

August 24, 2005

Mr. Jack A. Heylmann
5308 S. CR 200W
Clayton, IN 46118-9196

*Re: Formal Complaint 05-FC-149; Alleged Violation of the Open Door Law by the
Amo Volunteer Fire Department*

Dear Mr. Heylmann:

This is in response to your formal complaint alleging that the Amo Volunteer Fire Department (“Department”) violated the Open Door Law. I find that the Amo Volunteer Fire Department did not violate the Open Door Law.

BACKGROUND

You filed your formal complaint with my office on July 25, 2005. You allege that a July 11, 2005 meeting of the Department that occurred after the public business meeting was concluded was in violation of the Open Door Law because members of the public were excluded. Although you and other members of the public were welcome at the business meeting, once it was concluded, you were asked to leave. Mr. John D. Roop, Jr., attorney for the Department, responded to your complaint. He stated that the second meeting was a staff operations meeting for members of the Department. Although attended by a majority of the board, the gathering was not for purposes of taking official action on public business. Rather, the members of the Department received instruction and training in firefighting and lifesaving techniques.

I have enclosed a copy of the response of the Department for your reference.

ANALYSIS

All meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them. Ind. Code 5-14-1.5-3(a). A “meeting” is a gathering of a majority of the governing body of a public agency for the purpose of taking official action upon public business. IC 5-14-1.5-2(c). “Official action”

includes receiving information; deliberating; making recommendations; establishing policy; making decisions; or taking final action. IC 5-14-1.5-2(d). "Public business" means any function upon which the public agency is empowered or authorized to take official action. IC 5-14-1.5-2(e).

Although a majority of the members of a governing body of the Department are present during a gathering, unless they take official action upon public business, no meeting has occurred. In the context of a volunteer fire department, where members of the Department are board members as well as part of the firefighting force, staff training that includes members of the governing body may be common and necessary. Participation of board members in meetings where training and purely operational matters are discussed does not necessarily constitute gatherings where official action on "public business" is taken. I have cautioned the Department that even if such training meetings are not *planned* for purposes of taking official action on public business, the majority of the Board members should refrain from actually taking official action upon public business should such an opportunity arise unexpectedly.

CONCLUSION

For the foregoing reasons, I find that the Amo Volunteer Fire Department did not violate the Open Door Law.

Sincerely,

Karen Davis
Public Access Counselor

cc: Mr. John D. Roop, Jr.