

December 3, 1999

Mr. Richard Dean Morris  
13161 E. 300 South  
Greentown, Indiana 46936

Re: *ADVISORY OPINION No. 99-FC-20:*  
Change in Time of Board Meeting by Eastern Howard School Corporation.

Dear Mr. Morris:

This is in response to your formal complaint, which was received on November 12, 1999. You have asked whether the Eastern Howard School Corporation (hereinafter "School Corporation,") violated the Indiana Open Door Law, Indiana Code chapter 5-14-1.5, specifically, Indiana Code section 5-14-1.5-5, by failing to post a proper notice to the public. Specifically, you have referenced a failure to provide notice of a change in the time for the meeting held on October 26, 1999, which deprived interested persons of an opportunity to attend the meeting. Dr. Lindan B. Hill, Superintendent of the School Corporation, responded in writing to your complaint in letters dated November 12 and December 1, 1999. Copies of his responses and the attachments are enclosed for your reference. It is my opinion that the School Corporation did not violate the notice requirements under Indiana Code section 5-14-1.5-5 when it changed the time of the October 26, 1999 meeting.

#### BACKGROUND

According to your complaint, the School Corporation holds regularly scheduled meetings on the second and fourth Tuesdays of the month at 7:30 p.m. While the local monthly and daily newspapers printed a reference to a 7:30 p.m. meeting to be held on October 26, 1999, the meeting was actually held at 6:30 p.m., depriving interested persons the opportunity to attend the meeting. You checked with the School Corporation, which stated that the change in time was noted in the Kokomo Tribune, but the Tribune did not have a record that they were notified of the time change.

In his responses, Dr. Hill indicated that meeting time changes have occurred in the past and will occur in the future. The School Corporation's business manager, Ms. Verna Rush provided notice of the time change to the media and posted a corrected notice reflecting the new time of the meeting well before the 48 hours required under the Open Door Law. A copy of the meeting notice was attached to his response dated December 1, 1999. The new time of 6:30 p.m. appears in boldface.

#### ANALYSIS

The intent and purpose of the Indiana Open Door Law is 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." IND. CODE  $\alpha$  5-14-1.5- 1. The provisions are to be "liberally construed with the view of carrying out its policy." IND. CODE  $\alpha$  5-14-1.5-1.

Indiana Code  $\alpha$  5-14-1.5-5(a) provides that:

Public notice of the date, *time*, and place of any meetings, executive sessions, or of any *rescheduled* or reconvened meeting, shall be given at least *forty-eight (48) hours* (excluding Saturdays, Sundays, and legal holidays) before the meeting.

(Emphasis added). Further,

(n)otice of regular meetings need be given only once each year, *except* that an additional notice shall be given where the date, *time, or place of a regular meeting or meetings is changed*.

IND. CODE  $\alpha$  5-14-1.5-5(c). (Emphasis added). These notice requirements ensure that persons who wish to attend, observe and record public meetings are able to determine when and where a meeting will take place.

A one-time general notice of the regularly scheduled meetings may be provided by a public agency of meetings that are subject to the Indiana Open Door Law. Ind. Code  $\alpha$  5-14-1.5-5(c). The Law is clear, however, that regular meetings may be rescheduled and that the public agency's obligation is to provide "an *additional notice shall be given* where the *date, time, or place of a regular meeting*" has been changed." Ind. Code  $\alpha$  5-14-1.5-5(c) (Emphasis added). The additional notice must be provided in accordance with Indiana Code section 5-14-1.5-5, which provides that:

(a) Public notice of the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting, shall be given at least forty-eight (48) hours (excluding Saturdays, Sundays, and legal holidays) before the meeting.

\* \* \*

- (b) Public notice shall be given by the governing body of a public agency by:
1. 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; and
  2. depositing in the United States mail with postage prepaid or by delivering notice to all news media which deliver by January 1 an annual written request for such notices for the next succeeding calendar year to the governing body of the public agency.

The School Corporation, therefore, was required to post a notice of the meeting, reflecting the change in the time, and notify any media that had made a request for meeting notices by January 1, 1999. The School Corporation produced a copy of the notice, reflecting a 6:30 p.m. start time

for the October 26, 1999 meeting and indicated that the media was notified of the change.<sup>1</sup> The only obligation was for the School Corporation to post this notice outside of their principal office or the meeting location at least 48 hours in advance of the meeting.<sup>2</sup> Absent any evidence to the contrary, the School Corporation appears to have met its obligations to provide notice to the public with respect to the October 26, 1999, by posting a notice at least 48 hours in advance reflecting the change in meeting time from 7:30 p.m. to 6:30 p.m.

## CONCLUSION

It is my opinion that the Eastern Howard School Corporation did not violate the requirements for providing notice to the public of the Indiana Open Door Law with respect to the change in time of its regular meeting held on October 26, 1999.

Dr. Linden B. Hill, Superintendent  
Eastern Howard School Corporation

Enclosure

cc:

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<sup>1</sup> The School Corporation claims it notified the media, and you claim that you went in search of that notice and were unsuccessful. The issue at hand is not whether the media was properly notified, but whether the notice to the public was properly given to allow you and others the opportunity to attend the October 26, 1999 meeting. This opinion focuses on that issue.

<sup>2</sup> The Open Door Law does not require a public agency to publish a notice of a regular meeting in the newspaper. Often, local newspapers print such information as a public service, but the meeting notices required under Indiana Code section 5-14-1.5-5 need not appear in print in a newspaper in order to be effective.