

May 29, 2003

Randy Chambers, Managing Editor
Alexandria Times-Tribune
One Harrison Square
P.O. Box 330
Alexandria, IN 46001-0330

Re: *Advisory Opinion 03-FC-32*: Grounds to File a Formal Complaint with the Office of the Public Access Counselor for Alleged Violations of the Indiana Open Door Law when the Complainant Received Notice of and Attended the Meeting.

Dear Mr. Chambers:

This is in response to your formal complaint, which was received on May 2, 2003. You have alleged that the Board of Alexandria Community School Corporation ("Board") has violated the Indiana Open Door Law ("ODL,") Indiana Code chapter 5-14-1.5, by conducting an emergency meeting on May 1, 2003. Mr. David Day, Attorney for the Board responded in writing to your complaint in a letter dated May 10, 2003. A copy of his response is enclosed for your reference. In addition to addressing your complaint, Mr. Day has also alleged that you do not have standing to file a formal complaint under Indiana Code section 5-14-5-6(2) because you were not denied the right to attend a public meeting of the Board as you received notice of the meeting.

It is my opinion that since you were not denied the right to attend a meeting conducted under the ODL, you do not have grounds to file a formal complaint with this Office. You are, however, entitled to make an informal inquiry about the state's public access laws. The substance of your complaint, therefore, has been addressed in the enclosed informal written response from this Office . [1](#)

BACKGROUND

According to your complaint, your newspaper receives notices of the Board's meetings and on April 30th you received a notice that the Board would meet on an emergency basis to discuss the non-renewal of a teacher's contract. On May 1st, that meeting was conducted and you or someone from your newspaper did in fact attend. The substance of your formal complaint concerned a possible violation of the ODL as to the "emergency" nature of that meeting under Indiana Code section 5-14-1.5-5(d).

In his response, Mr. Day referenced your complaint and stated that there was no allegation that

you did not receive the emergency notice as required under the ODL or have the opportunity to attend the meeting. Rather, your complaint is that the reason stated for the emergency was not valid under the ODL. Mr. Day also addressed the substance of your complaint. [2](#)

In his response, Mr. Deppe stated that under Indiana Code section 5-14-5-6, a person who has been denied the right to attend a public meeting may only file a formal complaint. Since you are a member of the governing body, therefore, your formal complaint is not appropriate. Mr. Deppe also addressed the substance of your complaint.

ANALYSIS

In 1999, the Indiana General Assembly enacted legislation creating the Office of the Public Access Counselor and a formal complaint process. *See generally, P.L. 70 and P.L. 191-1999.* The Public Access Counselor may receive and respond to informal inquiries and issue advisory opinions in response to formal complaints. Ind. Code §5-14-4-10(5) and (6); Ind. Code §5-14-5-9. An informal inquiry may be made by the public or public agencies by telephone, in writing, by facsimile, in person, or electronic mail. Ind. Code §5-14-4-10(5). The informal inquiry process, therefore, is available to most any person who has questions or concerns about the state's public access laws.

Alternatively, in the formal complaint process, the grounds for filing a formal complaint, and receiving a formal advisory opinion in response are limited to:

Any person or public agency denied

1. the right to inspect or copy records under the Access to Public Records Act;
2. the right to attend any public meeting of a public agency in violation of the ODL; and
3. any other right conferred by the Access to Public Records Act or the ODL or any other statute or rule governing access to public meetings or public records.

See, Indiana Code section 5-14-5-6. In the present case, you were not denied the right to attend a public meeting of the Board. For this reason, you do not have grounds to file a formal complaint with this Office. You are, however, entitled to receive an informal response to your concerns and that response is enclosed.[3](#)

CONCLUSION

It is my opinion that you do not have grounds to file a formal complaint with this Office alleging violations of the Open Door Law because you were not denied the right to attend a public meeting of the Board of the Alexandria Community School Corporation. You are, however, entitled to and will receive an informal response to your concerns.

Sincerely,

Anne Mullin O'Connor

Enclosures

cc: Mr. David Day, Attorney
Alexandria Community School Corporation

¹ Indiana Code section 5-14-4-10(5) governs informal inquiries. For those who are viewing this opinion electronically, [click here](#) to access the text of the informal written response.

² See footnote 1.

³ See footnote 1.
