

August 5, 2005

Bif Guenthen
P.O. Box 2
Bowling Green, IN 47833

Re: Formal Complaint 05-FC-136; Alleged Violation of the Access to Public Records Act by the Department of Child Services, Vigo County Office

Dear Mr. Guenthen:

This is in response to your formal complaint alleging that the Department of Child Services, Vigo County Office (“DCS”) violated the Access to Public Records Act (“APRA”). I find that the DCS did not violate the APRA.

BACKGROUND

You hand-delivered on July 5, 2005 a written request to the Vigo County Department of Child Services, requesting the “name, compensation, job title, business address, business telephone number, job description, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the agency.” You also requested information relating to the status of any formal charges against any employee, and information concerning disciplinary actions against any employee.

You stated that you received on July 6, 2005 a memo from Glen Cardwell, DCS Director in response to your request. Mr. Cardwell wrote:

“We are pleased to respond to your request for information. It would be helpful if you could provide some added detail to your request because of the potential volume of work involved. Is your request for information on Child Welfare Staff only? We have some 25 child welfare employees out of a total staff of 92. In your request for information on former employees, could you be more specific, is there a timeframe you want?”

On July 7, Mr. Cardwell sent a follow-up message by e-mail. He informed you that “after further discussion of the time needed to honor your request, we are asking you to be more specific in accordance with IC 5-14-3-4(b)(8). He provided you with the text of the relevant law, which states that “this subdivision does not apply to disclosure of personnel information generally on all employees or for groups of employees without the request being particularized by employee name.”

You filed your formal complaint with my office on July 6 after you received the first communication from the DCS. Mr. John Wood, counsel for the DCS provided a response to your complaint. His response is enclosed for your reference. Mr. Wood stated that because you did not supply the DCS with the particular names of employees, or any other parameters regarding former employees, your complaint is without merit.

ANALYSIS

Any person may inspect and copy the public records of any public agency, unless the record is excepted under Ind. Code 5-14-3-4. IC 5-14-3-3(a). A request for a record must be stated with “reasonable particularity.” IC 5-14-3-3(a)(1). Personnel files of current or former public employees are excepted from disclosure under IC 5-14-3-4(b)(8). However, that provision contains an “exception within the exception.” Certain information about the employment of a public employee and information about any pending formal charges and final disciplinary action are required to be disclosed by the public agency. IC 5-14-3-4(b)(8). A request for the information that is required to be disclosed about a public employee must be particularized by employee name. IC 5-14-3-4(b)(8). Requests for information on all employees or groups of employees do not have to be fulfilled.

In your complaint, you provide information about a conversation that you had with the staff in Vigo County DCS, but otherwise do not provide me with any specific concerns about the response of the DCS, either with respect to timeliness or appropriateness of the response. In fact, it appears that the DCS responded in writing within the required 24 hours of your hand-delivered request. IC 5-14-3-9(a). The DCS also asked you to state with more particularity the type of employees and the timeframes of information about former employees. The next day, you were informed of the requirement that you state your request with reference to particular names of employees, with citation to the DCS’s authority and the text of the requirement. The DCS was justified in inquiring regarding which particular employees’ records you were interested in obtaining, under the “reasonable particularity” standard and the requirement in IC 5-14-3-4(b)(8).

I give credit to the DCS for its timely and appropriate response to your request. I also note that the DCS has even forwarded records to you that it believes are responsive to your requests, in spite of your failure to give the DCS specific employee names. Because your complaint does not specify why you believe the DCS violated the APRA, and because nothing in the documentation you and the agency provided shows any violation of the APRA, I find your complaint without merit.

CONCLUSION

For the foregoing reasons, I find that the Vigo County Department of Child Services did not violate the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Mr. John Wood