



STATE OF INDIANA

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October 22, 2026

Re: Complainant 26-FC-192
Jenny Klamm (Complainant) v.
South Dearborn School Corporation (Respondent)

This advisory opinion is issued in response to the above-referenced complaint filed on April 9, 2026.

A Notice of Complaint, along with a copy of the complaint, was sent to the Respondent on October 20, 2026, requesting a formal response by November 12, 2026. A formal response, submitted by Interim Superintendent, Janet Platt, on behalf of Respondent, was received in this office on October 20, 2026.

The complaint alleges that Respondent violated the Open Door Law (ODL) when it improperly conducted an executive session and possibly performed a final action during the executive session.

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 to ODL is for executive sessions. An executive session means,

“a meeting from which the public is excluded, ...” IC 5-14-1.5-2(b)(f).

An executive session can be held to “discuss job performance evaluation, employee specific compensation, or employment matters of individual employees.” IC 5-14-1.5-6.1(9).

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, resolution, rule, regulation, ordinance, or order.” IC 5-14-1.5-2(g).

Complainant submitted an email to this office to initiate a complaint on April 9, 2026, alleging that Respondent violated ODL on March 2, 2026 when it held a public meeting and voted to cancel a district employee’s contract and adopted a “pre-written Finding of Fact and Conclusions of Law” without any public deliberation, suggesting that Respondent had made a final decision at a prior closed meeting.

Further, Complainant asks this office to opine whether Respondent made a final action decision at an executive meeting held on April 9, 2026 regarding the closure of Manchester Elementary School, which was voted on during an April 25, 2026 public meeting.

This office will note that Complainant brought the matter of the March 2, 2026 alleged violation of ODL untimely as thirty (30) days had passed when she filed her complaint. This office will note that Respondent’s formal response does not reference either the March 2, 2026 or April 25, 2026 public meeting or any alleged executive sessions.

Regardless, 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.

This office has not been provided with any information that an executive session actually occurred prior to the March 2, 2026 public meeting. There is simply a suspicion that one occurred.

With regards to the April 9, 2026 executive session, it was designated as a “real property and litigation matter.” The proposal to close Manchester Elementary School was presented at the April 25, 2026 meeting, which “lasted approximately 72 minutes and included significant public comment.”

To the extent Respondent held an executive session before the March 2, 2026 public meeting for the purpose of discussing the employee’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, to the extent that terminating the employee's contract statutorily required a meeting and vote of Respondent, no vote to terminate should have been made at an executive session.

To the extent Respondent held an executive session on April 9, 2026 for the purpose of discussing Manchester Elementary School relating to one of the statutory basis defined in IC 5-14-1.5-6.1, no violation of ODL occurred, so long as proper notice of that executive session was posted at least 48 hours in advance.

However, to the extent that the discussion does not meet a statutory basis or that a vote was taken to close the school at the executive session, then a violation of ODL did occur.

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 in line with *Baker*, Respondent can discuss the status of an employee, which includes the decision to terminate a contract, at the executive

session. However, the final *vote* to terminate the contract must be taken at a public hearing.

With regards to the school closure, if the matter qualifies an appropriate basis for an executive session, following Baker, Respondent can discuss the status of the school, which includes the decision to close it, at the executive session. However, the final *vote* to close the school must be taken at a public hearing.

From the information provided to this office, both matters were presented for vote at a public hearing.

CONCLUSION

This office is not a finder of fact and cannot affirmatively determine whether Respondent violated ODL with the provided information. This opinion provides guidance as to what would be considered a violation of ODL and what would not be considered a violation of ODL under these circumstances.


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