

April 2, 2007

Christopher J. Stephens
128 Pinto Way
Bloomingdale, GA 31302

Re: Formal Complaint 07-FC-57; Alleged Violation of the Access to Public Records Act by the Elkhart County Division of Family Resources/Department of Child Services

Dear Mr. Stephens:

This is in response to your formal complaint alleging that the Elkhart County Division of Family Resources and Department of Child Services (collectively, "Department") violated the Access to Public Records Act by failing to respond timely to your request for records and by not providing the records in a timely manner. I find that the Department did fail to respond within seven days of your request.

BACKGROUND

You sent a complaint after failing to receive a response to your request for records, including the application for Title IV-D services submitted by Ms. Jessica Sluss, the Elkhart County child support application, a UIFSA Questionnaire, and Title IV-D notice and waiver. The Department received your request on February 15, 2007.

After receiving a response dated February 23, 2007 from Tony Sommer, Director of the Department, stating that the Department would research your request and would be back in contact with you, you filed a supplemental complaint stating that more than 30 days had elapsed since the Department's initial response, and you still have not received the requested forms.

I sent a copy of your complaint to the Department. Christine Majewski, Attorney for the Department responded, a copy of which is enclosed. She stated that the Department does not have the records you seek, and suggested that the Prosecutor's Title IV-D would maintain the records.

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). If the public agency receives a request for a record via U.S. Mail or facsimile, the public agency is required to respond within seven calendar days, or the request is deemed denied. IC 5-14-3-9(b).

The Department violated the Access to Public Records Act because it received your request for records on February 15 but did not respond until February 23. The Department should have issued a response no later than February 22, which was seven days after receiving your request.

The Department has now provided a follow-up response to your request for records, indicating that the Department does not maintain any of the records. The Department also helpfully sent a letter forwarding your request to Bruce Wells, Deputy Prosecuting Attorney. I recommend that you follow-up on your request with that office.

CONCLUSION

For the foregoing reasons, I find that the Elkhart County Department of Child Services/Family Resources Division should have responded in a timely manner to your request for records, but does not maintain the records you requested.

Sincerely,

Karen Davis
Public Access Counselor

cc: Christine A. Majewski