the State of Indiana by industrial or commercial prospects (confidential proposals in progress), discussions of records classified as confidential by state or federal statute, discussion of records containing trade secrets, and confidential application information as provided in Indiana Code sections 5-14-3-1.5-6.1(B)(4) and (7) and Indiana Code sections 5-14-3-4(A)(4) and (10).

ODL provides, in section 5-14-1.5-6.1(b)(4) that an executive session may be held for:

(b)(4) Interviews and negotiations with industrial or commercial prospects or agents of industrial or commercial prospects by: ...

(H) a local economic development organization that is a nonprofit corporation established under state law whose primary purpose is the promotion of industrial or business development in Indiana, the retention or expansion of Indiana businesses, or the development of entrepreneurial activities in Indiana;

ODL provides, in section 5-14-1.5-6.1(b)(7) that an executive session may be called for:

(b)(7) For discussion of records classified as confidential by state or federal statute.

Respondent and Complainant agree that the READI Director requested that Respondent prepare an official statement at some point on a topic. Respondent states that it “has made no public statement or taken a position” as of the date of its response on December 8, 2025. However, Respondent goes on to say a board member shared “a copy of a statement he had prepared in his personal capacity as a courtesy to his fellow board members which he was going to read at a City of Madison, Indiana Common Council meeting.” The appropriateness of this action is the primary question.

Neither Executive Session statutory reference, cited above, would support the dissemination of the position statement to the members as acknowledged by the Respondent and outlined in the complaint. The position statement was information which did not fall within the interviews and negotiations with prospects as set forth in section (b)(4) nor did it disclose or discuss the specifics of any document that could be classified as confidential.

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). Although there seems to be no dispute that a meeting took place, there does seem to be a misunderstanding as to the meaning of “official action”.

“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). *Opinions of the Public Access Counselor 25-FC-044 and 25-FC-057.*

Respondent stated that there were purposes for the executive session other than to preview the position statement. Although Respondent stated that no discussion or changes to the statement took place, the fact that it was disseminated fulfilled the “receive information” aspect, making it an official action which was outside of the parameters of the posted reasons for the executive session.

CONCLUSION

This office finds that Respondent violated ODL when information outside the specific statutory authority cited in the Executive Session notice was received by the meeting members, in addition to whatever discussions may have been held in compliance with the Executive Session notice.



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