



# STATE OF INDIANA

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August 20, 2010

Mr. Tim Piazza  
1599 Riverside Rd.  
Niles, MI 49120

*Re: Formal Complaint 10-FC-164; Alleged Violation of the  
Access to Public Records Act by Carousel Family Services  
d/b/a Veritas Academy*

Dear Mr. Piazza:

This advisory opinion is in response to your formal complaint<sup>1</sup> alleging Carousel Family Services d/b/a Veritas Academy (the "Academy") violated the Access to Public Records Act ("APRA"), I.C. § 5-14-3-1 *et seq.* The Academy's response to your complaint is enclosed for your review.

## BACKGROUND

In your complaint, you allege that you contacted the Academy via telephone on June 21, 2010, to request minutes of the Academy's June 18th board meeting. The Academy never responded to that request. You further claim that you sent a second request via certified mail on July 19th after you read a newspaper article that stated a reporter was also denied a copy of the minutes. As of the date of your complaint, July 23rd, you allege that the Academy had not provided you minutes. You argue the Academy's failure to do so constitutes a violation of the APRA.

In response to your complaint, Andrew B. Murphy, attorney for the Academy, states that the Academy had no record of your June 21st request. Mr. Murphy acknowledges that the Academy did receive the request you sent via certified mail on or about July 20th. He claims that the Academy responded to that request on July 22nd, at which time the Academy sent you a letter granting your request and enclosed a copy of

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<sup>1</sup> I note that some of the allegations in your complaint are untimely. Formal complaints alleging violations of the APRA must be filed within 30 days of the denial. I.C. § 5-14-5-7. If a request for access to public records is delivered in person or via the telephone and the agency does not respond within 24 hours, the request is deemed denied. I.C. §5-14-3-9(a). You claim that you requested access to the Academy's minutes from its June 18th meeting by contacting the Academy via telephone on June 21st. Because the Academy did not respond to that request, it is deemed denied as of July 22nd. You filed your complaint on July 23rd, which is more than 30 days after that denial. Consequently, that portion of your complaint is untimely and will not be addressed in this opinion.

the minutes for the June 18th board meeting. That letter also acknowledged that you requested minutes from the Academy's July 14th meeting and informed you that they were unavailable at that time because they had not yet been transcribed. Once the minutes were transcribed, the Academy would send a copy to you.

#### 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. The Academy does not contest that it is a “public agency” under the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the Academy's public records during regular business hours unless the public records are excepted from disclosure as nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §5-14-3-3(a); §5-14-3-9(c). If the request is delivered by mail or facsimile and the agency does not respond to the request within seven (7) days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b). If the request is delivered in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. §5-14-3-9(a). A response from the public agency could be an acknowledgement that the request has been received and information regarding how or when the agency intends to comply. Here, the Academy responded to your July 19th written request on July 23rd, which is within the required seven (7) days in accordance with the APRA. I.C. §5-14-3-9(a). At that time, the Academy provided you with a copy of the minutes you requested. I trust this resolves your complaint.

I also note that the Academy did not violate the APRA by failing to provide you with a copy of the minutes from its July 14th meeting if that record had not yet been created. *See Opinion of the Public Access Counselor 10-FC-56* (“Draft minutes that have not yet been approved are different than records that have not yet been created. Where records are not yet created, a public agency does not violate the APRA by refusing to produce them.”).

#### CONCLUSION

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

Best regards,



Andrew J. Kossack  
Public Access Counselor

Cc: Andrew B. Murphy