

December 12, 2007

Timothy Morgan  
4606 Tamarack  
Fort Wayne, Indiana 46835

*Re: Formal Complaint 07-FC-352; Alleged Violation of the Access to Public Records Act by Fort Wayne Community Schools*

Dear Mr. Morgan:

This advisory opinion is in response to your formal complaint alleging Fort Wayne Community Schools ("FWCS") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. I have enclosed a copy of the FWCS's response to your complaint for your reference. In my opinion FWCS did not violate the APRA.

#### BACKGROUND

In your complaint you allege you received from FWCS an invoice sent on October 25, 2007 for \$2.20 for copy charges. As I understand, you contend this was a duplicate charge, and you had already paid for these copies. You filed this complaint on November 26.

FWCS responded to your complaint by letter dated November 30 from Krista Stockman, Public Information Officer. Ms. Stockman indicates that you contacted her via electronic mail on November 20. In the email, you indicated "your invoice request for \$2.20 appears to be in error." Ms. Stockman responded the same day and indicated she was not familiar with the invoice. She wrote, "As I have not seen the invoice, I do not know what the problem is. Can you please explain?" Ms. Stockman contends that you did not respond to her, so she could not resolve the issue.

#### 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).

FWCS 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 FWCS 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).

You contend that you were charged excessive fees because you had already paid for the copies for which you received an invoice dated October 25. The APRA only allows a public agency to charge the established fee for copying of documents, and that fee shall not exceed the greater of \$.10 per page or the actual cost to the agency. I.C. §5-14-3-8(d). When you contacted Ms. Stockman to indicate the invoice was in error, she responded and asked you for more information since she was not familiar with the invoice. You did not respond to her, so she did not have the opportunity to look into the matter. As such, very little information about this issue is available to me. I cannot find that FWCS violated the APRA. I recommend you contact Ms. Stockman to explain why you believe the invoice was in error. I trust Ms. Stockman will work to research and resolve the issue to determine whether an error was made.

#### CONCLUSION

For the foregoing reasons, it is my opinion FWCS did not violate the Access to Public Records Act.

Best regards,



Heather Willis Neal  
Public Access Counselor

cc: Krista Stockman, Fort Wayne Community Schools