



STATE OF INDIANA

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July 25, 2011

Mr. Gary F. Otto
DOC # 905901
5124 Reformatory Road
Pendleton, Indiana 46064

Re: Formal Complaint 11-FC-154; Alleged Violation of the Access to Public Records Act by the Vigo County School Corporation

Dear Mr. Otto:

This advisory opinion is in response to your formal complaint alleging the Vigo County School Corporation ("School Corporation") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* The School Corporation's response to your complaint is enclosed for your review.

BACKGROUND

In your complaint, you allege that you submitted a request in writing for a copy of the 2010-11 school records for your sons, Levi Justin Otto and Joseph Ray Otto, as well as Levi Otto's current address and phone number. You state you requested the records on June 1, 2011 and had not received a response from the School Corporation as of June 23, 2011, the date you filed your formal complaint with the Public Access Counselor's Office.

In response to your formal complaint, Ray Azar, the School Corporation's Director of Student Services, advised that the School Corporation has complied with your request and sent the records to you on June 21, 2011. Mr. Azar stated the delay could be attributed to the School Corporation having to wait on the submission of year-end grades in order to process your request for a complete record for the 2010-11 school year.

ANALYSIS

The public policy of the APRA states that "(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 School Corporation is 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 School Corporation's public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise 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 in person and the agency does not respond within 24 hours, the request is deemed denied. I.C. § 5-14-3-9(a). 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). 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.

Mr. Azar's response to your complaint provided that the School Corporation complied with your request on June 21, 2011. However, it appears that the School Corporation did not initially respond to your request in the timeframe required by the APRA. I have no information before me indicating that the School Corporation responded to your June 1, 2011 written request. Thus, under subsection 9(b) of the APRA, that request was, by definition, denied as of June 8, 2011. If the School Corporation intended to grant your request, it simply needed to respond within the APRA's timelines. That being said, I trust that the School Corporation's June 21, 2011 response to your request was in satisfaction of your complaint.

CONCLUSION

For the foregoing reasons, it is my opinion that the School Corporation should have responded to your June 1, 2011 written request within seven (7) days. If the School Corporation has now produced all responsive records, it has not otherwise violated the APRA.

Best regards,



Joseph B. Hoage
Public Access Counselor

cc: Ray Azar