

June 28, 2007

Mr. Joseph D. Branson
8105 W. Greenview Drive
Muncie, IN 47304

*Re: Formal Complaint 07-FC-145; Alleged Violation of the Open Door Law by the
Mount Pleasant Township Community School Corporation Board of School
Trustees*

Dear Mr. Branson:

This is in response to your formal complaint alleging that the Mount Pleasant Township Community School Corporation Board of School Trustees ("Board") violated the Open Door Law by holding a closed meeting on May 18 without notice. I find that the Board did not violate the Open Door Law because a majority of the Board did not gather at the superintendent's office on May 18.

BACKGROUND

You allege that the Board met on May 18 in the superintendent's office. You state that you observed Tim Kelty, Yorktown town manager, in the reception area of the superintendent's office. You heard the superintendent tell Mr. Kelty to go into her office with Jim Ingermann, the school facilities director. You believe that the school board was on its way to this meeting to discuss plans with the persons assembled. As you were leaving, you saw Mr. Steve Smith, the Board president, arrive at the superintendent's office. You concluded that the Board was meeting in an executive session in violation of the Open Door Law.

I sent a copy of your complaint to the Board. Counsel Michelle L. Cooper provided the enclosed response. In summary, Ms. Cooper explained that Mr. Smith was the sole member of the school board present at the meeting you observed on May 18. Ms. Cooper provided sworn statements of four of the attendees of the May 18 meeting, including Mr. Smith. All stated that Steve Smith was the only member of the Board who participated in the May 18 meeting.

Further, Ms. Cooper advised me that the persons attending the meeting were not members of a committee directly appointed by the Board or the Board's president.

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 governing body includes two or more individuals who are any committee appointed directly by the governing body or its presiding officer to which authority to take official action upon public business has been delegated. IC 5-14-1.5-2(b)(3).

If a majority of the Board *had* gathered at the superintendent's office on May 18, your allegations would have merit. However, only one member of the Board attended the May 18 meeting: Mr. Smith. One member of a school board does not constitute a majority of the board members. Accordingly, no meeting of the Board occurred, and the Board did not violate the Open Door Law. In addition, there is no evidence that the persons who attended the meeting constituted a committee of the Board.

CONCLUSION

For the foregoing reasons, I find that the Mount Pleasant Township Community School Corporation Board of School Trustees did not violate the Open Door Law.

Sincerely,

Karen Davis
Public Access Counselor

cc: Michelle L. Cooper