



# 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)234-0906  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

September 1, 2016

Valerie Snow  
6159 W. 100 S.  
Tipton, IN 46072

*Re: Formal Complaint 16-FC-181; Alleged Violation of the Access to Public Records Act by the Jefferson Township Trustee, Tipton County*

Dear Ms. Snow:

This advisory opinion is in response to your formal complaint alleging the Jefferson Township Trustee, Tipton County ("Township") violated the Access to Public Records Act ("APRA"), Indiana Code § 5-14-3-1 et. seq. The Township has not responded despite an invitation to do so on August 1, 2016. Pursuant to Indiana Code § 5-14-5-10, I issue the following opinion to your formal complaint received by the Office of the Public Access Counselor on August 11, 2016.

## **BACKGROUND**

Your complaint dated August 1, 2016, alleges the Jefferson Township Trustee violated the Access to Public Records Act by failing to respond to your request.

On June 27, 2016, you send a certified letter to the Township Trustee. The Trustee signed for the certified delivery, however, did not acknowledge your request nor have any of the requested documents been disclosed to you.

The Trustee did not respond to an invitation by the Office to respond to your formal complaint.

## **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 Indiana Code § 5-14-3-1*. The State of Indiana, State Board of Education 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 Board's disclosable public

records during regular business hours unless the records are protected from disclosure as confidential or otherwise exempt under the APRA. *See Indiana Code § 5-14-3-3(a).*

A request for records may be oral or written. *See Indiana Code § 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 Indiana 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.

Without the benefit of a response from the Trustee, I cannot draw a conclusion as to whether your allegations are accurate. Public agencies have an obligation under Ind. Code § 5-14-5-5 to respond to this Office's investigation. By foregoing this opportunity, they waive any defense on their behalf as to whether their actions are compliant with the law. As such, based upon your complaint, they have violated the Access to Public Record Act.

### **CONCLUSION**

Based on for forgoing, it is the opinion of the Public Access Counselor the Jefferson Township Trustee – Tipton County has violated the Access to Public Records Act.

Regards,

A handwritten signature in black ink, appearing to read 'LH Britt', with a long horizontal flourish extending to the left.

Luke H. Britt  
Public Access Counselor