
OPINION OF THE PUBLIC ACCESS COUNSELOR

JARRETT GULBRANDSEN,
Complainant,

v.

EAST PORTER COUNY SCHOOL CORPORATION,
Respondent.

Formal Complaint No.
24-FC-77

Luke H. Britt
Public Access Counselor

This advisory opinion is in response to a formal complaint alleging the East Porter County School Corporation violated the Open Door Law.¹ The School responded through attorneys Nicholas Otis and Katie Anderson. 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 October 9, 2024.

¹ Ind. Code § 5-14-1.5-1-8.

BACKGROUND

The issue in this case is whether the East Porter County School Corporation (School) violated the Open Door Law by holding closed door meetings of its Policy Committee (Committee).

The facts do not appear to be in dispute. According to complainant Jarrett Gulbrandsen, the School Board created a Policy Committee to vet potential policy recommendations. While they do post some of the Committee meeting notices, it does not appear that they take official action in a public meeting.

Gulbrandsen filed his complaint on October 9.

The School submitted its response on October 24. It contends that the Committee is not subject to the Open Door Law because only three of its seven members plus the superintendent constitute its membership.

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).

East Porter County School Corporation 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. The School's Board is a governing body of the County; 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 the Board 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). 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).

What is more, the Open Door Law also addresses Committees. 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 is also considered a governing body. See Ind. Code § 5-14-1.5-2(b)(3). While some limited exceptions apply, they are not relevant here.

Based on the information provided, it appears as if the Policy Committee in question is an official one to which authority is delegated by the principal board.

Here, there appears to be some misunderstanding that official offshoots of the School Board can also qualify as governing bodies themselves. Therefore, a majority of the Committee membership triggers the ODL as well.

To wit, if the Committee consists of four members – three principal School Board members and the superintendent – two of the four trigger a majority if discussing Committee business. While a non-majority (up to three) of the principal Board can discuss non-committee business without triggering the ODL, once Committee business enters the equation, the ODL certainly applies.

As plainly written, official Committees qualify as governing bodies and a majority of the Committee members require notice and openness considerations.

The School did follow up recently and indicate that the Committee in question has not been officially delegated authority to take official action on public business. If that is the case, it would not meet the qualifications. If, however, they do screen the policies as recommendations before the Board takes action, it could very well qualify.

Official action, as statutorily defined above, is a low bar, and recommendations do count toward the equation.

CONCLUSION

Based on the foregoing, it is the opinion of this office that the Policy Committee of the East Porter County School Corporation is subject to the Open Door Law in the same manner as the principal Board if delegated the authority to take official on public business.

A handwritten signature in black ink, appearing to read 'LH Britt', is positioned above the printed name.

Luke H. Britt
Public Access Counselor

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