

September 20, 2006

Bonnie L. Messick  
2355 N. 400 W.  
Tipton, IN 46072

*Re: Formal Complaint 06-FC-147; Alleged Violation of the Open Door Law by the Northern Community Schools of Tipton County*

Dear Ms. Messick:

This is in response to your formal complaint alleging that Northern Community Schools of Tipton County (“School”) violated the Open Door Law by holding a meeting without proper notice. I find that under your allegations, the School did not violate the Open Door Law.

#### BACKGROUND

You attended an August 9, 2006 public meeting that began at 1:30 p.m. The meeting was for the purpose of holding interviews for applicants to a vacant seat on the school board. The meeting was adjourned at 3:15 p.m. You allege that the next day, you learned that another meeting was convened and business conducted later that day “without any of the public who were present at the 1:30 meeting knowing this.” The Board President Michael Harlow did not mention the later meeting at the earlier meeting. You believe that any actions taken at the later meeting, which was held at 3:30 p.m., should be considered null and void.

You attached a copy of the Tipton Tribune notices section that announced the 1:30 meeting but not a later meeting the day of August 9. In addition, you attach a screen shot of the School’s web home page, and by handwritten note indicate that you searched the webpage in vain for an announcement of the 3:30 meeting.

I sent a copy of your complaint to the School. Counsel for the School Ms. Susan Traynor Chastain responded by letter. I have attached a copy of the letter for your reference. In relevant part, Ms. Chastain stated that a copy of the notice was distributed to the public at the meeting and posted in the School’s corporation office. The attached notice, Exhibit A, shows three meetings.

The first was for an executive session to be held on August 7. The second meeting was to be held August 9, 2006 at 1:30 in the Administration Office. Following the text of the second meeting notice is a third meeting, denoted a Special session, for August 9 at 3:30 p.m., to be held in the Administration Office. The notice for this meeting recites that it is a public meeting. The agenda calls for appointment of a board member to fill a vacancy.

In addition, Ms. Chastain stated that two newspapers that received notice of the meetings, the Tipton County Tribune and the Kokomo Tribune confirmed in writing that those newspapers had received the notice described in Exhibit A. The Tipton County Tribune wrote to acknowledge not printing a notice of the 3:30 session on August 9 in their "Briefs" section, through an oversight. The Tribune stated it regularly communicates its policy that the "Briefs" section should not be relied upon as the sole means of ascertaining upcoming events.

Finally, Ms. Chastain stated that you had actual notice of the meeting, since you had the agenda in hand that clearly showed the later meeting was planned, and even returned to the meeting room at approximately 3:45 p.m. while the later meeting was in progress to retrieve your personal belongings.

#### ANALYSIS

Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight hours (excluding Saturdays, Sundays, and legal holidays) before the meeting. Ind. Code 5-14-1.5-5(a). Public notice shall be given by the governing body of a public agency by posting a copy of the notice at the principal office of the public agency holding the meeting or, if no such office exists, at the building where the meeting is to be held. In addition, the governing body shall deliver notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency. IC 5-14-1.5-5(b).

A governing body utilizing an agenda shall post a copy of the agenda at the entrance to the location of the meeting prior to the meeting. IC 5-14-1.5-4(a).

There is no requirement in the Open Door Law that the notice sent to the media be published in a newspaper or advertised in any way, except where applicable law requires notice by publication. You allege no specific law that would have required publication of the notice for the meetings of August 9, and I know of no such law. Hence, the failure of the newspapers to include the information about the later meeting was not an infirmity in the School's notice, irrespective of the usual practice of the Tipton County Tribune to publish meeting notices of the School. Rather, it was sufficient notice under the Open Door Law for the notice of the meetings to be posted in the School's corporation office, since that is the principal office for the School.

In addition, the Open Door Law places no requirement on the governing body or its presiding officer to "remind" members of the public that a later meeting is to occur. In any case, the agenda that was available to members of the public attending the 1:30 meeting clearly contained information about the later meeting. Moreover, if you were actually in attendance at the 3:30 p.m. meeting before leaving the building, as Ms. Chastain alleges, then you cannot

complain that you were deprived of the right to attend the meeting because you did not have actual knowledge of it, although your actual knowledge of a meeting would not completely exonerate the governing body from properly and timely posting notice. However, I find that notice *was* properly posted.

Finally, I find nothing improper if the School failed to place a meeting notice on its webpage. Although I encourage electronic notices, it is not a requirement of the Open Door Law, except for state agencies. *See* IC 5-14-1.5-5(b).

In conclusion, the School's posting of the notice at its corporation office and sending the notice to the media fully complied with the Open Door Law. I find your complaint to be without merit.

### CONCLUSION

For the foregoing reasons, I find that the Northern Community Schools of Tipton County fully complied with the Open Door Law with respect to the August 9, 2006 3:30 p.m. meeting.

Sincerely,

Karen Davis  
Public Access Counselor

cc: Susan Traynor Chastain