

October 27, 2004

Mr. Martin Hensley  
15 Wood Street  
Greenfield, IN 46140

*Re: Formal Complaint 04-FC-176; Alleged Violation of the Open Door Law  
by the Metropolitan School District of Washington Township*

Dear Mr. Hensley:

This is in response to your formal complaint alleging that the Metropolitan School District of Washington Township ("School District") violated the Open Door Law ("ODL") by holding a public meeting without posting notice, preparing an agenda, or preparing minutes for the meeting. For the following reasons, I find that the Metropolitan School District of Washington Township did not violate the Open Door Law.

#### BACKGROUND

You allege that on September 1, 2004, the Metropolitan School District of Washington Township held a public meeting to discuss public records and ways to keep public records and emails from being made public. You further allege that the School District did not keep an agenda or minutes of that meeting, and that the School District provided notice of the meeting by sending an email to public entities.

You filed a formal complaint, which was received by this office on September 27, 2004. I forwarded a copy of your complaint to the School District. Mr. William D. Hammel, Manager of Business and Legal Services, responded. I have enclosed a copy of his response for your reference.

Mr. Hammel acknowledges that no agenda or minutes were prepared. He states that while the meeting was held in the School District's facility, the meeting was not held by the School District. During a telephone conversation with this office, Mr. Hammel stated that the meeting was held by a group of teachers and other educators, none of whom together or separately constitute a governing body of a public agency. He states that because the September 1<sup>st</sup> gathering was not held by a governing body, it is not governed by the Open Door Law. Accordingly, he alleges that no agenda, notice, or minutes are required.

## ANALYSIS

Generally, all meetings of the governing body of a public agency must be open at all times so that members of the public may be permitted to observe and record them. Ind. Code §5-14-1.5-3. A meeting is a gathering of a majority of a governing body of a public agency for the purpose of taking official action upon public business. IC 5-14-1.5-2(c). Pursuant to IC 5-14-1.5-2(b), a governing body means:

“two (2) or more individuals who are: (1) a public agency that: (a) is a board, commission, an authority, a council, a committee, a body, or other entity; and (b) takes official action on public business; (2) the board, commission, council, or other body of a public agency which takes official action upon public business; or (3) any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated.”

You allege that the School District held the September 1<sup>st</sup> meeting; Mr. Hammel states that the meeting was not held by the School District, but rather was held by various teachers and other educators. While the meeting may or may not have been held by the School District, the relevant issue is not who held the meeting, (which I take to mean “sponsored” or “presided over”) but rather whether the meeting included a gathering of a majority of a governing body. Where your complaint is against the School District, the governing body would be the Metropolitan School District of Wayne Township Board of Education. If the majority of a governing body of a public agency is gathered, that meeting is governed by the Open Door Law. In his written response and during a telephone conversation with this office, Mr. Hammel stated that the persons attending the gathering were not members of the Board of Education or members of a committee directly appointed by the Board of Education or the Board’s president. Therefore, the gathering of September 1<sup>st</sup> was not subject to the Open Door Law. Accordingly, any agenda, notice, or minutes requirements prescribed by the Open Door Law are inapplicable to the September 1<sup>st</sup> gathering.

As an aside, I note that the Open Door Law does not require that a governing body utilize an agenda.

## CONCLUSION

For the foregoing reasons, I find that the Metropolitan School District of Washington Township did not violate the Open Door Law.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Mr. Bill Hammel