



# STATE OF INDIANA

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April 22, 2014

Mr. Samuel L. Shaw  
627 H. St.  
Bedford, IN 47421

*Re: Formal Complaint 14-FC-65 Alleged Violation of the Open Door Law by the  
Lawrence County Election Board*

Dear Mr. Shaw,

This advisory opinion is in response to your formal complaint alleging the Lawrence County Election Board ("Board") violated the Open Door Law (ODL), Ind. Code § 5-14-3-1 *et. seq.* The Board has responded via Mr. Myron Rainey, Lawrence County Clerk. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on March 27, 2014<sup>1</sup>.

## **BACKGROUND**

Your complaint dated March 17, 2014, alleges the Lawrence County Election Board violated the Open Door Law by providing improper notice of a public meeting.

On February 19, 2014 at 2:00 p.m., the Lawrence County Election Board held a public meeting to settle the issue of a challenge filed by you against another candidate in an upcoming election. Although the media was notified and an agenda was posted, no notice was given at the place where the meeting was to be held – the Lawrence County Courthouse. You were notified of the meeting by telephone at 1 p.m. on February 18, 2014. Consequently, you could not make arrangements to attend.

The Board responded by the Lawrence County Clerk. In his response, the Clerk acknowledged the notice was improper as an inadvertent oversight.

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<sup>1</sup> This correspondence was post-marked March 17, 2014 and is therefore within the 30-day time limit imposed by Ind. Code 5-14-5-7.

## ANALYSIS

It is the intent of the Open Door Law (ODL) 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. See Ind. Code § 5-14-1.5-1. Accordingly, except as provided in section 6.1 of the ODL, 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. See Ind. Code § 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. Ind. Code 5-14-1.5-2(c). "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). "Official action" is very broadly defined by our state legislature to include everything from merely "receiving information" and "deliberating" (defined by Indiana Code 5-14-1.5-2(i) as discussing), to making recommendations, establishing policy, making decisions, or taking a vote. Ind. Code § 5-14- 1.5-2(d). A majority of a governing body that gathers together for any one or more of these purposes is required to post notice of the date, time and place of its meetings at least forty-eight (48) hours in advance of the meeting, not including weekends or holidays. Ind. Code § 5-14-1.5-5(a).

Although the meeting was open, notice as required by Ind. Code § 5-14-1.5-5(a) was not given. By the Board's admission, your allegations are substantiated. Any prejudice or harm suffered by you due to this omission is a question for a Trier of fact, however, it is my sincere hope the parties will resolve this conflict amicably.

## CONCLUSION

For the foregoing reasons, it is the Opinion of the Public Access Counselor the Lawrence County Election Board violated the Open Door Law.

Regards,



Luke H. Britt  
Public Access Counselor

Cc: Mr. Myron Rainey