

May 22, 2006

Sam Williams
#885684
Indiana State Prison
P.O. Box 41
Michigan City, IN 46361

Re: Formal Complaint 06-FC-74; Alleged Violation of the Access to Public Records Act by the Indiana University School of Dentistry

Dear Mr. Williams:

This is in response to your formal complaint alleging that the Indiana University School of Dentistry (the "University") violated the Access to Public Records Act by failing to respond to your request for records. I find that the University responded to the request timely; hence, it did not violate the Access to Public Records Act.

BACKGROUND

You allege in your formal complaint, filed on April 20, 2006, that on March 23, you mailed a request for access to public records to the University. You requested "a standard listing of payment and/or fees charged by the School of Dentistry...relating directly to the oral healthcare services offered to individuals who are accepted as patients of the School's oral clinics." You claim that to date you have received no word concerning the request.

I sent a copy of your complaint to the University. University Associate Counsel Thomas P. Gannon responded by letter, a copy of which is enclosed for your reference. Mr. Gannon also enclosed correspondence to and from you regarding the request (which actually was dated March 24) and a previous request you had made for a record of the list of patient programs offered by the University. Mr. Gannon also included a copy of a March 8 request that you had sent directly to the School of Dentistry asking for information on the fee charged for a two-unit bridge. In response to that letter was a March 30 letter to you from Pam Elliott of the School of Dentistry

regarding the cost of a two-unit bridge. Ms. Elliott explained the cost for the bridge and an initial oral exam. She also explained the contract payment plan.

With respect to the March 24 request for a listing of fees, Mr. Gannon wrote a responsive letter within two days of receiving your request. In this response, dated March 29, Mr. Gannon explained that he was inquiring whether the University maintains any lists or documents that are responsive to your request. Mr. Gannon anticipated being able to supply additional information in the next couple of weeks.

This letter was returned by the Indiana State Prison because the University had inadvertently omitted your DOC number. The University received the returned letter on April 19, and mailed another responsive letter the next day, April 20. In the April 20 letter, Mr. Gannon enclosed the letter dated March 30 from Pam Elliott. His April 20 letter stated "I trust this letter provides you with the above-referenced records you requested."

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. Ind. Code 5-14-3-3(a). A public agency that receives a request for records via U.S. Mail is required to respond within seven (7) days of receipt of the request, or the request is deemed denied. IC 5-14-3-9(b). A request for a record must state the record with reasonable particularity. IC 5-14-3-3(a)(1). A response may be just an acknowledgement that the public agency has received the request, and information regarding how and when the agency intends to comply. The agency should produce the records within a reasonable period of time, taking into account the number of records requested, whether the records are aged and stored off-site, and whether the record must undergo redaction to separate nondisclosable material.

The University received the request on which you have based your complaint on March 27, 2006. The University issued a responsive letter in a timely manner, since the letter was issued March 29, well within the seven day deadline. The University, in mailing its response to you, omitted a piece of information, your DOC number, which is a nonstandard item for addressing mail. Hence, it is my opinion that the University responded timely with as complete an address as it believed was required. Moreover, upon discovering the omission, the University quickly re-sent the response.

You had also sent a separate request for information directly to the School of Dentistry. This request, while made under the APRA, was concerned solely with the cost of a two-unit bridge, not a comprehensive fee schedule for services. Pam Elliott had supplied you with the specific information you requested, but not a listing of fees charged by the School of Dentistry. With respect to the listing of fees, a public agency is not required to create a record in response to a public records request, if no record exists. However, in order to avoid confusion, if the public agency does not maintain a record, it should clearly state that no record exists.

In his final correspondence to you of April 20, Mr. Gannon stated that he trusted the Elliott letter concerning the cost of a bridge and initial exam was responsive to your records

request. Since your March 24 record request was for “a standard listing of payment and/or fees charged by the School of Dentistry” for patients in the University’s oral clinic, that request was more broad than the Elliott letter seemed to address. Therefore, I recommend that the University follow-up with a letter to you stating whether a standard fee schedule of charges to patients exists, and if so, to produce it within a reasonable period of time.

CONCLUSION

For the foregoing reasons, I find that the Indiana University School of Dentistry did not violate the Access to Public Records Act, but should confirm whether it has a record responsive to your March 24 request.

Sincerely,

Karen Davis
Public Access Counselor

cc: Thomas P. Gannon