



STATE OF INDIANA

MIKE BRAUN, Governor

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September 11, 2026

Re: Complaint 26-FC-069
Adrienne E. DeLuna (Complainant) v.
Whiting Public Library (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed on February 13, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on March 6, 2026, requesting a formal response by April 3, 2026. A formal response, submitted by Director Montserrat Inglada on behalf of Respondent, was received in this office on March 16, 2026.

The complaint alleges that Respondent violated the Open Door Law (ODL) when action was taken during an executive session.

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

Complainant states that an executive session of the Respondent's Board was held on January 8, 2026, followed by a regular public meeting. While Complainant acknowledges that an official vote was taken to terminate the employment of multiple employees at the public meeting, Complainant alleges that the decision was made and rehearsed at the executive session.

APRA provides for executive sessions to be an exception to public meetings, in relevant part to the complaint, as follows:

(b) Executive sessions may be held only in the following instances: ...

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

(A) to receive information concerning the individual's 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

and

(9) To discuss a job performance evaluation, employee specific compensation, or employment matters of individual employees. This subdivision does not apply to a general discussion of the salary, compensation, or benefits of employees during a budget process.

IC 5-14-1.5-6.1(b)(6) and (9).

The discussion, in executive session, of the performance of the employees, prior to discipline or termination, is clearly anticipated and authorized by statute. Complainant does not take exception to the notice of the executive session as properly articulating the statutory authority. Complainant takes exception to the determination to terminate the employees during the executive session.

This office discussed this particular issue in *Opinion of the Public Access Counselor 20-FC-5* which provides, in relevant part:

In Baker, the underlying dispute involved the scope of the subsection permitting an executive session to discuss "a job performance evaluation of individual employees," which is now codified at Indiana Code section 5-14-1.5-6.1(b)(9).

Subsection (b)(9) authorizes a governing body to engage in discussion regarding employee job performance. The Baker court correctly noted that "discussion" entails other types of official action, including receiving information, making recommendations, establishing policy, and making decisions in executive session.

Complainant is correct in her assertion that any final action must be taken at a meeting open to the public and may not be taken in executive session. I.C. § 5-14-1.5-6.1(c). Final action, though, means a vote. I.C. § 5-14-1.5-2(g). Any other official action, including making decisions, can be made in executive session. See Baker v. The Town of Middlebury, 753 N.E.2d 67 (Ind. Ct. App. 2001), holding a governing body may make decisions in an executive session.

In keeping with *Baker*, Respondent's Board can discuss the status of the employees, which includes the decision to discipline or terminate the employees, at the executive session. However, the final vote to terminate an employee had to be taken at a public meeting. This is the process followed by Respondent's Board and acknowledged by the Complainant in her complaint.

CONCLUSION

This office finds that the Respondent did not violate the ODL as alleged in the complaint.

A handwritten signature in black ink, appearing to read "Jennifer G. Ruby". The signature is fluid and cursive, with the first name "Jennifer" being more prominent than the last name "Ruby".

Jennifer G. Ruby
Public Access Counselor