



STATE OF INDIANA

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May 4, 2016

Delk McNally LLP
C/o Mr. Daniel Gibson
421 South Walnut Street, Suite 200
Muncie, Indiana 47305

Re: Formal Complaint 16-FC-67; Alleged Violation of the Access to Public Records Act by the Health & Hospital Corporation of Marion County; Ms. Tavonna Harris Askew

Dear Mr. Gibson:

This advisory opinion is in response to your formal complaint alleging the Health & Hospital Corporation of Marion County ("Corporation") and Ms. Tavonna Harris Askew violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 et. seq. The Corporation has responded via Mr. Greg Ullrich. His response is enclosed 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 March 21, 2016.

BACKGROUND

Your complaint dated March 17, 2016, alleges the Health & Hospital Corporation of Marion County violated the Access to Public Records Act by improperly denying your records request.

On January 26, 2016, you requested all documents and correspondence between the Corporation and six (6) named entities. Your request was acknowledged on January 27, 2016. You have received no further communications from the Corporation.

On April 7, 2016 the Corporation responded. The corporation does not address its failure to respond and merely contends it has conducted its searches and provided documents to you on April 7, 2016.

DISCUSSION

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 Health & Hospital Corporation of Marion County 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 Corporation's disclosable 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 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.

It appears the Corporation accepted and acknowledged your request in a timely manner. However, it did not provide a timeframe for when your request would be fulfilled or even state when further communication could be expected. This is despite the fact you sent emails to the Corporation seeking follow-up. Only the first request must be acknowledged within a certain time frame (by mail this would be seven (7) days as opposed to twenty-four (24) hours), however, good customer service principles would suggest the public agency give you status updates along the way if the production of documents is taking a significant amount of time.

Pursuant to Ind. Code § 5-14-3-3, a public records request must be fulfilled within a reasonable time. Because of the broad nature of the request, I cannot conclusively state whether a 10-week timeframe is excessive; however, it appears as if the filing of your complaint prompted the production of documents and I sincerely hope your request has been satisfied. I encourage the Corporation to be mindful in the future of the importance of keeping requestors advised as to the status of a large or lengthy production period.

Regards,

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

Luke H. Britt
Public Access Counselor

Cc: Mr. Greg Ullrich