

January 23, 2008

Paul Uhrina
2200 Shallowford Drive
Valparaiso, Indiana 46383

Re: Your informal inquiry regarding Valparaiso Community Schools

Dear Mr. Uhrina:

This is in response to your informal inquiry dated July 10, 2007. You initially sent the complaint to this office as a formal complaint. It was converted into an informal inquiry because it was untimely under Indiana Code §5-14-5-7. I apologize for the delay in the response. Upon taking office July 1, 2007, I found a backlog of informal inquiries. I am currently endeavoring to address the backlog and issue opinions in response to the inquiries, pursuant to I.C. §5-14-4-10(5).

BACKGROUND

You originally filed a formal complaint on July 10, 2007. Because it was considered untimely, your complaint was converted into an informal inquiry. You allege Valparaiso Community Schools ("School") violated the Access to Public Records Act ("APRA") (Ind.Code 5-14-3) by denying you access to records. You allege that you submitted to the School on May 13, 2007 a request for information relating to the legal costs incurred by the School in association with an Article 7 and Section 504 hearing involving your daughter. You allege that you have been denied access to the records.

The School responded to your complaint by letter dated January 8, 2008 from attorney Barbra Stooksbury. Ms. Stooksbury contends that you submitted your April and May requests to a member of the School Board and not directly to the School. Ms. Stooksbury indicates that after you filed your complaint, you sent a letter dated July 23, 2007 directly to the School requesting any and all invoices relating to the hearings. Ms. Stooksbury indicates this is the first time the School was made aware of the request. The School indicated to you that the School did not maintain any invoices for attorney's fees. Further, the School did not maintain any records related to the Article 7 hearing. The School advised you that by August 9 it would contact you regarding the production of documents you requested.

Ms. Stooksbury contends that the School provided you with copies of the records related to the Section 504 hearing in August of 2007, although the employee responsible for production is no longer with the School. Legal fee information was not provided to you because the School did not receive the information; the invoices were maintained by the School's insurer. After I issued an informal opinion on September 28, 2007, indicating I believe attorney fee invoices maintained by the insurer and hired counsel are public records because the invoices are related to the hearing between a school corporation, special education cooperative and a parent, the School began to gather the attorney fee invoices. The School provided the invoices to you on or about November 16, 2007.

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 "public record" means any writing, paper, report, study, map, photograph, book, card, tape recording or other material that is created, received, retained, maintained or filed by or with a public agency. I.C. §5-14-3-2.

As Ms. Stooksbury has indicated, I addressed the issue of attorney fee invoices maintained by an insurer in an informal opinion dated September 28, 2007 and available at www.IN.gov/pac/informal. It is my opinion that the application of *Knightstown Banner v. Town of Knightstown*, 838 N.E.2d 1127 (Ind. Ct. App. 2005) makes such invoices public records which must be provided upon request, with any nondisclosable information contained therein redacted by the public agency. Similarly, it is my opinion the attorney fee invoices at issue here are disclosable records. To the extent the invoices contain disclosable and nondisclosable information, the School would be required to separate, or redact, the nondisclosable information and provide the disclosable information. I.C. §5-14-3-6(a).

It is my understanding the School has now provided you with the requested records. As such, it is my opinion the matter has now been resolved.

Best regards,



Heather Willis Neal
Public Access Counselor

Cc: Barbra Stooksbury, Bose McKinney & Evans LLP