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October 20, 2026

Re: Complainant 26-FC-104
Brenda Cummins (Complainant) v.
Lawrence County Health Department (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed on March 5, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on March 13, 2026, requesting a formal response by April 13, 2026. That response date was later amended to April 20, 2026. A formal response, submitted by attorney, David Smith of Smith Law Office, on behalf of Respondent, was received in this office on April 20, 2026.

The complaint alleges that Respondent violated the Open Door Law (ODL) when it improperly conducted an executive session and failed to provide requested memoranda.

ANALYSIS

ODL requires public agencies to conduct and take official actions openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. As a result, 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 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 Respondent should be posted by notice and open to the public.

One exception is for executive sessions. An "executive session means a meeting from which the public is excluded, …" IC 5-14-1.5-2(b)(f).

On September 2, 2025, Complainant was terminated from her employment with Respondent. On February 23, 2026, Complainant emailed the

Respondent, requesting the minutes and memoranda from the Board of Health meeting resulting in her termination. Respondent responded to Complainant's request indicating that "executive meetings are not public record" and that minutes are not required nor created for executive meetings.

Complainant filed a complaint with this office on March 5, 2026, alleging that Respondent violated ODL when it terminated her at an executive session which occurred without notice, and then failed to provide requested minutes and memoranda. On April 20, 2026, Respondent submitted a formal response indicating:

1. The appointed County Health Officer exercises the power to hire and fire staff pursuant to IC 16-20-1-14.
2. The County Health Officer solicited input from other members of the County Board of Health, but made the final decision to terminate Complainant's employment independently.

Neither the initial complaint nor the formal response provides sufficient information to show:

1. When the alleged executive session took place.
2. Whether notice of the alleged executive session was given.
3. When notice of the alleged executive session was given.
4. Whether the decision to terminate Complainant's employment was made at the alleged executive session.

This office has previously noted:

> "The public access counselor is not a finder of fact. Advisory opinions are issued based upon the facts presented. If the facts are in dispute, the public access counselor opines based on both potential outcomes."

See Opinion of the Public Access Counselor 11-FC-80.

As the facts of this case are unclear, this office instead analyzes the potential outcomes on the facts which have been provided.

The ODL provides that executive sessions may be held:

> *(9) To discuss a job performance evaluation, employee specific compensation, or employment matters of individual employees.*

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

The ODL further provides:

> *(a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meetings, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting.*

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

To the extent that Respondent held an executive session for the purpose of discussing Complainant's ongoing employment, no violation of ODL occurred, so long as proper notice of that executive session was posted at least 48 hours in advance. However, ODL likewise provides:

> *(b) a final action must be taken at a meeting open to the public.*

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

"Final action" is defined as:

> *A vote by the governing body on any motion, proposal, rule, regulation, ordinance, or order.*

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

To the extent that termination of Complainant's employment statutorily required a meeting and vote of Respondent, no decision to terminate should have been made at an executive session. However, if this termination did not require a meeting and vote, this office concludes that the decision to terminate did not amount to a "final action" within the meaning of IC 5-14-1.5-6.1(c), and thus, was not in violation of ODL.

The ODL provides:

> *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 that an executive session was held, Respondent is required under the above section to provide any minutes and memoranda drafted or posted for that session. To the extent Respondent has failed to do so, Respondent has violated ODL.

CONCLUSION

This office is not a finder of fact and cannot affirmatively determine whether Respondent violated ODL with the provided information. However, to the extent memoranda or minutes were produced as a result of the alleged executive session in question, Respondent violated ODL when it failed to produce these to Complainant.

Brittney A. Long
Public Access Counselor