



# Are school board committees subject to the Open Door Law?

By **Lisa Tanselle**, General Counsel, [ltanselle@isba-ind.org](mailto:ltanselle@isba-ind.org)

---

On at least three occasions in 2021, Indiana’s Public Access Counselor was asked whether committees created by school boards are required to advertise their meetings and allow the public to attend. In each of the opinions, the PAC took note of the definition of “governing body” in statute and concluded that the committees were subject to the Open Door Law.

The [latest opinion](#) on school board committees involved the formation of an advisory committee by the Board of Trustees of the Manchester Community Schools. The committee’s task was to review and recommend changes to the district’s COVID reentry plan. The membership of the committee was recommended by the school board, but the board did not directly appoint any of the members of the committee. The committee met five times in September 2021, privately, without providing public notice or creating any minutes. The Board of Trustees subsequently adopted the committee’s recommendations at a public meeting. A patron later filed a complaint.

Noting first that a governing body includes “a board, commission, council, or other body of a public agency which takes official action upon public business,” the PAC concluded the advisory committee was unquestionably a deliberative assembly akin to a board, commission, council, or other body. He found that the committee made recommendations to the board, which constituted taking official action, and that the corporation’s COVID reentry plan met the definition of public business.

The PAC went on to consider whether the committee constituted a governing body under the provision that refers to committees appointed directly by the governing body. The PAC asserted “[t]here exists a great fiction in the Open Door Law interpretation that direct appointment of committee members is the operative trigger for qualification.” The counselor noted two appellate court opinions wherein the courts focused on the relationship of the committee with the governing body and not the roster of the committee. Thus, in his opinion, if a committee is appointed to take action, specifically to advise the governing body on public business, the committee is a governing body and is subject to the Open Door Law requirements. To conclude otherwise would allow a governing body to “outsource its work to a third-party group of designees as an end-around to the Open Door Law.”

Historically, the issue of the appointment of the committee members was used to distinguish a board committee from an administrative committee. But it is clear from these recent opinions that the duties and subject matter assigned to the committee will be paramount.

If a committee is created to study an issue on behalf of the school board, or to make recommendations to the school board, irrespective of who appoints the committee members, the PAC will likely conclude the committee is subject to the Open Door Law.