

May 18, 2007

Mr. Edward A. McCormick
2001 South "L" Street
Elwood, IN 46036

*Re: Formal Complaint 07-FC-102; Alleged Violation of the Open Door Law by the
Elwood Community School Corporation*

Dear Mr. McCormick:

This is in response to your formal complaint alleging that the Elwood Community School Corporation ("School") violated the Open Door Law by holding an executive session for a purpose that is not covered in the Open Door Law. I find that you do not have standing to file a formal complaint alleging a denial of access to a meeting that you were not excluded from and actually attended.

BACKGROUND

You allege that the School violated the Open Door Law when it convened an executive session on April 17, 2007 with the teacher's union for the purpose of collective bargaining. The gist of your complaint is that Indiana Code 5-14-1.5-6.1(b)(2) does not allow the presence of bargaining adversaries in a strategy discussion. Therefore the bargaining session with the teacher's union was required to be held in an open meeting. You state that you attended the executive session for a short time before leaving.

I sent a copy of your complaint to the School. Superintendent Thomas W. Austin filed a response. I enclose a copy of his response for your reference.

ANALYSIS

A person or public agency denied the right to attend any public meeting of a public agency in violation of Indiana Code 5-14-1.5 or any other right conferred by Indiana Code 5-14-3 or Indiana Code 5-14-1.5 or any other state statute or rule governing access to public meetings or public records may file a formal complaint with the public access counselor. IC 5-14-5-6.

You alleged that on April 17 the Board held an executive session that should have been open to the public. Even if your allegations are true, I cannot issue an advisory opinion because you do not have standing to challenge a denial of your right to attend a meeting that you were invited to attend and actually attended. However, I can issue an informal inquiry response under IC 5-14-4-10(5) regarding your allegations. The reader may find the informal inquiry response at <http://www.in.gov/pac/informal/2007/07-FC-102.pdf>. I have attached the informal inquiry response to your copy of this Opinion.

CONCLUSION

For the foregoing reasons, I find that you do not have standing to file a formal complaint alleging a denial of access to a meeting that you were invited to attend and actually attended.

Sincerely,

Karen Davis
Public Access Counselor

cc: Thomas W. Austin