



STATE OF INDIANA

MICHAEL R. PENCE, Governor

**PUBLIC ACCESS COUNSELOR
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June 13, 2013

Mr. Melvin E. Taylor
18000 Greenview Terrance
CC Hills, Illinois 60478

Re: Formal Complaint 13-FC-166; Alleged Violation of the Access to Public Records Act by the School City of Hammond

Dear Mr. Taylor:

This advisory opinion is in response to your formal complaint alleging the School City of Hammond ("School") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.* James K. Whitaker, Attorney, responded on behalf of the School. His response is enclosed for your reference.

BACKGROUND

In your formal complaint, you provide that you submitted a written request for records to the School on May 13, 2013. As of June 7, 2013, the date you filed your formal complaint with the Public Access Counselor's Office, you further allege that you have yet to receive any response from the School to your request.

In response to your formal complaint, Mr. Whitaker advised that the School received your written request for records on or about May 15, 2013. The School responded in writing to your request on June 4, 2013 and advised that all records responsive to your request were available for retrieval upon receipt of payment for the respective copy fees. The School is not denying your request in any fashion and is investigating why a delay resulted in responding to your written request.

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 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 information regarding how or when the agency intends to comply. Here, your written request was received by the School on May 15, 2013. The School responded in writing to the request on June 4, 2013. Thus, it is my opinion that the School acted contrary to the requirements of section 9(b) of the APRA when it failed to respond in writing within seven (7) days of the receipt of your request. As all records have now been collected are available for retrieval upon receipt of the respective copy fees, I trust that this is in satisfaction of your formal complaint.

CONCLUSION

Based on the foregoing reasons, it is my opinion that the School acted contrary to the requirements of section 9(b) of the APRA when it failed to respond in writing to your written request within seven (7) days of receipt. As all records are now available for retrieval, I trust that this is in satisfaction of your formal complaint.

Best regards,

A handwritten signature in black ink, appearing to read 'J. Hoage', written in a cursive style.

Joseph B. Hoage
Public Access Counselor

cc: James K. Whitaker