

May 11, 2006

Martin Hensley
15 Wood Street
Greenfield, IN 46140

Re: Formal Complaint 06-FC-68; Alleged Violation of the Open Door Law by the Greenfield-Central Community School Corporation

Dear Mr. Hensley:

This is in response to your formal complaint alleging that the Greenfield-Central Community School Corporation ("School") violated the Open Door Law.

BACKGROUND

You filed your formal complaint against the School on April 11, 2006. Your complaint was stated in two parts. First, you allege that the School failed to post notice of a public meeting of the April 10, 2006 meeting of the School Board at the school's principal office. The meeting was held at the Weston Elementary School. You contend that when you visited the School Administration Building on North Street in Greenfield, no notice was posted on a window at the entrance to the building.

You also allege that on three occasions in December 2005, the School Board met without providing notice. The first gathering involved a morning meeting in Mount Vernon with legislators. The second meeting was the same date, at 1:00 p.m. when members met with a representative of the department of local government finance. The third meeting was on an unknown date, but was a Christmas dinner at a restaurant in Hagerstown. You allege that representatives of a law firm and an architectural firm attended the party. You believe that these were secret meetings to deal with a bond issue. You also make brief allegations that a meeting must have occurred at the Four Seasons Conference Center and meeting room in Nashville because you have evidence of a payment to that facility. Your complaints with respect to the December 2005 meetings are not timely filed because the alleged denial occurred more than 30 days before you filed your complaint. However, I can issue an informal inquiry response, which I incorporate into this formal advisory opinion. *See IC 5-14-5-7(a).*

I sent a copy of your complaint to the School. Dr. Linda Gellert, Superintendent, responded. With respect to the April 10 meeting, Dr. Gellert stated that notices of Board meetings are routinely attached to the window at the administrative office on the Thursday prior to the Monday meeting. She stated that you are correct that for the April 10 meeting, the notice was not posted as it usually is, and Dr. Gellert is not sure why this particular notice was not posted. She stated that the newspaper was sent a notice of the meeting, and the notice was posted at the place of the meeting, Weston Elementary, because she sent the notice to the

principal on Thursday, April 6 at 11:55 a.m. The School will be purchasing a display case to house public notices of the School so that this does not happen in the future.

Dr. Gellert stated that on December 13, 2005, several board members joined her in an educators' legislative breakfast in Mount Vernon. The meeting was sponsored by the Mount Vernon School Corporation and was convened in an effort to bring together legislators with school officials to discuss legislative issues concerning schools. The attached agenda showed that six different school corporations were involved in the session. Dr. Gellert asserted that this was not a gathering for the purpose of taking official action upon public business, but was rather a meeting of organizations devoted to the betterment of government.

With respect to the December 13 meeting with Melissa Henson of the department of local government finance, two of the board members attended with Senator Beverly Gard and Dr. Gellert. Dr. Gellert provided documentation that only two members of the School Board attended this meeting.

Regarding the holiday gathering that you referenced, on December 17, 2005, school board members and administrators were joined by their spouses for a holiday gathering. No other individuals attended as you alleged. As stated in her message to Board members called "Friday Board Note," the holiday party was strictly a social function and no school business was allowed. No business was actually discussed during the dinner. Also, the School Board has never met in Nashville at the Four Seasons as you suggested.

ANALYSIS

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. Ind. Code 5-14-1.5-3(a). Public notice of the date, time, and place of the meeting must be posted 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. IC 5-14-1.5-5(b). In addition, the public agency is required to deliver notice to all news media which deliver to the public agency by January 1 an annual written request for such notices for the next succeeding calendar year. IC 5-14-1.5-5(b)(2).

"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, among other things, any social or chance gathering not intended to avoid the Open Door Law, or traveling to and attending meetings of organizations devoted to the betterment of government. IC 5-14-1.5-2(c)(1) and (3).

You contend that the public notice for the meeting of the School Board should have been posted at the principal office of the school corporation, and I agree. Indiana Code 5-14-1.5-5(b) states that the notice of the public agency must be posted 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. Dr. Gellert has explained that normally, all meeting notices are posted at the administration building, but the April 10 notice was inexplicably absent from the window. The news media did

advertise the meeting and the elementary school where the meeting was held posted timely notice. Also, you indicated that you attended the meeting, after you made inquiries regarding the meeting. The School did violate the letter of the Open Door Law, but has taken precautions to avoid misplacing notice at the school administration building.

The December gatherings of school board members included a December 13 afternoon meeting involving only two members of the five-member Board with the representative from the department of local government finance. A meeting is defined as a gathering of a majority of the members of a governing body; therefore, the December 13 afternoon meeting did not violate the Open Door Law because less than a majority of the Board attended the meeting.

Also, the holiday gathering on December 17, 2005 was not in violation of the Open Door Law, given the lack of evidence that any Board business was transacted. The Board may attend a social gathering not intended to avoid the Open Door Law. The School asserts that no school business was discussed. You imply without being specific that any function paid for by the school corporation could not meet the exclusion of “social gathering” under the Open Door Law, since purely social functions would not be paid for from public monies by state law. First, you provide no information regarding whether public funds were used for the holiday party. Second, the Open Door Law does not define a meeting in terms of whether the gathering was financed with public funds. Hence, your allegation concerning the holiday party of December 17 is without merit.

Finally, you contend that the Board met on the morning of December 13. Dr. Gellert concedes that such a meeting occurred. The meeting was hosted by a school corporation and attended by legislators, for the purpose of discussing legislative issues of importance to schools. I assume for purposes of this opinion that a majority of the members of the Board were in attendance. The question is whether this meeting was excepted from the definition of “meeting” as attendance at a meeting “of organizations devoted to the betterment of government.” I must conclude that it was not such a gathering.

Organizations devoted to the betterment of government include such organizations as the Association of Cities and Towns and the Indiana School Boards Association. The December 13 meeting, hosted by a school corporation, does not fit this exemption, in my opinion. Therefore, I find that if the December 13 meeting was attended by a majority of the members of the School Board and was for the purpose of taking official action upon public business, then the Board should have posted notice at least 48 hours in advance of the meeting.

Sincerely,

Karen Davis
Public Access Counselor

cc: Dr. Linda Gellert