

October 31, 2007

Billie Whitted
3340 Hillcrest Drive
Columbus, Indiana 47203

Re: Formal Complaint 07-FC-306; Alleged Violation of the Access to Public Records Act by the Bartholomew Consolidated School Corporation

Dear Ms. Whitted:

This is in response to your formal complaint alleging the Bartholomew Consolidated School Corporation ("Corporation"), violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by failing to respond to your request for records. It is my opinion the Corporation did not violate the APRA.

BACKGROUND

You allege that you appeared at the office of the Corporation and submitted a request for access to records on October 1, 2007. You submitted your complaint to this office on October 3, alleging you had received no response to the Corporation.

The Corporation responded to your complaint by letter dated October 11 from attorney Charles Wells, Jr. The Corporation contends it responded to your request on October 1 and provided a copy of that response. The Corporation further provided a copy of its October 5 communication to you providing the information and records you requested.

On October 19 you began addressing Amy Miller of this office on your electronic mail communications with the Corporation. As I understand it, you claimed the Corporation did not include contract renewal information for two individuals. The Corporation contended your request did not specifically identify those records and as such asked for a new request.

ANALYSIS

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

A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). If the request is delivered orally or in person at the office of the agency and the agency does not respond to the request within 24 hours of receipt, the request is deemed denied. I.C. §5-14-3-9(a). A response could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. There are no prescribed timeframes when the records must be produced by a public agency.

Here, the Corporation received your request when you appeared in person to deliver it on October 1. The Corporation responded on October 1 with a statement the Corporation had received your request. I recommend public agencies provide some further information in a response, such as what will happen next or how long it might take the agency to provide the records or a denial, but this response by the Corporation satisfies the response requirement of the APRA. I.C. §5-14-3-9(a).

Regarding your complaint that the Corporation did not provide you with the information you requested regarding the two contract renewals, the pertinent part of your request was for “all approved human resources recommendations at the 9/10 & 9/24 school board meetings, including the names of new hires, salaries and benefits, job title, degrees held, and if applicable their previous job title and employer, the name of employees terminated and the reason for employee termination, the names of transferring, retiring and resigning employees and their BCSC job titles prior to the acceptance of any termination, retirement, transfer, or resignation.” It is not clear to me you requested any records pertaining to contract renewal. The APRA requires a request for access to records to identify with reasonable particularity the record being requested and be, at the discretion of the agency, in writing. I.C. §5-14-3-3(a). In my opinion it is reasonable to assume that if I do not understand your request to have included a request for contract renewal information, the Corporation might not have understood the request to include such. It is my opinion the Corporation did not violate the APRA by asking you to submit a new request for those records.

CONCLUSION

For the foregoing reasons, it is my opinion the Corporation did not violate the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Dr. John Quick, Superintendent, Bartholomew Consolidated School Corporation