



STATE OF INDIANA

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October 19, 2026

Re: Complaint 26-FC-068
Tabitha Crosby (Complainant) v.
Perry County Council and Commissioners (Respondents)

This advisory opinion is issued in response to the above-referenced complaint filed on February 3, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondents on March 6, 2026, requesting a formal response by April 3, 2026. A formal response, submitted by Attorney Rod Acchiardo on behalf of the Perry County Council on behalf of Respondent Council, was received in this office on April 3, 2026. A formal response, submitted by Attorney Andrew Foster on behalf of the Perry County Commissioners on behalf of the Respondents Commissioners, was received in this office on April 3, 2026.

The complaint alleges that Respondent violated the Open Door Law (ODL) when a notice of the public meeting did not properly reflect the purpose of the meeting and other non-compliance with the ODL.

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).

Respondents are a public agencies for purposes of the ODL; and therefore, subject to the requirements. IC 5-14-1.5-2(a)(1). As a result, unless an exception applies, all meetings of Respondents should be posted by notice and open to the public.

Complainant alleges that notices of meetings were inaccurate, memoranda of executive sessions were not prepared, and livestreaming of certain meetings did

not take place. This office cannot determine the specifics of individual meetings based upon the information provided. Therefore, the analysis will discuss applicable ODL provisions related to the alleged violations.

The ODL provides that public notice shall be given by the governing body of a public agency by posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held. IC 5-14-1.5-5(b)(1). The notice shall provide the date, time, and place of the meeting, executive session, or any rescheduled or reconvened meeting at least forty-eight (48) hours in advance of the meeting (excluding Saturdays, Sundays and legal holidays). IC 5-14-1.5-5(a).

As an alternative, notice of regular meetings may be given only once a year unless the date, time, or place of the meeting is changed. IC 5-14-1.5-5(c).

Notices of executive sessions require the public agency to state the specific statutory exception to the public meeting requirements. The executive session can only address those topics identified in the public notice. APRA requires:

(d) Public notice of executive sessions must state the subject matter by specific reference to the enumerated instance or instances for which executive sessions may be held under subsection (b). The requirements stated in section 4 of this chapter for memoranda and minutes being made available to the public is modified as to executive sessions in that the memoranda and minutes must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The governing body shall certify by a statement in the memoranda and minutes of the governing body that no subject matter was discussed in the executive session other than the subject matter specified in the public notice.

IC 5-14-1.5-6.1(d).

To the extent a specific statutory reference was cited in the notice and it was not consistent with the topic(s) discussed in the executive session, this would be a violation of the ODL. To the extent that a memoranda of the executive session was not prepared and certified by the governing body, that too would be a violation of the ODL.

APRA requires that any public meeting of a governing body be noticed as a public meeting, with certain exceptions. The meeting is defined as:

(c) "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. It does not include any of the following:

- (1) Any social or chance gathering not intended to avoid this chapter.*
- (2) Any on-site inspection of any:*
 - (A) project;*
 - (B) program; or*
 - (C) facilities of applicants for incentives or assistance from the governing body.*

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

Since the on-site visit was an exception to the definition of a meeting, there was no requirement that the event be noticed to the public. This office acknowledges that a notice, whether accurate or not was made, and published to enhance transparency with the public.

Complainant raises the issue that official action was conducted by receiving information during the onsite visit. APRA defines official action as:

- (d) "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 on-site visit was not a meeting pursuant to APRA, yet the receipt of information was an official action. The official action did not include a “final action” by vote of the respective bodies. Final action must be taken at a public meeting. Therefore, Respondents were not in violation of the ODL.

Issues were raised about the “work sessions” held, in this case, specifically for the Highway Department. Assuming that the work session was a meeting of “administrative function” under the statute, APRA provides:

Sec. 5. (a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. This requirement does not apply to reconvened meetings (not including executive sessions) where announcement of the date, time, and place of the reconvened meeting is made at the original meeting and recorded in the memoranda and minutes thereof, and there is no change in the agenda.

IC 5-14-1.5-5(a).

Administrative function as an exception to the above rule is provided for in APRA as:

(f) This section shall not apply to the following:

(1) The department of local government finance, the Indiana board of tax review, or any other governing body which meets in continuous session, except that this section applies to meetings of these governing bodies which are required by or held pursuant to statute, ordinance, rule, or regulation.

(2) The executive of a county or the legislative body of a town if the meetings are held solely to carry out the administrative functions related to the county executive or town legislative body's executive powers. "Administrative functions" means only routine activities that are reasonably related to the everyday internal management of the county or town, including conferring with, receiving information from, and making recommendations to staff members and other county or town officials or employees. "Administrative functions" does 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 action creating an obligation or otherwise binding the county or town.

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

The work sessions therefore would not require 48-hour public notice and unless the full executive of the county were present would not require livestreaming under IC 5-14-1.5-2.9. Work sessions are open to public attendance.

CONCLUSION

This office finds that the Respondent County Council has not violate ODL.

This office finds that the Respondent Commissioners have committed to various improvements to assure compliance and may have violated the ODL, as alleged in the complaint, regarding executive session notices and lack of memoranda and certifications.



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