



STATE OF INDIANA

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July 9, 2008

David Day
Church, Church, Hittle & Antrim
12514 Reynolds Drive, Suite B
Fishers, Indiana

Via electronic mail transmission

Re: Informal Inquiry 08-INF-23 regarding Carmel Clay Schools

Dear Mr. Day:

This is in response to your informal inquiry dated June 24, 2008 and received June 27, 2008. You write on behalf of Carmel Clay Schools ("School") to inquire about a request the School received pursuant to the Access to Public Records Act ("APRA")(Ind. Code 5-14-3). Pursuant to I.C. § 5-14-4-10(5), I issue the following opinion in response to your inquiry.

BACKGROUND

The School received a request for access to records dated June 5, 2008. The record seeks access to a number of electronic mail messages ("emails") maintained by the School. Your inquiry relates to the third item in the request, which is a request for any documents, including emails, associated with an individual's name and containing one or more of 58 listed words.

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 School 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 School 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 inspection or copying must identify with reasonable particularity the record being requested. I.C. § 5-14-3-3(a). While the term “reasonable particularity” is not defined in the APRA, it has been addressed a number of times by the public access counselor. See *Opinions of the Public Access Counselor 99-FC-21* and *00-FC-15* for two examples. Counselor Hurst addressed an issue similar to the present issue in *Opinion of the Public Access Counselor 04-FC-38*:

A request for public records must “identify with reasonable particularity the record being requested.” IC 5-14-3-3(a)(1). While a request for *information* may in many circumstances meet this requirement, when the public agency does not organize or maintain its records in a manner that permits it to readily identify records that are responsive to the request, it is under no obligation to search all of its records for any reference to the information being requested. Moreover, unless otherwise required by law, a public agency is under no obligation to maintain its records in any particular manner, and it is under no obligation to *create* a record that complies with the requesting party’s request. *Opinion of the Public Access Counselor 04-FC-38* (2004), available at <http://www.in.gov/pac/advisory/files/04-FC-38.pdf>.

Here, the requester seeks emails containing any one of a number of words. Certainly the School does not catalog emails by words contained therein. Similarly, most public agencies do not catalog any records by words contained therein. I know of no law requiring the School to catalog its emails in such a manner. As Counselor Hurst indicated, the agency is under no obligation to search all of its records for any reference to the information being requested. It is my opinion the School is not obligated to search through each email, either through an electronic or manual process, to determine which emails contain the particular words.

If, on the other hand, the request identified the records with particularity enough that the School could determine which records are sought (e.g. all emails from a person to another for a particular date or date range), the School would be obligated to retrieve those records and provide access to them, subject to any exceptions to disclosure. It is my opinion the APRA draws a distinction here in that the law requires retrieval but not research.

CONCLUSION

For the foregoing reasons, it is my opinion the School is not required to perform the research to determine which emails contain any one or more of the 58 listed words.

Best regards,



Heather Willis Neal
Public Access Counselor