

March 28, 2007

Cindy Johnson
6968 N. U.S. Highway 35
Williamsburg, IN 47393

Re: Formal Complaint 07-FC-53; Alleged Violation of the Access to Public Records Act by the Centerville Center Township Public Library

Dear Ms. Johnson:

This is in response to your formal complaint alleging that the Centerville Center Township Public Library ("Library") violated the Access to Public Records Act by 1) not providing all the records within one month of receiving the request; 2) not providing copies of original documents; and 3) requiring that the requester sign a sheet showing that the person received the documents. I find that the Library has not violated the Access to Public Records Act.

BACKGROUND

You allege that as of February 17, the date you filed your complaint, the Library has not provided you with all the records you requested on January 17 and January 18. On January 17 you requested six discrete categories of records, including staff salary and wages for the year 2006-07, an audit from 2001, all executive meeting minutes for the year 2003 and 2006, the financial report from 2000, all complaints and correspondence written by staff and citizens to the Board of Trustees or Director for the year 2006, and for the January 10, 2007 board meeting, all claims, bills, amendments and minutes of this meeting. In your January 18 request, you requested five categories of records, including the register of claims for 1999 to 2003, petty cash receipts for 1999-2006, the bylaws of the board from the year 2000, a "report of materials purchased gifts for December 2000" and the "handout attachment: April 2001."

You claim that you have not received all the records, and you listed the items not yet received. It appears you received three categories of records but are still waiting for the other items.

In addition, you contend that the Library violated the Access to Public Records Act by giving to each requester a copy of a copy of the records instead of making the copy from the original record. Finally, you allege that the public has to sign for what documents they obtain.

I sent a copy of your complaint to Ms. Marie Bunch, Director of the Library. As Ms. Bunch has explained on this and other complaint responses, she has been working diligently to get records for the many requests she has received. She was on vacation for a week and was unable to work the requests, but upon her return she has been gathering the records. Ms. Bunch also stated that she has made copies of original records so that they are available to anyone who wants to make copies at the Library. The copies are of good quality, and anyone wishing to review the originals may do so. In addition, the public is asked to sign that they have received a record, but are not required to do so. In fact, people have obtained copies of records but have not signed the sheet. The sheet confirms that a particular request has been fulfilled, obviating the need for Ms. Bunch to call to confirm that a record request has been fulfilled.

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 (“APRA”). Ind. Code 5-14-3-3(a). Although there are timeframes within which a public agency is required to respond to a request, there are no timeframes within which a public agency is required to produce the records. *See, e.g.*, IC 5-14-3-9(a) and (b).

This Office has stated that a public agency should produce its records within a reasonable time, under the facts and circumstances. What is reasonable is dependent on several factors, including how many requests the requester has made, how many responsive documents exist, whether the records are aged and stored off-site, and other considerations. A public agency may regulate any material interference with the regular discharge of the functions or duties of the public agency or public employees. IC 5-14-3-7(a). Section 7 does not operate to deny to any person the rights secured by section 3 of the Access to Public Records Act. IC 5-14-3-7(c).

You have asked for what appears to be a large number of records, some of which are specific and are not concerning current year information. Ms. Bunch has told me that while the records are stored in the Library, they are stored in the basement storage facility. She has been locating the records but must see to other duties. She can devote several hours each week to the effort. I note that the Library has provided several reports, a handout, and the salary and wage information before providing while it is gathering the other records. This method of providing some records before others can be compiled has been recommended by this Office. Although it has been about one month after your request, it does not seem to me that the Library has denied you records by virtue of a failure to timely provide them.

I also do not find that the Library has violated the APRA by providing a copy of a copy. This is a means to provide easy access to the public to the copies of the Library’s public records.

You do not state why you believe having a copy of a copy is a denial of access; i.e., you do not allege that the quality of the copies is diminished by this practice. The Library will make its original records available in the event the requester would like to compare the original to the copies.

Finally, the Library has stated that while it appreciates the requester signing the sheet indicating he or she has obtained a copy of the records, it is not required, and no one has been denied a record because she has not signed the sheet. In fact, the Library does not believe that every person who has retrieved copies has signed the sheet. There is no violation of the Access to Public Records Act from this voluntary practice, because a person is not required as a condition of receiving records to sign the sheet.

CONCLUSION

For the foregoing reasons, I find that the Centerville Center Township Public Library has not violated the Access to Public Records Act.

Sincerely,

Karen Davis
Public Access Counselor

cc: Marie Bunch