
OPINION OF THE PUBLIC ACCESS COUNSELOR

JULIE SINCLAIR,
Complainant,

v.

PURDUE EXTENSION,
Respondent.

Formal Complaint No.
19-FC-45

Luke H. Britt
Public Access Counselor

BRITT, opinion of the Counselor:

This advisory opinion is in response to a formal complaint alleging the Purdue Extension office violated the Open Door Law¹ and the Access to Public Records Act.² Deputy General Counsel for Purdue University Trenten D. Klingerman filed an answer to the complaint on behalf of Purdue Extension. In accordance with Indiana Code § 5-14-5-10, I issue the following opinion to the formal complaint received

¹ Ind. Code §§ 5-14-1.5-1, to -8

² Ind. Code §§ 5-14-3-1, to - 10.

by the Office of the Public Access Counselor on June 10, 2019.

BACKGROUND

The primary issue in this case is whether a county office of the cooperative extension service is subject to the Open Door Law (“ODL”), and if so, whether the local office’s committees (e.g. the 4H Horse and Pony Committee) are also subject to the statute.

Sinclair argues these meetings should be open to the public as they are supported by public funds and are committees of the Purdue Cooperative Extension Office.

Purdue contends the committees do not fall under the access laws because they are not directly appointed by the Purdue Board of Trustees.

ANALYSIS

1. The Open Door Law

It is the intent of the Open Door Law (“ODL”) 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. *See* Ind. Code § 5-14-1.5-1. Except as provided in section 6.1, 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. Ind. Code § 5-14-1.5-3(a).

The issues in this case present issues of law that are of relative first impression for this Office. The main question is whether a county extension office’s committees are subject to the Open Door Law.

A county extension office is established by the legislature pursuant to Indiana Code section 21-46-5-1(a). This enabling statute is independent of any institution of higher education. The respective county council appropriates funds to the extension service. Ind. Code § 21-46-5-1(b). Staff, however, is exclusively appointed by the director of the state extension service at Purdue University and are subject to approval by Purdue's Board of Trustees. *See* Ind. Code § 21-46-5-2. The county service, while funded by county, state and federal funds, is under the direct supervision of Purdue. Ind. Code § 21-46-5-3.

Purdue argues that the county extension service is a direct subsidiary of Purdue University. Therefore its committees, being several times removed from the Purdue University Board of Trustees and not directly appointed by them, are not subject to the Open Door Law as defined by *Robinson v. Indiana University*, 638 N.E. 2d 435 (Ind. Ct. App. 1994).

In *Robinson*, the court held that meetings of the Indiana University-Purdue University Indianapolis Animal Care Committee and the School of Medicine Subcommittee of that committee were not required to be open to the public. Those committees were not appointed directly by the agency's governing body or presiding officer (The Indiana University Board of Trustees), therefore it failed to meet the definition under Indiana Code section 5-14-1.5-2(b)(3).

Governing bodies will only be subject to the Open Door Law if they are empowered to take official action on public business. A gathering must be formally designated as a governing body of a public agency. The determination is fact-

sensitive and is often circumstantial. The *Robinson* committees were akin to staff meetings and they did not have delegated authority to take official action on public business.

If county extension services are merely departments of Purdue University, the holding in *Robinson* would undoubtedly apply. Here, however, it appears that county extension services, while subject to supervision by the University, is statutorily separate and distinct entity from Purdue University. To wit, it is not created or enabled by the Board of Trustees or any instrumentality of higher education, but rather its genesis takes root from the Indiana General Assembly as an independent entity.

Therefore county extension services meet the definition of public agency found at Indiana Code sections ~~5-14-1.5-2(a)(2)~~ and (3):

(2) Any...entity, by whatever name designated, exercising in a limited geographical area the executive, administrative, or legislative power of the state or a delegated local governmental power.

(3) Any entity which is subject to either:

(A) budget review by either the department of local government finance or the governing body of a county, city, town, township, or school corporation; or

(B) audit by the state board of accounts that is required by statute, rule, or regulation.

In turn, a body of a public agency which takes official action on public business is a governing body as defined by Indiana Code section 5-14-1.5-2(b)(2).

Thus, if a committee of the county extension service takes official action on any extension service statutory business, it is subject to the Open Door Law. Based on the information provided, the committees in question do just that.

CONCLUSION

Based on the foregoing, it is the opinion of the Public Access Counselor that committees of county extension offices are subject to the Open Door Law. Additionally, similar to the reasons stated above, the same is true for the Access to Public Records Act.

A handwritten signature in black ink, appearing to read 'LH Britt', with a stylized flourish at the end.

Luke H. Britt
Public Access Counselor