
OPINION OF THE PUBLIC ACCESS COUNSELOR

KIMBERLY N. SIMMONS,
Complainant,

v.

THE NEIGHBORHOOD CHARTER NETWORK,
Respondent.

Formal Complaint No.
22-FC-25

Luke H. Britt
Public Access Counselor

This advisory opinion is in response a formal complaint alleging that the Neighborhood Charter Network, through its board of directors, violated the Open Door Law.¹ Attorney Mark Crandley filed an answer on behalf of the board. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received by the Office of the Public Access Counselor on February 22, 2022.

¹ Ind. Code § 5-14-1.5-1-8.

BACKGROUND

In this case we consider whether a school charter network complied with the public notice provisions of the Open Door Law (ODL) when it held a public meeting to discuss the closure of one of the schools within the network.

On February 15, 2022, the Neighborhood Charter Network's (NCN) board held a public meeting. During the meeting, the board voted to return the charter for Kindezi Academy and not renew the Innovation Agreement with Indianapolis Public Schools. As a result, the school will close at the end of this academic year.

On February 22, 2022, Kimberly N. Simmons (Complainant) filed a formal complaint with this office alleging the NCN board violated the ODL. Specifically, Simmons contends the NCN board failed to provide public notice of the meeting at least 48 hours in advance.

Simmons, who is an employee of one of schools within the NCN, contends that for past board meetings, school staff received supplemental notice via Google calendar invites in addition to meeting notices being posted on the school's main office door. She contends neither of those notice methods occurred here.

On March 14, 2022, NCN filed an answer to the complaint. NCN argues that the board NCN posted notice of the meeting at the organization's principal office on the Friday before the meeting, more than 48 hours before meeting.

NCN provided a copy of the notice and a photograph of the notice posted outside room 111. NCN acknowledges that it did not provide additional notice on its website or through

shared calendars, but argues these practices are not required by law.

ANALYSIS

1. The Open Door Law

The Open Door Law (ODL) requires public agencies to conduct and take official action openly, unless otherwise expressly provided by statute, so the people may be fully informed. Ind. Code § 5-14-1.5-1. As a result, the ODL requires all meetings of the governing bodies of public agencies to be open at all times to allow members of the public to observe and record the proceedings. *See* Ind. Code § 5-14-1.5-3(a).

The Neighborhood Charter Network (NCN) is a public agency for purposes of the ODL; and thus, is subject to the law's requirements. Ind. Code § 5-14-1.5-2. Moreover, the NCN board is a governing body of the agency; and thus, subject to the ODL. *See* Ind. Code § 5-14-1.5-2(b).

As a result, unless an exception applies, all meetings of NCN board of directors must be open at all times to allow members of the public to observe and record.

1.1 ODL definitions

Under the ODL, "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." Ind. Code § 5-14-1.5-2(c).

"Official action" means to: (1) receive information; (2) deliberate; (3) make recommendations; (4) establish policy; (5) make decisions; or (6) take final action. Ind. Code § 5-14-1.5-

2(d). Notably, the ODL defines “final action” as “a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance or order.” Ind. Code § 5-14-1.5-2(g). The ODL also mandates a governing body to take all final action at public meeting. *See* Ind. Code § 5-14-1.5-6.1(c). Additionally, “public business” means “any function upon which the public agency is empowered or authorized to take official action.” Ind. Code § 5-14-1.5-2(e).

2. Public notice

Under the ODL, the governing body of a public agency must give public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting at least 48 hours—excluding weekends and legal holidays—before the meeting as follows:

The governing body of a public agency shall give public notice 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.

Ind. Code § 5-14-1.5-5(b)(1). Notably, the law does not require online or published posting of the notice.

2.1 Simmons’ claims

Simmons contends that NCN did not provide public notice for the meeting at all, including a physical copy at the meeting location. NCN disputes this claim and provided photo evidence of the posting.

Based on the information provided, the February 15 meeting was not on the annual meeting notice but was an irregularly scheduled meeting. Photographic evidence indicates

NCN posted a copy of the notice at its principal place of business. While not timestamped, there is no reason to believe NCN did not post the notice 48 hours in advance. If it did not, notice would have been out of step with the law.

Although NCN did not send out enhanced notice to individuals or post it online, it is not required to do so by law. It appears that NCN met all the minimum requirements for posting public notice for the February 15 meeting.

CONCLUSION

Based on the foregoing, it is the opinion of this office that the Neighborhood Charter Network did not violate the Open Door Law.

A handwritten signature in black ink, appearing to read 'LH Britt', is positioned to the right of the conclusion text.

Luke H. Britt
Public Access Counselor

Issued: April 4, 2022