

April 29, 2008

Cheryl Gridley
137 East Pendle
South Bend, Indiana 46637

Re: Formal Complaint 08-FC-96; Alleged Violation of the Access to Public Records Act by the Indiana State Board of Accounts

Dear Ms. Gridley:

This advisory opinion is in response to your formal complaint alleging the Indiana State Board of Accounts ("Board") violated the Access to Public Records Act ("APRA") (Ind. Code 5-14-3) by denying you access to records. The Board's response to the complaint is enclosed for your reference. It is my opinion the Board did not violate the APRA.

BACKGROUND

You allege that on April 3, 2008 you send by facsimile transmission a request for access to records to the Board. You filed this complaint on April 14, alleging you had received no response.

The Board responded to the complaint by undated letter received April 18 from Doug Wiese of the Board. Mr. Wieses contends that upon receipt of the request he sent it to the Indianapolis office, which is where requests for records are addressed. Mr. Wiese includes a copy of the response, dated April 7, sent to you from Paul Lottes of the Board.

ANALYSIS

The public policy of the APRA states, "(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." I.C. § 5-14-3-1. The Board is clearly a public agency for the purposes of the APRA. I.C. § 5-14-3-2. Accordingly, any person has the right to inspect and copy the public records of the Board during regular business hours unless the public records are excepted from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

A request for records may be oral or written. I.C. §§ 5-14-3-3(a), 5-14-3-9(c). If the request is delivered by mail, facsimile, or email and the agency does not respond to the request within seven days of receipt, the request is deemed denied. I.C. § 5-14-3-9(b).

Here you faxed the request on April 3. The Board contends, and provides evidence, it sent a response to you on April 7, well within the seven days allowed by the APRA. *See* I.C. § 5-14-3-9(b). Because the response was sent within the prescribed timeframe, it is my opinion the Board did not violate the APRA.

CONCLUSION

For the foregoing reasons, it is my opinion the Board did not violate the APRA.

Best regards,



Heather Willis Neal
Public Access Counselor

cc: Doug Wiese, Indiana State Board of Accounts
Paul Lottes, Indiana State Board of Accounts