



STATE OF INDIANA

MICHAEL R. PENCE, Governor

PUBLIC ACCESS COUNSELOR
LUKE H. BRITT

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

December 12, 2014

Mr. Marcellis Blackwell
332 South Michigan Ave. Ste. 1032-C273
Chicago, IL 60604

Re: Formal Complaint 14-FC-275; Alleged Violation of the Access to Public Records Act by the Gary Community School Corporation

Dear Mr. Blackwell,

This advisory opinion is in response to your formal complaint alleging the Gary Community School Corporation ("School"), violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.* The School has not responded despite an invitation to do so on November 13, 2014. Pursuant to Ind. Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor November 12, 2014.

BACKGROUND

Your complaint dated November 9, 2014, alleges the Gary Community School Corporation violated the Access to Public Records Act (Ind. Code § 5-14-3) by failing to acknowledge your request in a timely manner.

On or about October 8, 2014, you submitted a public records request to the School requesting information related to School transportation. You have never received a response from the School. Likewise, I have not received a response from your formal complaint.

ANALYSIS

The public policy of the APRA states that "a (p)roviding person 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 Ind. Code § 5-14-3-1. The Gary Community School Corporation is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Any person has the right to inspect and copy the School's public records during regular business hours unless the

records are protected from disclosure as confidential or otherwise exempt under the APRA. See Ind. Code § 5-14-3-3(a).

A request for records may be oral or written. See Ind. Code § 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 Ind. Code § 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 Ind. Code § 5-14-3-9(b). A response from the public agency could be an acknowledgement the request has been received and information regarding how or when the agency intends to comply.

The School denied your request seven (7) days after you faxed it to them. They also did not indicate whether they intended to disclose the information or withhold it pursuant to a statutory exception. By failing to acknowledge your request and failing to state justification for the denial in writing as mandated by Ind. Code § 5-14-3-9, the School has violated the APRA.

CONCLUSION

Based on the foregoing, it is the Opinion of the Public Access Counselor the Gary Community School Corporation has violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'L. H. Britt', with a long, sweeping underline.

Luke H. Britt
Public Access Counselor