

July 27, 2007

Jessica Elliott
2790 Roberts Road
Richmond, Indiana 47374

Re: Formal Complaint 07-FC-179; Alleged Violation of the Access to Public Records Act by the Indiana Department of Children Services Fayette County Office

Dear Ms. Elliott:

This is in response to your formal complaint alleging the Indiana Department of Child Services Fayette County Office (“Department”) violated the Access to Public Records Act (APRA) (Ind. Code 5-14-3) by failing to respond to your request for records. A copy of the Department’s response is enclosed for your reference. I find that the Department did not violate the APRA.

BACKGROUND

Your complaint, received by the Public Access Counselor’s Office on June 27, 2007, alleges the Department violated the APRA by not responding to your request of May 22, 2007 for all records, documents, notes, tape recordings and information regarding an investigation conducted of you.

In response to your complaint, the Department indicates it did respond to your request on May 25, 2007 by letter indicating the Department did not have any responsive records and your request should be submitted to the Indiana Department of Child Services Union County Office.

ANALYSIS

Indiana Code 5-14-3-3(a) provides that any person may inspect and copy the public records of any public agency during the regular business hours of the agency, except as provided in section 4 of APRA. A “public record” means any writing, paper, report, study, map, photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. IC 5-14-3-2.

The Department is clearly a public agency for the purposes of the APRA. IC 5-14-3-2(1)(2). Accordingly, any person has the right to inspect and copy the public records of the Department during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. IC 5-14-3-3(a).

A request for records may be oral or written. IC 5-14-3-3(a); 5-14-3-9(c). If the request is delivered by mail or facsimile, the agency must respond to the request within seven days of receipt. IC 5-14-3-9(b).

In this case, the Department does not indicate when it received your request, but you dated it May 22. The response was written on May 25. This is well within the prescribed time for response to a written request for records. The Department has not denied access to records because it does not have any records responsive to your request.

CONCLUSION

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

Best regards,

Heather Willis Neal
Public Access Counselor

cc: Rebecca Moses, Indiana Department of Child Services Fayette County Office