



# STATE OF INDIANA

**MITCHELL E. DANIELS, JR., Governor**

**PUBLIC ACCESS COUNSELOR  
ANDREW J. KOSSACK**

Indiana Government Center South  
402 West Washington Street, Room W470  
Indianapolis, Indiana 46204-2745  
Telephone: (317)233-9435  
Fax: (317)233-3091  
1-800-228-6013  
[www.IN.gov/pac](http://www.IN.gov/pac)

December 9, 2009

Mr. Michael J. Malik  
1900 S. Walnut St.  
Bloomington, IN 47401

*Re: Formal Complaint 09-FC-264; Alleged Violation of the Access to Public Records Act by Indiana University*

Dear Mr. Malik:

This advisory opinion is in response to your formal complaint alleging Indiana University (the "University") violated the Access to Public Records Act ("APRA"), Ind. Code § 5-14-3-1 *et seq.*, by denying you access to parking tickets issued by the university. For the following reasons, my opinion is that the University did not violate the APRA because the videotape is confidential under federal law.

## BACKGROUND

According to your complaint, you requested access to parking tickets issued by the University from January 1, 2004, through September 30, 2009. You sought "an electronic copy showing every ticket issued by the university from Jan. 1, 2004 through Sept. 30, 2009," as well as the registered owner of the vehicle that was ticketed, the date and location of the ticket, the fine amount, the ticket's status, and if there are any late fees associated with the ticket. In response, the University informed you that it could not provide you with the names of students who received a parking ticket, but it could give you the names of non-students who received a ticket. This complaint followed.

My office forwarded a copy of your complaint to the University. The response of Associate General Counsel Emily Springston is enclosed for your review. Ms. Springston acknowledges that the University received your request and that Larry McIntire, the University's vice president for university communications, spoke with you via the phone and explained that the University could not provide records relating to students who received tickets because such records are protected from disclosure by federal law.

## 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 University does not dispute that it is 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 University’s public records during regular business hours unless the public records are exempt from disclosure as confidential or otherwise nondisclosable under the APRA. I.C. § 5-14-3-3(a).

One exception to the public’s general right to inspect and copy a public record applies when federal law classifies a record as confidential. I.C. §5-14-3-4(a)(3). FERPA operates to classify all “education record[s]” as confidential: “No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records or personally identifiable information contained therein....” 20 U.S.C. §1232g(b)(1). “Education record” is defined as those records that are directly related to a student and maintained by an educational agency or institution or by a person acting for such agency or institution. 34 C.F.R. § 99.3. “Record” means any information recorded in any way. *Id.* “Personally identifiable information” includes, but is not limited to, a list of personal characteristics that would make the student’s identity easily traceable, or other information that would make the student’s identity easily traceable.

The University notes that records you have requested contain the name of each student who is issued a ticket and a “host of other facts relating to the issuance” of such tickets. It is my opinion that the tickets issued by the University are thus confidential “education record[s]” under FERPA that are nondisclosable pursuant to section 4(a)(3) of the APRA. Consequently, it is also my opinion that the University did not violate the APRA by denying your request insofar as it sought information protected by FERPA.

## CONCLUSION

For the foregoing reasons, my opinion is that the University did not violate the APRA.

Best regards,



Andrew J. Kossack  
Public Access Counselor

cc: Emily Springston