

April 10, 2006

*Sent Via Electronic Mail*

Mr. David Day  
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*Re: Informal Inquiry Response; Question Regarding Meetings of Members of School Board of Carmel Clay Schools to Discuss The Members' Primary Campaigns*

Dear Mr. Day:

You have requested an informal opinion from the Office of the Public Access Counselor. Pursuant to Ind. Code 5-14-4-10(5), I am issuing this letter in response to your request.

Specifically, you have asked whether a gathering of three members of the five-member School Board of Carmel Clay Schools, outside of the public, for the purpose of organizing and of planning the members' campaign would violate the Open Door Law. Three members of the current Board have terms that expire on June 30, 2006, and their offices are subject to the upcoming May primary election. The incumbent Board members have filed for re-election and have chosen to run a unified campaign or as a slate. You suggest that such a gathering for the purpose of planning campaign strategy would not constitute a "meeting" as that term is defined in the Open Door Law.

It is my opinion that such a meeting of a majority of the School Board, for the purposes you state, would not violate the Open Door Law.

"Meeting" is defined as 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. IC 5-14-1.5-2(d). "Public business"

means any function upon which the public agency is empowered or authorized to take official action. IC 5-14-1.5-2(e).

The School Board is a governing body of the Carmel Clay Schools. A gathering of three of the five members would constitute a meeting, if the gathering involved any of the types of official action on public business of the Board. It is consideration of the definition of “public business” that I believe makes the discussions regarding campaign strategy fall outside the purview of the Open Door Law.

Moreover, the Open Door Law specifically excepts a “caucus” from the definition of “meeting.” *See* IC 5-14-1.5-2(c)(4). “Caucus” is defined as a gathering of members of a political party or coalition which is held for purposes of planning political strategy and holding discussions designed to prepare the members for taking official action. IC 5-14-1.5-2(h). Even if a gathering for purposes of planning a political *campaign* does not fit into the definition of “caucus,” the legislature’s exempting discussions that are designed to prepare the members for taking official action would evince the legislature’s intent to exclude activity of a coalition that does not involve any public business of the School for which School Board members would be responsible. Put another way, it is not the public business of the Board to plan how its members will be re-elected.

In issuing this guidance, I would caution the members to avoid taking any official action upon public business during any closed-door campaign strategizing.

Please feel free to contact me if you have any other questions about the Open Door Law.

Sincerely,  
/Karen Davis/

Karen Davis  
Public Access Counselor