



STATE OF INDIANA

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June 22, 2015

Ms. Shirley A. Atkins
P.O. Box 115
Marengo, Indiana 47140

Re: Formal Complaint 15-FC-145(c); Alleged Violation of the Access to Public Records Act by the Dubois County Health Department

Dear Ms. Atkins,

This advisory opinion is in response to your formal complaint alleging the Dubois County Health Department (“Department”) has violated the Access to Public Records Act (“APRA”), Ind. Code § 5-14-3-1 *et. seq.* The Department has issued a response via Ms. Donna Oeding, Administrative Director. Her 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 May 11, 2015.

BACKGROUND

Your complaint dated May 11, 2015 alleges the Dubois County Health Department violated the Access to Public Records Act by not providing records responsive to your request in violation of Ind. Code § 5-14-3-3(b).

On January 27, 2015, you submitted to the Department a public records request seeking a copy of the birth certificate for your nephew. The Department indicated it could not locate a birth record for your nephew and in its response it continues to maintain no record exists in Dubois County as it relates to him.

ANALYSIS

The public policy of the APRA states that “a (p)roviding person 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 Dubois County Health Department is a public agency for the purposes of the APRA. See Ind. Code § 5-14-3-2(n)(1). Any person has the right to inspect and copy the Department’s 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).

You have alleged that the Department provided you with false information about the existence of the birth certificate requested. This Office has no way of ascertaining whether the Dubois County Health Department maintains that particular record. To the extent it exists, it should have been provided to you. If, for whatever reason, the Department has not maintained that particular record, a public agency is not required to produce a record it does not have. If the Department has failed to prevent destruction or loss of any record, it would be a violation of the APRA.

In any event, you were able to retrieve the information from another public agency.

Regards,

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

Luke H. Britt
Public Access Counselor

Cc: Ms. Donna Oeding