



STATE OF INDIANA

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April 2, 2013

Mr. Curtis L. Jackson
DOC 973802
4490 W. Reformatory Road
Pendleton, Indiana 46064

Re: Formal Complaint 13-FC-103; Alleged Violation of the Access to Public Records Act by the Wabash Valley Correctional Facility

Dear Mr. Jackson:

This advisory opinion is in response to your formal complaint alleging the Wabash Valley Correctional Facility ("Facility") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* Rich Larsen, Public Information Officer, responded in writing to your formal complaint. His response is enclosed for your reference.

BACKGROUND

In your formal complaint you allege you submitted a written request for records to the Facility on March 7, 2013. You allege that your request was ignored.

In response to your formal complaint, Mr. Larsen advised that he responded in writing to your original request for records on March 4, 2013. In the Facility's response, you were advised that once you had funding in your account to cover the applicable copying fees, all records responsive to your request would be provided. You thereafter made additional identical requests. This week, Mr. Larsen received the necessary transaction form and check; thus, all records responsive to your request have been sent to your attention at the Pendleton Correctional Facility.

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 Facility 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 Facility'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 24 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 (7) days of receipt, the request is deemed denied. *See* I.C. § 5-14-3-9(b). A response from the public agency could be an acknowledgement that the request has been received and include information regarding how or when the agency intends to comply.

The APRA permits a public agency to charge a fee for copies of public records. *See* I.C. § 5-14-3-8. Additionally, a public agency may require a person to pay the copying fee in advance. *Id.* Nothing in the APRA requires that a public agency waive a copying fee. *See Opinion of the Public Access Counselor 07-FC-124.* It is my opinion that the Facility did not violate the APRA by requiring that all applicable copy fees be paid prior to the production of any records that would be responsive to your request. As the Facility has now received the necessary fees and the records have been submitted to your attention at the Pendleton Correctional Facility, I trust that this is in satisfaction of your formal complaint.

CONCLUSION

Based on the foregoing, it is my opinion that the Facility did not violate the APRA in response to your request.

Best regards,

A handwritten signature in black ink, appearing to read "J. Hoage". The signature is written in a cursive, somewhat stylized font.

Joseph B. Hoage
Public Access Counselor

cc: Rich Larsen