

December 4, 2007

Dora Brown and Sonjia Graf
6429 North Kivett Road
Monrovia, Indiana 46157

Re: Formal Complaint 07-FC-341; Alleged Violation of the Access to Public Records Act by the Monroe-Gregg School District

Dear Ms. Brown and Ms. Graf:

This advisory opinion is in response to your formal complaint alleging the Monroe-Gregg School District (“District”) violated the Access to Public Records Act (“APRA”) (Ind. Code 5-14-3) by denying you access records and by charging an excessive copy fee. A copy of the District’s response to your complaint is enclosed for your reference. It is my opinion the District did not violate the Access to Public Records Act.

BACKGROUND

In your complaint you allege you submitted a request to the District on October 9, 2007. The District responded to your request by letter dated October 16 from Superintendent Paul Kaiser. Mr. Kaiser indicated you could inspect and copy the records after providing notice of your arrival 24 hours in advance. You allege that when you appeared at the office, you were given an invoice for \$835 for copies. You further allege the District demanded payment before you would be provided the records. When you asked to view the records to determine whether the charges were appropriate, your request was denied. You filed this complaint on November 7.

The District responded to your complaint by letter dated November 30 from attorney Steven Harris. The District contends that you requested copies of the records and did not request access to inspect the records. As such, the District was requiring advance payment of the copy costs before providing you with the copies. The District indicates that when you appeared in the office you were asked to wait for the arrival of the person handling the request, but you refused to wait. Mr. Kaiser sent you a letter dated November 8 indicating that your original request was for copies and as such you were invoice for copies. He further indicated that your request to inspect the records would be granted and indicated you could make arrangements with the office to inspect the records. Mr. Harris indicated that you had made an appointment to inspect the records on November 30.

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." I.C. §5-14-3-1. Any person has the right to inspect and copy the public records of a public agency 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).

The District 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 District 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 public agency may not charge a fee to search for, examine, or review a record to determine whether the record may be disclosed. I.C. §5-14-3-8(b). The fiscal body, or governing body if there is no fiscal body, of a public agency shall establish a fee schedule for the certification or copying of documents. The fee for copying documents may not exceed the greater of ten cents per page for non-color copies or the actual cost to the agency of copying the document. I.C. §5-14-3-8(d). A public agency may require that the payment for copying costs be made in advance. I.C. §5-14-3-8(e).

Here, your request of October 9 was a request for "copies of the following items." The District charged a fee of ten cents per page for copies, which is in line with the APRA. I.C. §5-14-3-8(d). Because you requested copies of the records, the District required payment in advance before providing the copies to you, which is also in line with the APRA. I.C. §5-14-3-8(e). The District did not violate the APRA by charging you ten cents per page for copies or by requiring payment in advance.

Upon receipt of your complaint, the District sent you a letter indicating that it provided copies because you requested copies. The District further indicated that you may inspect the records at no charge at any time by making an appointment with the office. This is an appropriate response to a request to inspect records under the APRA.

CONCLUSION

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

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Steven Harris, Harris & Currens
Paul Kaiser, Superintendent, Monroe-Gregg School District