

July 21, 2006

Christina D. Adams
6810 W 100 N
Tipton, IN 46072

Re: Formal Complaint 06-FC-101; Alleged Violation of the Open Door Law by the Northern Community Schools of Tipton County

Dear Ms. Adams:

This is in response to your formal complaint alleging that the Northern Community Schools of Tipton County Board ("Board" or "School") violated the Open Door Law by holding a meeting at the conclusion of the Board's scheduled May 22, 2006 meeting.

BACKGROUND

You complain in your formal complaint filed June 21 that the May 22, 2006 Board meeting had concluded when all the Board members except one, Joe Messick, remained behind in the school administration building. The six remaining Board members and Dr. Lee Williford, Superintendent, remained in the conference room for another thirty to forty-five minutes. You observed this until 8:45 from the vantage point of the parking lot; during this time, you observed no one else exit the building. You allege that one of the board members suggested during the meeting that the Board convene after the meeting was adjourned to discuss issues that were brought up during the regular session. The board member was advised that any issues would have to be brought up in the next scheduled public board meeting.

I sent a copy of your complaint to the School. Susan Traynor Chastain, counsel to the School sent a letter, a copy of which is enclosed for your reference. The School denies that any illegal meeting occurred at the conclusion of the public meeting of May 22, 2006, as you allege. Ms. Chastain explained that on May 22, Dr. Williford disbursed copies of several written questions he had received from Mr. Messick and Ms. Kinder, each members of the Board. It is common for Dr. Williford to hand out informational material to the Board, including non-Board

business such as subdivision plats from the county plan commission and proposed road changes within the school district.

The School admits that on the evening of May 22, some of the Board members stayed at the administrative office. It is common practice for Dr. Williford to meet with the board president and Board secretary after the meeting to review the minutes of the meeting. Also typical is for Board members to stay after the meeting to sign the claim dockets. After the meeting in question, two board members were talking with Dr. Williford about his vacation trip, two board members were discussing the questions Dr. Williford had distributed after the meeting, one board member was in the lobby talking with patrons, and one board member had left the building. At no time was any school board business or policy presented to or discussed by Dr. Williford and the Board. All Board members who remained in the building after the May 22, 2006 meeting confirmed that no school board business or policies were presented, discussed, or contemplated.

ANALYSIS

It is the intent of the Open Door Law that the official action of public agencies be conducted and taken openly, unless otherwise expressly provided by statute, in order that the people may be fully informed. Ind. Code 5-14-1.5-1. Except as provided in section 6.1 of the Open Door Law, 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. IC 5-14-1.5-3(a). "Meeting" means 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). A meeting does not include a social or chance gathering not intended to avoid the Open Door Law. IC 5-14-1.5-2(c)(1).

"Official action" means to 1) receive information; 2) deliberate; 3) make recommendations; 4) establish policy; 5) make decisions, or 6) take final action. IC 5-14-1.5-2(d). "Deliberate" means a discussion which may reasonably be expected to result in official action. IC 5-14-1.5-2(i). "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). Hence, if four of the seven-member Board had gathered after the public meeting and took any of the actions described in IC 5-14-1.5-2(d), including receiving information or deliberating, the activity would have constituted a meeting.

According to the School, no public business of the School was presented or discussed by members of the Board or Superintendent. Certainly even a majority of the Board could gather to talk with Dr. Williford about his vacation, talk with patrons about non-School business, or merely sign claim vouchers, without violating the Open Door Law. In addition, if there were discrete gatherings involving less than a majority of the Board, no violation of the Open Door Law would have occurred, since a meeting occurs only where a majority are gathered to take official action on public business.

However, a discussion of the questions presented by Dr. Williford (which questions were clearly related to School and Board business), if it occurred during a gathering of at least four Board members, would be a meeting, for which notice would have been required.

The School's response states that only two Board members discussed the School-related questions, and I have no information that suggests that other Board members were gathered as well, perhaps listening. All seemed to be in close proximity, however. I elaborate on this point only to emphasize that if four Board members were gathered, with two "receiving information" and two "deliberating," a meeting occurred. I find no violation of the Open Door Law on the facts before me. Nevertheless, I suggest that the Board may wish to avoid the appearance that an illegal meeting is being conducted by dispersing soon after the meeting concludes.

CONCLUSION

For the foregoing reasons, I do not find any violation of the Open Door Law by the Northern Community Schools of Tipton County on the facts before me.

Sincerely,

Karen Davis
Public Access Counselor

cc: Susan Traynor Chastain