

## IC 5-14-1.5

### Chapter 1.5 Public Meetings (Open Door Law)

<http://www.in.gov/legislative/ic/2010/title5/ar14/ch1.5.html>

#### **Definitions**

**Meeting:** A gathering of a majority of the board for the purpose of taking official action upon public business. It is not:

- Any social or chance gathering not intended to avoid the stipulations of ODL.
- Any on-site inspection of any project, program, or facilities
- A gathering to discuss an industrial or a commercial prospect that does not include a conclusion as to recommendations, policy, decisions, or final action on the terms of a request or an offer of public financial resources.
- An orientation of members of the governing body on their role and responsibilities as public officials, but not for any other official action.

**Official Action:** includes the following

- receiving information
- deliberating
- making recommendations;
- establishing policy;
- making decisions; or
- taking final action.

**Executive session:** a meeting from which the public is excluded, except the governing body may admit those persons necessary to carry out its purpose.

**Final action:** a vote by the governing body on any motion, proposal, resolution, rule, regulation, ordinance, or order.

**Deliberation:** a discussion which may reasonably be expected to result in official action

#### **Frequently Asked Questions**

##### **How do we comply with Indiana Open Door Law?**

This is a lengthy question with many nuances (many of which are explained below). The overarching spirit and purpose of the Open Door Law is that “the official action of public agencies be conducted and taken openly in order that the people may be fully informed.” It is essential that public organizations, specifically schools, make every effort to be transparent with the public that they serve.

##### **How do we ensure we are properly posting notice of board meetings?**

First, ensure the meeting location is accessible for any member of the public to join. A public agency may not hold a meeting at a location that is not accessible to an individual with a disability.

Next, once approved, you should make your annual meeting schedule available through media, your website, and through physically posting it at the school.

Additionally, post a copy of each meeting 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” at least forty-eight hours in advance (excluding Saturdays, Sundays, and legal holidays). This means forty-eight hours in business days. Include the date, time, and place of any meetings, executive sessions, or of any rescheduled or reconvened meeting.

Finally, if using an agenda, post a copy of the agenda at the entrance to the location of the meeting prior to the meeting.

See IC 5-14-1.5-5 for more information on posting notices.

### **What is required in the minutes of the meeting?**

The following memoranda must be kept for each meeting:

1. The date, time, and place of the meeting.
2. The members of the governing body recorded as either present or absent.
3. The general substance of all matters proposed, discussed, or decided.
4. A record of all votes taken by individual members if there is a roll call.
5. Additional information when utilizing an electronic communication policy (See IC 5-14-1.5-3.6 for more details)

### **Can anyone ask for a copy of the minutes?**

Yes. Meeting minutes must be available “within a reasonable period of time after the meeting for the purpose of informing the public of the governing body's proceedings. The minutes, if any, are to be open for public inspection and copying.” (IC 5-14-1.5-4)

### **Can board members participate using electronic communication?**

Yes! First, you need to approve a board policy adopting electronic communication. Some things to remember when finalizing the policy:

- Everyone at the meeting must be able to communicate simultaneously (including the public)
- All votes must be roll calls
- 2/3 of board members must be physically present
- All board members must physically attend at least one board meeting each year
- Unless your policy dictates otherwise, board members participating through electronic communication are considered present, count towards quorum, and may vote

See IC 5-14-1.5-3.6 for details on acceptable bylaw policies in regards to electronic communication.

### **What do we do when we want to hold an executive session?**

First, make sure the topic for discussion in executive session is covered. Executive sessions can only be held for the following reasons (summarized for reasons applicable to schools):

Enumerated Instance	Reference
Where authorized by federal or state statute	(IC 5-14-3-4(b)(1))
For discussion of strategy with respect to any of the following: a) Collective bargaining	(IC 5-14-3-4(b)(2)(A))
b) Initiation of litigation or litigation that is either pending or has been threatened specifically in writing. As used in this clause, "litigation" includes any judicial action or administrative law proceeding under federal or state law.	(IC 5-14-3-4(b)(2)(B))
c) The implementation of security systems.	(IC 5-14-3-4(b)(2)(C))
d) The purchase or lease of real property by the governing body up to the time a contract or option to purchase or lease is executed by the parties	(IC 5-14-3-4(b)(2)(D))
e) School consolidations	(IC 5-14-3-4(b)(2)(E))
For discussion of the assessment, design, and implementation of school safety and security measures, plans, and systems.	(IC 5-14-3-4(b)(4))
To receive information about and interview prospective employees.	(IC 5-14-3-4(b)(5))
With respect to any individual over whom the governing body has jurisdiction: a) to receive information concerning the individual's alleged misconduct; and b) to discuss, before a determination, the individual's status as an employee, a student, or an independent contractor who is: (i) a physician; or (ii) a school bus driver.	(IC 5-14-3-4(b)(6)(A))
	(IC 5-14-3-4(b)(6)(B))
For discussion of records classified as confidential by state or federal statute.	(IC 5-14-3-4(b)(7))
To discuss before a placement decision an individual student's abilities, past performance, behavior, and needs.	(IC 5-14-3-4(b)(8))
To discuss a job performance evaluation of individual employees. This subdivision does not apply to a discussion of the salary, compensation, or benefits of employees during a budget process.	(IC 5-14-3-4(b)(9))
To train school board members with an outside consultant about the performance of the role of the members as public officials.	(IC 5-14-3-4(b)(11))

***Second, post notice of the executive session. This must include the subject matter "by specific reference to the enumerated instance or instances for which executive sessions may be held" in the previous list.***

**Do we need to keep minutes for an executive session?**

Yes, but they can be modified for the public. Minutes must reflect the subject matter and reference cited in the public notice and a statement must be signed, certifying that no other subject matter was discussed.

Finally, note that all final action must be taken at a meeting open to the public.

**What happens if we fail to properly follow Open Door Law?**

Failing to comply with any part of Open Door Law may result in action being filed against the organization and a civil penalty may be issued. This could result in a fee of \$100 for the first violation and a \$500 fee for the second.

See IC 5-14-1.5-7.5 for more information about failure to comply with Open Door Law.