



STATE OF INDIANA
MITCHELL E. DANIELS, JR., Governor

PUBLIC ACCESS COUNSELOR
JOSEPH B. HOAGE

Indiana Government Center South
402 West Washington Street, Room W470
Indianapolis, Indiana 46204-2745
Telephone: (317)233-9435
Fax: (317)233-3091
1-800-228-6013
www.IN.gov/pac

September 19, 2012

Mr. Andy H. Davis, Sr.
9721 N. St. Rd. 157
Worthington, Indiana 47471

Re: Formal Complaint 12-FC-264; Alleged Violation of the Access to Public Records Act by the White River Valley School Corporation

Dear Mr. Davis:

This advisory opinion is in response to your formal complaint alleging the White River Valley School Corporation ("School") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Susan Traynor Chastain, Attorney, responded on behalf of the School. Her response is enclosed for your reference.

BACKGROUND

In your formal complaint, you allege that on July 2, 2012, a record request was submitted to the School requesting copies of invoices and corresponding checks related to Graves Plumbing. You further allege that the School responded that the request lacked reasonable particularity and as such, it was unable to make the records available for inspection or copying. You believe the request was made with reasonable particularity and believe the School is in violation of the APRA in its response.

In response to your formal complaint, Ms. Chastain advised that the School has now provided copies of the Vendor History Report for payments made to Graves Plumbing for the time period requested, along with copies of the corresponding invoices and checks. The School is working diligently through the thirty-nine separate records requests that have been submitted. The School has had a limited capacity to respond to the requests due in part to the significant injuries Dr. Wall suffered in a June 23, 2012 accident. The School maintains that it is fully cooperating with the request and intends in every respect to comply with the requirements of the APRA and the Open Door Law.

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." *See*

I.C. § 5-14-3-1. The School is a public agency for the purposes of the APRA. *See* I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the School's public records during regular business hours unless the records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. *See* I.C. § 5-14-3-3(a).

A request for records may be oral or written. *See* 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 twenty-four hours, the request is deemed denied. *See* 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 days of receipt, the request is deemed denied. *See* I.C. § 5-14-3-9(b). Under the APRA, when a request is made in writing and the agency denies the request, the agency must deny the request in writing and include a statement of the specific exemption or exemptions authorizing the withholding of all or part of the record and the name and title or position of the person responsible for the denial. *See* I.C. § 5-14-3-9(c). 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.

The APRA requires that a records request "identify with reasonable particularity the record being requested." I.C. § 5-14-3-3(a)(1). "Reasonable particularity" is not defined in the APRA, but the public access counselor has repeatedly opined that "when a public agency cannot ascertain what records a requester is seeking, the request likely has not been made with reasonable particularity." *See Opinions of the Public Access Counselor 10-FC-57; 08-FC-176*. However, because the public policy of the APRA favors disclosure and the burden of proof for nondisclosure is placed on the public agency, if an agency needs clarification of a request, the agency should contact the requester for more information rather than simply denying the request. *See generally* IC 5-14-3-1; *Opinions of the Public Access Counselor 02-FC-13; 05-FC-87; 11-FC-88*.

The request made of the School, as it relates to Graves Plumbing, sought the following:

- Copy of all invoices from Graves Plumbing from January 1, 2011 through December 31, 2011;
- Copy of all checks written to Graves Plumbing from January 1, 2011 through December 31, 2011;
- Copies of all invoices from Graves Plumbing from January 1, 2012 through June 30, 2012; and
- Copy of checks written to Graves Plumbing from January 1, 2012 through June 30, 2012.

It is my opinion that the requests made to the School for invoices and checks related to Graves Plumbing were made with reasonable particularity as I am able to ascertain from the plain language of the request what records were sought. I would note that the School, in responding to the original request, did not deny the request; rather it sought further, specific information in order to begin the process of collecting and reviewing all records that would be responsive. Regardless, as the School has now provided the Vendor

History Report for payments made to Graves Plumbing along with copies of all corresponding invoices and checks that were written, I trust that this is in satisfaction of your formal complaint.

CONCLUSION

For the foregoing reasons, it is my opinion the request for records related to Graves Plumbing was made with reasonable particularity, as required by I.C. § 5-14-3-3(a)(1). As the School has now provided all records that are responsive to your request, I trust that this is in satisfaction of your formal complaint.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke.

Joseph B. Hoage
Public Access Counselor

cc: Susan Traynor Chastain