

December 4, 2006

Jerry Slauter
2107 Javelin Drive
LaPorte, Indiana 46350

Re: Formal Complaint 06-FC-193; Alleged Violation of the Access to Public Records Act by the Knox Community School Corporation

Dear Mr. Slauter:

This is in response to your formal complaint alleging that the Knox Community School Corporation ("School") violated the Access to Public Records Act by failing to respond to your requests for records. I find that the School violated the Access to Public Records Act when it failed to respond to your October 25 request by informing you that you must submit your request on a form.

BACKGROUND

You state that you have requested information contained in the School's records concerning the amount of tuition reimbursement North Judson spent per student for the ACE Program, and the total amount contributed per year for the program, from 2003 through 2006. You sent your requests to Superintendent Kimberly Knott via e-mail on June 30 and July 21. In addition, on August 21 you sent the same request by letter. Your fourth and final written request was sent October 25. At no time have you received a response, you claim.

I sent a copy of your complaint to the School. Superintendent Knott replied by letter, a copy of which is attached for your reference. Superintendent Knott stated that according to School Board policy 8310 and administrative guidelines, formal records requests must be submitted on a Board prescribed form. You have never asked for the form nor followed the procedure. Also, your request has not been stated with reasonable particularity.

ANALYSIS

Any person may inspect and copy the public records of any public agency, except as provided in section 4 of the Access to Public Records Act (“APRA”). Ind. Code 5-14-3-3(a). A request for inspection and copying must identify with reasonable particularity the record being requested. IC 5-14-3-3(a)(1). In addition, a request for inspection and copying must be, at the discretion of the agency, in writing on or in a form *provided by the agency*. IC 5-14-3-3(b)(Emphasis supplied.) A public agency that receives a request via mail, facsimile, or electronic mail must respond within seven days, or the request is deemed denied. IC 5-14-3-9(b). If a public agency intends to deny a written request for records, the public agency must deny the record in writing and state the exemption that applies to the record. IC 5-14-3-9(c).

The School has not stated that it ever informed you that you are required to submit your request on a form. Had the School complied with the Access to Public Records Act, it would have issued a response in writing, by either mail or e-mail, informing you that the School requires that you submit your request on its form, and how to obtain the form. The School has not complied with the APRA merely by having adopted a policy requiring that a form be used; the School must inform each requester of the form requirement and provide the person with the form. The School has violated the APRA by not complying with IC 5-14-3-3(b). The School’s continuing failure to provide you with a form is a continuing violation of the APRA, and is actionable under IC 5-14-3-9(e).

The School has said that your request for a record has not been stated with reasonable particularity. Although requests must identify the records with reasonable particularity, it is not incumbent on the requester to identify or name the precise record that contains the information sought. You have asked for a record showing expenditures per student for a particular program. If the School maintains records showing the information you seek, the School should make those records available. The School may not refuse your request if your request is ambiguous or unclear. At a minimum, the School is required to contact you to seek additional clarification regarding what specific information or documentation you are seeking.

CONCLUSION

For the foregoing reasons, I find that the Knox Community School Corporation violated the Access to Public Records Act. This violation is actionable under IC 5-14-3-9(e).

Sincerely,

Karen Davis
Public Access Counselor

cc: Superintendent Kimberly Knott