

April 26, 2007

Timothy Morgan
4606 Tamarack
Fort Wayne, IN 46835

Re: Formal Complaint 07-FC-81; Alleged Violation of the Access to Public Records Act by the Fort Wayne Community Schools

Dear Mr. Morgan:

This is in response to your formal complaint alleging that the Fort Wayne Community Schools ("School") violated the Access to Public Records Act by failing to provide salary information for all the years that you requested it. I find that the School did not deny you a record if it does not maintain the record.

BACKGROUND

You claim that for your January 16, 2007 request for salary information for 2003, 2004, 2005, and 2006, you were denied the 2003 and 2004 information, and you were also denied 2005 information because the 2005 data was simply a copy of 2006. You supplied me with the response of the School by Deborah Morgan, public information officer for the School. She indicated to you that a disk with the school employee salaries for 2005 and 2006 was provided, but the school "does not have the information available in a document for 2003 and 2004."

I sent the School a copy of your complaint, but no response has been forthcoming as of the writing of this opinion.

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. Ind. Code 5-14-3-3(a). "Public record" means any material that is "created, received, retained, maintained, or filed by or with a public agency." IC 5-14-3-2(m).

The School stated in its response to you that it does "not have the information available in a document for 2003 and 2004." Without a response from the School, it is difficult for me to discern what the School means, and you express doubt that the School would not maintain this data for tax purposes. Your request covers all information about salaries in any document or record. Therefore, if the School maintains any salary information in any document or record or in several documents, the School should make it available to you whether or not it maintains it electronically. Without more information, I cannot tell whether the School has provided all the responsive records to which you are entitled. I will also say that information from a personnel file must be disclosed regarding employee compensation, but only if the request is particularized by employee name. IC 5-14-3-4(b)(8).

You complain that the School provided only 2006 information, although on the face of the response letter of the School, the disk contained salaries for 2005 and 2006. You claim that the 2005 data was simply a copy of 2006. From what you have stated in your complaint, it does appear that the School provided a separate file containing what purports to be 2005 data, even though it is identical to 2006 data. I would suggest that you call Ms. Morgan and ask her to confirm that there is no mistake regarding the 2005 data. An explanation as simple as “salaries did not change” from one year to the next might satisfy you. Again, I cannot determine from the scant record before me that the School denied you a record.

CONCLUSION

For the foregoing reasons, I find that the Fort Wayne Community Schools did not violate the Access to Public Records Act. However, if the School does maintain the 2003 and 2004 salary information as you claim it must, then the School should have produced it in response to your request.

Sincerely,

Karen Davis
Public Access Counselor

cc: Deborah Morgan