

November 13, 2003

Larriante Sumbry
965137, C-265
Indiana Department of Correction
Indiana State Prison
P. O. Box 41
Michigan City, IN 46361-0041

Re: Formal Complaint 03-FC-106: *Alleged Denial of Access to Public Records by the Lake County Grievance Review Board*

Dear Mr. Sumbry,

This is in response to your formal complaint, received on October 20, 2003. In it, you allege that the Lake County Grievance Review Board (the "Board") violated the Access to Public Records Act (the "APRA"). Specifically, you allege that the Board failed to respond to your request within seven (7) days. George C. Patrick, attorney for the Board, responded to your complaint. A copy of his response, without attachments, is enclosed for your reference. For the reasons set forth below, it is my opinion that the Board did not violate the APRA.

BACKGROUND

You allege that on October 8, 2003, you sent a letter to Velia Taneff, an employee of the Board. You also allege that as of October 16, 2003, you had received no response from the Board. According to the letter you enclosed with your complaint, you requested the following:

- Lake County Grievance Review Board Annual Report;
- Duties and Responsibilities of the Grievance Review Board;
- Members of the Grievance Review Board;
- Types of matters that the Grievance Review Board has jurisdiction over;
- Handbook of Practice and Internal Procedures;
- Any disciplinary complaints filed on elected officials or department heads; and
- Grievance Review Board public meetings.

In his response, Mr. Patrick alleges that the Board did not receive your request. Further, Mr. Patrick states that there is no such record as an annual report of the Board. Mr. Patrick states that he will send you the duties and responsibilities of the Board and a list of Board members. He states that the Board has jurisdiction only over employees.

ANALYSIS

The public policy of the APRA states that “[p]roviding persons with information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information.” Ind. Code § 5-14-3-1. Furthermore, “[t]his chapter shall be liberally construed to implement this policy and place the burden of proof for the nondisclosure of a public record on the public agency that would deny access to the record and not on the person seeking to inspect and copy the record.” IC 5-14-3-1.

The Board is a public agency for the purposes of the APRA. IC 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Board during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under Indiana Code § 5-14-3-4. IC 5-14-3-3(a).

It is the responsibility of the public agency to respond to requests for access to public records within a specified time period. The APRA does not set any time periods for producing public records, merely for responding to the request. For requests that are delivered by mail, a denial is deemed to have occurred if seven (7) days elapse after the agency receives the request and there has been no response. IC 5-14-3-9(b). Once a denial has occurred under the APRA, a person may file suit in the circuit or superior court in the county in which the denial took place to compel the public agency to disclose the public records requested. IC 5-14-3-9(d).

According to your complaint, you mailed your request to the Board and did not receive a response to your request within seven (7) days. However, the Board does not have a record that your request was received, and I have not been provided with any evidence to suggest otherwise. Since the Board did not receive your request, it is my opinion that the Board did not violate the APRA with respect to your request by failing to respond to it within seven (7) days.¹

CONCLUSION

Because the Board did not receive your request, it is my opinion that the Board did not violate the APRA with respect to your request by failing to respond to it within seven (7) days.

Sincerely,

Michael A. Hurst
Public Access Counselor

cc: Mr. George Patrick, Attorney for Lake County Grievance Review Board Authority

¹ It should also be noted that, having received your formal complaint, it appears from the Board’s response that it has now provided you with the records you requested.