



STATE OF INDIANA

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March 19, 2014

Mr. Muata Rameses
2024 N. Alton Ave.
Indianapolis, IN 46222

Re: Formal Complaint 14-FC-31; Alleged Violation of the Access to Public Records Act by the Indiana Public Retirement System

Dear Mr. Rameses,

This advisory opinion is in response to your formal complaint alleging the Indiana Public Retirement System ("INPRS") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et. seq.*¹ INPRS has provided a response to your complaint via Ms. Kelly A. Doria, Esq. Her response is attached for your review. 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 on February 20, 2014.

BACKGROUND

Your complaint dated February 20, 2014 alleges the Indiana Public Retirement System violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On January 21, 2014, you served upon the INPRS a public records request seeking the lump sum amount paid to an individual from her Retirement Savings Fund. The INPRS responded on January 23, 2014 stating the information could not be released based upon the confidentiality requirement under Ind. Code § 5-10.5-6-4. INPRS reiterates the argument in their response to your formal complaint.

¹ You also allege an Open Door Law violation on your formal complaint. As the facts of this matter do not suggest an Open Door Law violation, the statute will not be discussed in this Opinion.

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 Ind. Code § 5-14-3-1. The Indiana Public Retirement System is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Accordingly, any person has the right to inspect and copy the Authority’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.

Records declared confidential by state statute or administrative rule are exempt from disclosure under Ind. Code § 5-14-3-4(a)(1) and (2). INPRS has cited Ind. Code § 5-10.5-6-4(a)(1) and 35 IAC 1.2-1-5(b). Both statutes declare confidential the records of individual members of the INPRS and therefore they are prohibited from disclosure.

I spoke with Ms. Doria regarding your situation and inquired if a valid Power of Attorney form would be sufficient to authorize the release of the information to you. She was gracious enough to provide the INPRS Limited Power of Attorney for Members and Recipients. It is attached for your review. A completed form should assist you in obtaining the information you seek.

CONCLUSION

For the foregoing reasons, it is the Opinion of the Indiana Public Access Counselor the Indiana Public Retirement System has not violated the Access to Public Records Act.

Regards,



Luke H. Britt
Public Access Counselor

Cc: Ms. Kelly S. Doria, Esq.