

May 31, 2000

Mr. James A. Hoffman 1102 Southwood Drive
Indianapolis, IN 46227

Ms. Catherine Burton
7801 Alexander Street
Indianapolis, IN 46259

Re: Advisory Opinion 00-FC-13 *Alleged Violation of the Open Door Law by the Board of the Franklin Township Community School Corporation.*

Dear Mr. Hoffman and Ms. Burton:

You each filed a formal complaint¹ against the Board of the Franklin Township Community School Corporation ("School Board,") for an alleged violation of the Indiana Open Door Law at a meeting held on April 24, 2000. You allege that the School Board violated the Open Door Law when they failed to provide a meeting room of adequate size for the crowd that had assembled. I contacted the School Board, through Ms. Deborah Smith, Board President and Dr. E.B. Carver, Superintendent. A copy of Dr. Carver's response² was received on May 15, 2000, and is enclosed for your reference. For the following reasons, it is my opinion that the School Board's failure to accommodate the crowd at their meeting was not a violation of the letter of the Law. It is also my opinion that if the School Board had prior knowledge of the fact that its regular meeting location would not accommodate the anticipated crowd and failed to address this issue, the School Board did not conform to the intent of the Law as set forth at Indiana Code section 5-14-1.5-1.

BACKGROUND

According to your complaints, the School Board was to hold their regularly scheduled meeting on April 24, 2000 and the agenda for that meeting included a discussion of the reduction in force of teachers in the Corporation. A request to the School Board two weeks prior to the meeting date to move to a larger room, such as the nearby high school or middle school gymnasiums and auditoriums, was refused. The School Board then took steps to ensure that fire officials were present who counted and did not allow approximately 30 people³ to come into the meeting room.⁴ Despite the fact that the School Board was alerted to the fact that people who had attempted to attend their meeting were outside of the room, the School Board still refused to move the meeting to a more suitable room.

In response to your complaints, Dr. Carver stated that the School Board posted notice and the meeting agenda in accordance with the Open Door Law. The meeting room was also accessible to persons with disabilities as required under the Law. The meeting room capacity is 89 and on the meeting

night in question, there were 11 board members and staff and 78 members of the public in attendance filling the room. Dr. Carver disputes that the Open Door Law was violated as noted in your complaints, because there is no provision of the Law that addresses meeting room size. He also noted that the School Board is aware of the intent and purpose of the Open Door Law to take official action openly and that he considers the meeting of April 24, 2000 to have been in compliance with both the letter and the spirit of the Law.

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 § 5-14-1.5- 1. Indiana Code section 5-14-1.5-3(a) provides, in pertinent part, that:

all meetings of the governing bodies of public agencies must be open at all times for the purpose of permitting members of the public to observe and record them.

A 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). Clearly, the School Board is a governing body of a public agency and any gatherings of a majority of its members would constitute a meeting subject to the requirements of the Open Door Law. Ind. Code §§5-14-1.5-2(a) and (b).

The Open Door Law does set specific requirements for meetings to be conducted by governing bodies of public agencies in Indiana. Notices to the public and media must be posted and delivered as prescribed under Indiana Code section 5-14-1.5-5. If an agenda is used, it must be posted outside the meeting room immediately before the meeting begins under Indiana Code section 5-14-1.5-4. The meeting room must be accessible for persons with disabilities under Indiana Code section 5-14-3-8. There is no provision of the Open Door Law that requires a specific meeting room size or capacity.

According to Dr. Carver's response, the School Board complied with each of these requirements of the Open Door Law and neither of you allege that the School Board failed to comply with these particular requirements. It is my opinion that if the School Board provided appropriate notice under Indiana Code section 5-14-1.5-5, posted their agenda under Indiana Code section 5-14-1.5-4 and held their meeting in a room accessible to persons with disabilities under Indiana Code section 5-14-1.5-8, then they did not violate the requirements of the Open Door Law.

While I must conclude that the School Board did not violate the letter of the Open Door Law with respect to its April 24, 2000 meeting, I do disagree with the School Board's assertion that their actions conformed to the spirit of the Law. According to your complaints, and undisputed by Dr. Carver in his response, the School Board was made aware of the interest in the April 24th meeting two weeks in advance, but refused to move the meeting location. Fire officials were in attendance, obviously at the request of the School Board or their staff, to ensure that the meeting room capacity was not exceeded.

Further, even when informed of the numbers of people standing outside wanting to attend, observe and record their meeting, they still refused to move to a larger room-either a gymnasium or auditorium in the nearby school buildings.

The conduct of the School Board with respect to its April 24, 2000 meeting did not, in my opinion, constitute compliance with the spirit of the Open Door Law, which is embodied at Indiana Code section 5-14-1.5-1 and provides in pertinent part that:

this state and its political subdivisions exist only to aid in the conduct of the business of the people of this state. It is the intent of this chapter 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.

I would caution the School Board to consider these words when they are confronted with similar circumstances in the future. In my opinion, had they done so on April 24, 2000, a new meeting location would have been provided and no complaints would have been filed with this Office.

CONCLUSION

It is my opinion that the failure of the Board of the Franklin Township Community School Corporation to hold its April 24, 2000 meeting in a room that would accommodate all persons who wanted to attend was not a violation of the letter of the Open Door Law.

Sincerely,

Anne Mullin O'Connor

cc: Dr. E.B. Carver, Supt.
FTCSC

¹Hoffman complaint was received May 9, 2000. Burton complaint was received May 15, 2000. Since both complaints concern the same event and the same public agency, only one advisory opinion is being issued.

²I contacted Dr. Carver by telephone concerning the Burton complaint. He had nothing to add to his original response to the Hoffman complaint.

³Mr. Hoffman was not permitted to enter the meeting room, but it is not clear from Ms. Burton's complaint whether she was refused entry or not. Since the School Board did not wish to respond directly to her complaint, for the purposes of this Opinion, we will assume that she too was denied access to the meeting.

⁴In Ms. Burton's complaint, she noted that representatives of the media were permitted entry despite the fact that members of the public were turned away.
