

August 29, 2005

Mr. Edward L. Long
920 Weller Avenue
LaPorte, Indiana 46350

*Re: Formal Complaint 05-FC-153; Alleged Violation of the Open Door Law by the
LaPorte County Public Library Board*

Dear Mr. Long:

This is in response to your formal complaint alleging that the LaPorte County Public Library Board ("Board") violated the Open Door Law by failing to post timely notice of two committee meetings. I find that the personnel and budget committees of the Board failed to post timely notice, thereby violating the Open Door Law.

BACKGROUND

You filed your formal complaint with the Office of the Public Access Counselor on July 28, 2005. You allege that two committee meetings of the Board took place on July 26, 2005, with notice posted only two hours in advance of the meetings. I sent a copy of your complaint to the Board, and received a written response. Ms. Judy Hamilton, Director of the LaPorte County Public Library responded on behalf of the Board. In the Board's response, it acknowledged that the personnel and budget committees of the Board had failed to post timely notices of the July 26th meetings. The omission was due to human error caused by several factors, including staff absences, and an inexperienced individual assuming responsibility for posting notice. Moreover, Ms. Hamilton stated that no final action was taken by the committees, and the committee's recommendations were debated and voted upon at a full Board meeting on July 28, a meeting for which the required notice was given.

The Board has a history of compliance with the Open Door Law, and apologized for its error, according to Ms. Hamilton.

ANALYSIS

All meetings of the governing body of a public agency 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 committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated constitutes a “governing body.” IC 5-14-1.5-2(b)(3). The Board has not disputed that the committees that held meetings on July 26th were subject to the Open Door Law, and it appears that they were committees that are governing bodies under the Open Door Law.

Public notice of the date, time and place of a meeting must be posted at least 48 hours in advance of the meeting, excluding Saturdays, Sundays, and legal holidays. IC 5-14-1.5-5(a).

The Board has acknowledged that notices of the July 26th committee meetings were not timely posted. This omission, while not intentional, was nevertheless more than a mere technical violation of the Open Door Law, in my opinion. Posting notice on the afternoon of a meeting was well short of the required 48-hour notice, particularly since July 26th was a Tuesday, necessitating that notice be posted by Friday, July 22 at 5:30 p.m. This is true although no final action was taken; official action short of final action must be open to the public. IC 5-14-1.5-2(c). Although I do not doubt the Board’s statement that it adheres to the Open Door Law as a policy and practice, I must on this occasion find that its committees’ failure to post timely notice did not meet the requirements of the Open Door Law.

CONCLUSION

For the foregoing reasons, I find that the budget and personnel committees of the LaPorte County Public Library Board violated the Open Door Law.

Sincerely,

Karen Davis
Public Access Counselor

cc: Ms. Judy R. Hamilton